MEETING NO. 2001-04: 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: Etheridge, MacKinnon, Smith, Muñoz, Anderson, and Powell

   Assembly Absent: Koelsch, Pillifant, and Wheeler

   A quorum was present.

   Staff Present: Laurie Sica, Municipal Clerk; Donna Pierce, Deputy City Manager; John Corso, City Attorney; Al Heese, Airport Manager; John Stone, Engineering Director; Ernie Mueller, Public Works Director; Craig Duncan, Finance Director; Joan Roomsberg, Sr. Accountant, Sales Tax

III. **SPECIAL ORDER OF BUSINESS** - None

IV. **APPROVAL OF MINUTES**

    a. 02/05/01 - Regular Meeting No. 2001-03

       **MOTION** - by Etheridge, to approve the minutes of Regular Meeting No. 2001-03, held February 5, 2001, with the following changes: in the first paragraph after the $450,000 add: “for the Visitor’s Center” and in that same paragraph, down, add: “Visitor’s Center” language in there also, and then in the next paragraph, where Mr. Wheeler asked for timeframe, “for completion of the Marine Park Traffic Center” would be added, and he asked unanimous consent. There being no objection, it was so ordered.

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

   Ms. Pierce added a status report on the junk car roundup under Staff Reports.

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

   *Page Bridges*, 334 Carol Way. She read her letter into the record. She requested the Assembly stop the dangerous project on South Franklin and said she had found evidence in the building file that the north side of Carol Way, the corner of her house, has dropped an inch and a half. CBJ has paid for two professionals to manage the movement of the hillside and yet nowhere, in several reports in the files is this slight movement north of Carol Way mentioned. She had reported to CBJ that the space was opening around her downstairs door, but still was not told that the hill there had fallen. The monitoring system is not adequate and she added that improper construction methods had been used. The system has required an unofficial, unpaid monitor, herself, and she noted that she helped the CBJ by finding the three-inch crack in front of the apartment building. As a visual artist, she is prone to acute visual observation. She attached to her letter a picture showing the slippage under the middle building of the apartments, which three
engineers missed in their observations. She added that she suffers from arthritis so she is almost always home and able to observe. Because of her illness, she needs to do her painting in a studio in or near her home. Her present house is ideal with its separate apartment on the ground floor. Should she lose her home, or be evacuated, she would not make it. Therefore, she has worked to the limit of her strength, without income, for one solid year to prevent the hillside movement, which is now happening. She asked that the Fur Gallery project not be allowed to take her home from her or the others on the hill and she requested a meeting be scheduled so she could explain other serious problems with the project. She felt the Engineering Department may be too busy to keep in mind all the complexities of this project. She requested the project be halted to allow for the deep monitoring that engineer John Cooper has requested. She had additional evidence that the special inspector was not present at, nor did he make required reports for the final sheet piling and the installation of the anchors, a serious violation of the building permit. Also attached was evidence that the scope of the project requires a hillside endorsement, therefore a stop work order would be justified.

**David Sanden**, 304 St. Ann’s, Douglas. He presented a letter to the Assembly concerning pull-tabs and sales tax. This letter was a follow-up to previous letters he drafted that were signed by the board president of the Montessori School and the board president of the Juneau Dance Unlimited. He reiterated that gaming can work in Juneau, it has been working and there have been people complying with the law and the State’s statutory minimum. They strongly feel that down the road they will reach a point when they can no longer lower their payout percentages and cut costs and still comply with the state mandated minimums and provide an equitable wager that the gaming public will participate in. He felt with the current dilemma facing the assembly with regards to collecting back sales tax due from others, was an opportunity to address gaming in general. His letter addressed a number of those ideas and he added that he was currently trying to lobby the state for statutory change. He felt the Gaming Unit of the Department of Revenue was receptive to changing gaming overall by tightening and or changing some regulations. He encouraged the assembly to look at the issue in detail, and in perspective of the industry, and he offered his assistance. He noted that after a previous meeting, he had been given the okay to speak with the Sales Tax Administrator. He contacted her but she was hesitant to speak with him without assembly approval. They want to be present at the table and go into detail on how they think the system has been abused and can be abused, and correct those problems.

Ms. Muñoz said that many of the points that he raised in his letter were points that they had already begun to investigate. She noted that she was not at the prior sub-committee meeting, but she felt it was very unfortunate the way the Empire reported the events of that meeting because she knew that it really did not reflect the direction of both of the sub-committee members and the desire to find a remedy to this situation in a way that assured that the City collects the full sales tax that is due through the delinquency.

Mr. Sanden asked what the assembly’s thinking was and what process would they be using to deal with this issue henceforth. Mayor Smith noted that three weeks ago the assembly passed a resolution asking the State to give the City the authority to review the license before it goes to them, similar to ABC licenses. She felt the sub-committee would also have suggestions. Mr. Etheridge noted that he was scheduled to speak with the parties they were negotiating with for payment tomorrow evening to discuss an audit of their records. The next sub-committee meeting would be scheduled after that. Mayor Smith suggested that the sub-committee was to deal with the problem of the three charities who are out of compliance; they had not been tasked with coming up with the solution so any other changes that come forward may come from the sub-committee, but they may come from any members of the assembly as well.
Mr. Sanden suggested that the Finance Committee or a sub-committee of that group consider in unison with the other task at hand, revisiting the taxation issue. Mr. MacKinnon asked for clarification about his discussions with staff and Mr. Sanden said he was not sure what the department’s auditing process was. Ms. Roomsberg receives a report that is generated by gaming entities and his concern was whether she was getting the true gross sales of the pull tab operations in Juneau. He had a number of specific questions and wanted to go through with her how they do their day-to-day sales and reporting in an attempt to educate her and her staff to see if they are looking at what they should be looking at. Mr. MacKinnon said that was one of the things discussed by the sub-committee and it was suggested that Mr. Sanden get together with Ms. Roomsberg. He asked if there was any objection to giving Ms. Roomsberg the nod to meet with Mr. Sanden to learn how the operations work; there was no objection.

VII. CONSENT AGENDA

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

B. Assembly Action

MOTION - by MacKinnon, to adopt the Consent Agenda as presented and he asked unanimous consent. There being no objection, it was so ordered.

1. Ordinances for Introduction
   a. Ordinance No. 2001-09
      AN ORDINANCE AMENDING THE REAL PROPERTY TAX CODE TO ESTABLISH THE LAST DAY OF FEBRUARY AS THE FINAL DATE FOR SUBMISSION OF EXEMPTION APPLICATIONS BY SENIOR CITIZENS, DISABLED VETERANS, AND THEIR SURVIVING SPOUSES.
      Administrative Report: Attached. The Manager recommended this ordinance be introduced and set for public hearing at the March 19, 2001 meeting.

   b. Ordinance No. 2000-11 (AH)
      AN ORDINANCE APPROPRIATING TO THE MANAGER THE SUM OF $60,000 AS PARTIAL FUNDING FOR THE CONSTRUCTION OF THE JUNEAU RECOVERY HOSPITAL REMODEL PROJECT. SUCH FUNDS PROVIDED BY THE BARTLETT REGIONAL HOSPITAL RETAINED EARNINGS.
      Administrative Report: Attached. The Manager recommended this ordinance be introduced and set for public hearing at the March 19, 2001 meeting.

   c. Ordinance No. 2000-11 (AI)
      AN ORDINANCE APPROPRIATING TO THE MANAGER THE SUM OF $118,500 AS PARTIAL FUNDING FOR THE DEVELOPMENT OF A STORM WATER MANAGEMENT PROGRAM. SUCH FUNDS, $88,500, PROVIDED BY THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION, AND $30,000, BY THE LAND FUND UNRESERVED FUND BALANCE.
      Administrative Report: Attached. The Manager recommended this ordinance be introduced and set for public hearing at the March 19, 2001 meeting.

2. Resolutions
a. Resolution No. 2080
   A RESOLUTION SUPPORTING THE FORMATION OF A SOUTHEAST ALASKA ECONOMIC DEVELOPMENT DISTRICT TO BE DIRECTED BY SOUTHEAST CONFERENCE.

   Administrative Report: Attached. The Manager recommended that this resolution be adopted.

b. Resolution 2083
   A RESOLUTION CELEBRATING WOMEN’S HISTORY MONTH.

   Administrative Report: Attached. The Manager recommended that this resolution be adopted.

3. Transfers
   a. Transfer Request T-705, Requesting Closure of Multiple Street/Water/Sewer Projects and Transferring the Excess Funds Into the Gastineau Avenue Reconstruction Project.

   Administrative Report: Attached.

4. Bid Awards

   Administrative Report: The Manager recommended award of this bid to Alaska Striping and Painting, Inc. in the amount bid, for a total award of $57,861.67.

   b. Contract E01-092 – Valley Court Pump Station Upgrade.

   Administrative Report: The Manager recommended award of this bid to Arete Construction Corporation in the amount bid, for a total award of $348,320.00.

VIII. ORDINANCES FOR PUBLIC HEARING
   A. Ordinance No. 2001-04
      AN ORDINANCE AMENDING THE SALES TAX CODE TO REQUIRE REMITTANCE UNDER PROTEST OF DISPUTED TAXES, PENALTY AND INTEREST AS A CONDITION OF FILING OR MAINTAINING AN APPEAL.

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

   Public Participation: None

   Assembly Action: 
   MOTION – by Muñoz, of Ordinance 2001-04 for the purpose of discussion.

   Ms. Muñoz spoke in support of this ordinance as part of the solution to the problem that exists when some operators refuse to pay their taxes until an appeal decision is finally made. As it is currently written, the administrator would make a decision and then the operation would be required to pay the delinquency under protest, before the Sales Tax Board of Appeals would have the opportunity to make a decision. It is a technicality, but she thought it would run smoother to have the Sales Tax Board of Appeals make a determination that was
consistent with the administrator’s opinion before the operator was required to put the money forward.

Mr. Powell asked where the change would be. Ms. Muñoz said on line 21, it currently reads “No appeal to the Sales Tax Board of Appeals nor any action for a refund may be filed or maintained, nor may a defense to non-payment be maintained in a civil action unless the amount in dispute has been paid under protest as provided in the subsection.” By adding “no appeal from the Sales Tax Board of Appeal” it would just be the insertion of “from” and delete “to” and then that would enable the Sales Tax Board of Appeals to affirm the decision before the payment was actually made under protest.

Mr. MacKinnon read the ordinance to say that first, a person with a concern about the legality of their sales tax appeals it first goes to the administrator. After that action is done, their next avenue of appeal is the Board of Appeals. At that point, they are done with the administrator and we want them to pay the sales tax under protest and then take it to the Board of Appeals. He could understand Ms. Muñoz’s intent, but said it would render the whole ordinance moot because the next avenue beyond that is court and he did not think they could require someone to pay sales tax in order to take something to court. Mr. Corso clarified that the next step would be an appeal to the Assembly.

Ms. Muñoz noted the idea was brought to her by a local accountant who felt that it would just be smoother to have the Sales Tax Board of Appeals rule on the matter before the protest monies were collected. She could go either way but did feel that administratively, it may make it work a little smoother.

*MOTION – by Muñoz, on line 21, delete the word “to” and insert the word “from” so it would begin “No appeal from the Sales Tax Board of Appeals . . .”*

Mr. Corso noted another “from” that would need to be inserted in Section C.

*AMENDMENT – by Muñoz, to include both those changes, and the second change would have to occur on page 2, under 1C.*

Mr. Anderson asked if this would elevate this one step. It does not say that they have to pay it before going to the Sales Tax Appeals Board, but pay it before it goes to the Assembly. He spoke in opposition to that approach and said the money should be up-front before going to the second step.

Ms. Muñoz clarified that this ordinance would require that the payment be made under protest, at the time that the decision was made by the administrator. At that point, it would then go the Sales Tax Board of Appeals and the protest money would have been filed. The Board of Appeals makes a decision and if they decide against the administrator’s review, the money would be returned. If the Board went along with the Administrator’s decision, it could still be appealed to the Assembly. Depending on how the Assembly ruled, then it would go into the courts. Mr. Anderson asked at what point the deposit was made, under each scenario. Mr. Corso said the ordinance currently provides that if someone has a protest, they are supposed to pay any way. What the ordinance does is put some teeth into that requirement by holding off appeal rights until the payment that is suppose to be made, is in fact made. Under the ordinance as distributed in the packet last Thursday, that payment requirement would be a precondition to an appeal to the Sales Tax Board. The proposed amendment would make that a precondition to an appeal to the Assembly. There is not much
exposure in the period between the Sales Tax Board and the Assembly as the time to file an appeal is 20 days. However, in the past, there has been extended periods when people have made payments under protest and the amount of money got fairly large. Either way, the money would have to be paid up front or they would not be allowed to appeal, either to the Sales Tax Board or the Assembly.

Mr. Corso offered language to strengthen the ordinance, which said, “A protest accompanying a payment shall be deemed waived unless the protestor files an appeal under this chapter, pursuant to and within 90 days of the payment.”

Mr. Anderson withdrew his objection to Ms. Muñoz’s amendment. There being no objection, amendment number one was adopted.

**AMENDMENT** – by MacKinnon, that on line 24, the new language would read: “A protest accompanied by a payment, shall be deemed waived unless the protestor files an appeal under this Chapter pursuant to and within 90 days of the payment.”

Mr. Anderson asked if it should say “a payment equal to the tax due”. Mr. Corso thought that people could make a payment either adequate or insufficient, it is the protest itself that is waived. Regardless of the size of the payment, if it is made under a protest that lies fallow for 91 days, that protest is gone. The city keeps the money and if someone wants to make another protest, they can, and maybe if they win their case, they will get the money accompanying that protest back, but the money that accompanied the protest a year ago is gone. Mr. Duncan signified agreement with this statement.

There being no objection to amendment number two, it was adopted.

Mr. Anderson said that in fairness to the one protesting, having put up a deposit in protest, it should be guaranteed to that party that he have a timely hearing.

**AMENDMENT** – by Anderson, that on page two, line 11, it says: “the Board shall conduct a hearing on a protest no more than 20 days after the protest is filed.”

Mayor Smith was not sure that line 11 was the appropriate place and she asked Mr. Corso for guidance. Mr. Corso said it would add a new Section 3 amending CBJ 69.05180 (b2) and amends it by including the section that Mr. Anderson quoted as a new first sentence in subparagraph two: “The board shall conduct a hearing on a protest no more than 20 days after the protest is filed.” The remainder of 69.05180 (b2) is unchanged.

Mr. Powell asked if the board could comply with that and what would the penalty be if they could not meet the 20-day direction. Mr. Corso said that it may be difficult for the members of this board to meet as people who serve are volunteers and an attorney and an accountant are required to serve on the board. This direction is more aspirational than mandatory. Mr. Powell asked if “shall” would be a better word. Mr. Corso made that change. Mr. MacKinnon asked about the next level of appeal to the Assembly as that was the one that would require a mandatory payment under protest. Mr. Corso said in his experience, the assembly always disposes of its business in a timely and efficient manner. It is the same problem, the mandatory suggests that if the body in question fails to conduct a hearing within the requisite period, it is more aspirational than mandatory.

There being no objection to adoption of amendment number 3, it was so ordered.
There being no objection to the adoption of Ordinance 2001-04 as amended, it was so ordered.

B. Ordinance 2001-06

AN ORDINANCE AMENDING THE ASSESSMENT CODE TO ASSESS BUSINESS PERSONAL PROPERTY TAXES AGAINST PROPERTY HAVING A TAX SITUS IN JUNEAU AND IN ANOTHER JURISDICTION, AND PROVIDING FOR A REDUCED ASSESSMENT IN SUCH CASES.

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

Public Participation: None

Assembly Action:
MOTION – by Powell, to adopt Ordinance 2001-06, and he asked unanimous consent. There being no objection, it was so ordered.

C. Ordinance No. 2001-11 (AG)

AN ORDINANCE APPROPRIATING TO THE MANAGER THE SUM OF $75,000 AS PARTIAL FUNDING FOR THE MARINE PARK TRAFFIC CIRCLE. SUCH FUNDS PROVIDED BY WASTEWATER UTILITY AVAILABLE RESOURCES.

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

Public Participation: None

Assembly Action:
MOTION – by Etheridge, to adopt Ordinance 2001-11 (AG), and he asked unanimous consent. There being no objection, it was so ordered.

IX. UNFINISHED BUSINESS - None

X. NEW BUSINESS - None

XI. STAFF REPORTS ON NON-AGENDA ITEMS
Ms. Pierce reported that the Junk Car Round Up was a great success. They have had events for two Saturdays, and there are three more scheduled. The first Saturday, 35 cars were brought in. Last Saturday 72 cars were brought in. It has gone very smoothly with a lot of words of appreciation from the folks bringing in the cars. The fee is $50.

XII. ASSEMBLY REPORTS ON NON-AGENDA ITEMS
A. Committee Reports
Mr. Powell said this Thursday the PPC would meet in the Chambers at 5:15 to hear from the public about tourism issues they would like to bring up, and to hear about the recent noise study. Ms. Pierce added that the quiet technology ordinance, which would be introduced at the next meeting, would be available for review. Also, there would be a report on last year’s voluntary compliance program.

Ms. Muñoz said Finance would meet Wednesday at 5 p.m. in the Chambers. On the agenda is the allocation method for the Social Service Block Grants as well as a continued discussion on the sales tax exemptions and modifications to those exemptions.
They would also be discussing the Sr. Citizen Sales Tax Exemption and the Non-Profit Sales Tax Exemption and hear a report from Mr. Kern on the transit center and half hour bus service, which is scheduled to begin in May. Finally, they will discuss monitory support to support assembly appointed advisory committees and developing a line item to support the activities of those committees.

B. Liaison Reports
Mr. Etheridge reported on the Harbor Board meeting and said they requested a joint meeting with the Assembly. They passed a motion to continue with the .23 cent tonnage tax this year. When the current tax expires, they are looking into the fact that they don’t want us to renew it and they would like to create the fees themselves so they go into the Harbor accounts. Mr. Corso was asked to look and see if that would be legal. Mr. Corso said he did not find any structural impediment in the Title 85, Docks and Harbors Code, to imposition of fees such of this and he assumed that the use of the fees would be limited to docks and harbors business. Mr. Etheridge added that they also want a million and a half dollars from the Passenger Fees and that would need to be discussed between the Harbor Board and the Committee of the Whole. Ms. Muñoz said the Finance Committee would take up both issues, the tonnage tax and the passenger fees, in mid-March. She asked Mr. Etheridge to let the Harbor Board know they would like to hear from them prior to that.

Mr. Anderson invited assembly members to the Business Round Table lunches on Thursdays. He said it was recently said in a legislative hearing that Juneau has created a very strong anti-business attitude so he would like everyone to make an effort to come to these lunches to show that we do have interest in commerce in Juneau.

Ms. Muñoz reported that she attended the last PRAC meeting and heard an update on the Fish Creek master plan effort. There is a lot of support for keeping the area in a rural natural area and to maintain the natural values of that area. The committee did support new commercial trail development in the Outer Point area and the trail is schedule to be completed by July 5, 2001.

Mayor Smith reported that she has attended the Alaska Committee meetings and she would provide minutes of those meetings. They testified before House State Affairs on HB 01, which would relocate legislative sessions to Anchorage. The Alaska committee also discussed the $150,000 that the Assembly agreed to forward to the Alaska Committee to seek the expansion footprint on the Capital expansion.

Today she attended the UAS Campus Council meeting. They would like to have the capital money to continue the classroom expansion and they will break ground on phase one of that project March 21st at 8:30 a.m.

C. Presiding Officer Reports - None

XIII. ASSEMBLY COMMENTS AND QUESTIONS
Mr. Etheridge received e-mail regarding the National Guard Armory and he suggested a resolution be drafted by Mr. Corso for the next meeting. Ms. Pierce said she spoke with Mr. MacKinnon about the Armory project today and about what Mr. Roots could do in D.C. to assist with the priority for that project. She would continue to try to get a hold of him for feedback. She would clarify the current status of the Juneau project and report back. Mayor Smith suggested asking him if a resolution would be helpful and Mr. Etheridge did not think it could hurt. He
continued with regard to hunting in the wetlands and said he had met with groups and the main idea he has been hearing is for educational programs. He has met with the Gun Club and they will be bringing forward their ideas.

Mr. Anderson asked how the voluntary compliance program was progressing and if it was on schedule. Ms. Pierce said the tourism specialist had been meeting with the flight seeing operators and would try to get public input on last year’s program. Everyone agrees with the need to meet with the operators to get their feedback on what is practical for them to do, and to hear from the public on how the program is working and what areas of friction may still exist. They need to get the program in place in the next few weeks so the operators will have opportunity to train their staff. Mr. Anderson wanted to be sure they were looking at wide-based participation in the project. He continued and said word smithing was very important to him. A letter was recently sent to the U.S. Forest Service and he read a portion of that letter where it asks that the Forest Service move ahead with its DEIS on helicopter ice field landings. He wanted to have the public know that he was not interested in looking at “as many as possible”, but to incorporate reasonable noise mitigation measures.

Ms. Muñoz received a lot of input on the 10th and Egan preferred alternative from DOT. She asked when they were scheduled to discuss this issue. Mr. MacKinnon said he was trying to plan a joint meeting with the Planning Commission in the next three weeks, for a presentation on the various alternatives; DOT is looking forward to hearing assembly input and they are in the process of gathering information. Ms. Muñoz then addressed the request from the Fisherman Memorial to link with the City web site. There was general support from the assembly for that to happen. She then referred to a request from two individuals about a potential Visitor Center Area in the Centennial Hall, where the Forest Service has vacated. She then asked about Ms. Bridges’ request to look at increased monitoring. There seems to be new information and she asked for clarification. Mr. Stone came forward and said he would have staff compile all the data for the assembly to look at. Indications from staff are that the movement has stopped, or slowed below the level of detection. Ms. Muñoz thanked staff for the very successful junk vehicle program, and also the Finance staff for putting together the two taxation issues on tonight’s agenda.

Mr. Powell said he participated in the Science Fair this weekend as a judge; over 150 students participated and they were incredible and thoughtful.

Mr. MacKinnon was also impressed with the junk car turn out; 72 in one day is almost one coming in every six minutes.

Mayor Smith noted a letter received thanking the JPD for their help with Celebration 2000. She reminded everyone on the assembly who has a parking permit that it is only to be used while they are on official business. She spoke in support of a resolution, in cooperation with the University, in support of the Fisheries Lab being included in the state budget. She reported that she testified on HB 01, the Legislative Relocation Bill. She could not believe all the negative things said about Juneau, but she felt it was an opportunity to take a closer look at ourselves and how we do business. She does not see Juneau as anti-development or non-progressive. There was good response to the testimony and she felt they were well received by the committee. The Chair of State Affairs did a demonstration on closed captioning and she heard it was very successful and is being considered for Gavel to Gavel. They also attended a demonstration on video streaming, another possible way of getting Gavel to Gavel out to more people. In addition she attended a briefing with DOT on the complete corridor for Egan Drive. The SE Conference met on the proposed inter tie and will be forwarding a resolution in hopes of support for the inter tie.
XIV. **CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS** - None

XV. **ADJOURNMENT** - There being no further business to come before the Assembly, and no objection, the meeting adjourned at 8:15 p.m.

Signed: ________________________________
Laurie Sica, Clerk

Signed: ________________________________
Mayor Smith