MEETING NO. 2006-13: 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, Bob Doll, Dan Peterson, Merrill Sanford, David Stone, Randy Wanamaker, Mayor Botelho, Jeff Bush, Johan Dybdahl,

Assembly Absent: None.

Staff Present: Rod Swope, City Manager; Kim Kiefer, Deputy City Manager; John Hartle, City Attorney; Laurie Sica, Municipal Clerk; Craig Duncan, Finance Director; Joe Buck, Public Works Director; Janet Grange, P.W. Admin. Officer; Marc Matsil, Parks and Recreation Director; Roger Healy, Engineering Director; Heather Marlow, Lands and Resources Manager; Cynthia Johnson, Deputy Lands Manager; Myiia Whistler, Youth Sports Program Supervisor; Wendie Marriott, Centennial Hall Facility Manager; Dale Pernula, Community Development Director; Ben Lyman, Planner I; Kirk Duncan, Eaglecrest Ski Area Manager; Barbara Berg, Library Director; Jim Canary, Assessor; Alan Heese, Airport Manager; Garth Hamblin, Bartlett Regional Hospital.

III. SPECIAL ORDER OF BUSINESS

A. Employee Recognition

Marc Matsil presented two awards from the Alaska Parks and Recreation Association, one to Myiia Whistler for Outstanding Service for youth sports programming and for the redesign of the association’s newsletter, and one to Wendie Marriott – the Professional Award, as past president of the association and her numerous positions in the CBJ parks and recreation department. Mr. Swope added thanks to Ms. Marriott and her staff for their work to host the special legislative session at Centennial Hall.

Mr. Swope presented a Certificate of Appreciation from the Friends of Recycling to Janet Grange for her work to support recycling in CBJ and the successful program in Juneau.

B. Board Recognition

Mayor Botelho presented a Certificate of Appreciation to Susan Moreland for her service on the Juneau International Relations Advisory Committee. Ms. Moreland served the longest term on the board (12 years) and had served as chair and historian for the group’s activities. Ms. Moreland was moving to the country of Jordan.

Jeff Bush introduced and thanked Christine Kim and her son Tazor, mother and brother of Skyler, who was killed while riding a bike on Mendenhall Loop Road. She had made helmets affordable to all by providing a $10,000 contribution to Safe Kids for helmets and bike safety curriculum to all the schools. Mr. Bush displayed one of the helmets, and said each was provided with a tag that had a photo of Skyler in his memory, and on the other side had instructions on how to be safe on a bike. 
bikes. Karen Lawfer of the Safe Kids program said that with this contribution all children will get a helmet. Ms. Lawfer said that Ms. Kim has demonstrated how one person could turn adversity into advocacy, and now all schools in the district will be provided with a curriculum on brain and spinal cord injury prevention. Ms. Kim is moving south to Bellingham, but her donation will keep the program going.

C. Proclamation – Bike to Work Day

Ms. Sica read the Proclamation by Mayor Botelho proclaiming Friday, May 19, 2006 as the official “Bike to Work Day.”

IV. APPROVAL OF MINUTES

A. April 24, 2006 – Regular Meeting 2006-10

MOTION, by Mr. Wanamaker, to approve the minutes of the April 24, 2006 Regular Assembly Meeting 2006-10, and asked for unanimous consent. Hearing no objections, the minutes were approved.

B. May 1, 2006 – Special Meeting 2006-11

MOTION, by Mr. Peterson, to approve the minutes of the May 1, 2006 Special Assembly Meeting 2006-11 and asked for unanimous consent. Hearing no objections, the minutes were approved.

C. May 8, 2006 – Special Meeting 2006-12

MOTION, by Mr. Sanford, to approve the minutes of the May 8, 2006 Regular Assembly Meeting 2006-12 and asked for unanimous consent. Hearing no objections, the minutes were approved.

V. MANAGER’S REQUEST FOR AGENDA CHANGES – None.

VI. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS.

Bill Leighty, 227 Gastineau Ave., asked for a consensus of the assembly by resolution to address the governor and the Alaska Department of Transportation and Public Facilities (AKDOT/PF) to not build a road around Berner’s Bay. He said the context of Juneau access had changed since the original planning stages. Gas prices had soared and there was a potential for rationing. Global warming and climate change exist. There was no quickly developable and inexpensive alternative energy source to fuel oil. Building a road north would distract us from building for sustainability. If the immediate goal was a road to Comet, AKDOT/PF should consider tunneling. He distributed a map from engineers in Norway who had outlined where potential tunnels could be built. He was not sure if this idea was ever seriously considered. He encouraged the Assembly to consider this. The $45 million in the state’s capitol budget may be flexible to do something wiser, such as a fixed guideway for public transit i.e. light rail, fixed rail, etc. He thought there was no substitute than that of a letter from the Assembly. He said many would regard his presence as a fool’s errand, but he felt it important to share his ideas and thoughts with the Assembly.

Mr. Doll asked Mr. Leighty if he had any conclusions on the future of oil prices. Mr. Leighty said the price paid at the pump did not reflect the true cost of oil. Even alternatives would not result in inexpensive, cheap fuel prices in the future.

Jeffrey Herman, Perseverance Theatre, spoke about his frustration with the process set up this year by the Assembly to review and provide funding to arts programs in the community and to
Perseverance Theatre specifically. He resented comments made at previous meetings that race was involved in the selection of recipients of arts funding and that Perseverance Theatre had been help up as an example of white privilege, when during the same week of the meeting, Perseverance was granted a $25,000 award from the National Endowment of the Arts for the Tlingit Macbeth production, to take the production to Washington, DC next March. The production would be performed largely in the Tlingit language and performed exclusively by an all Alaska Native cast of actors. He agreed that Perseverance had held a position of privilege in the CBJ budget for over 20 years, and although he supported competition, he thought there were times when competition was not desirable and could be destructive. 20 years ago the Assembly decided it was not fair to have smaller arts groups compete with Perseverance, and it deserved a different type of relationship with the municipality. The theatre had leveraged millions of dollars from the funds provided by CBJ and brought statewide and national attention to Juneau. He appreciated having another year with the funding guaranteed and he hoped the Assembly would involve Perseverant and the other affected groups as it determines how municipal arts funding would work in FY08.

Marc Wheeler, Executive Director, Big Brothers/Big Sisters, provided a copy of the 2005 Annual Report for BBBS to the Assembly and thanked the City and Borough of Juneau for its support in their mission to continue to expand services to children throughout Southeast Alaska. He provided numerous statistics of the good work accomplished by the participants in the BBBS program.

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, and he asked for unanimous consent. Hearing no objection, the consent agenda was adopted.

1. Ordinances for Introduction

a. Ordinance 2006-17

An Ordinance Establishing The Rate Of Levy For Property Taxes For Calendar Year 2006 For The Budget For Fiscal Year 2007.

Administrative Report: Attached. The manager recommended Ordinance 2006-17 be introduced and referred to the Assembly Finance Committee.

b. Ordinance 2006-18

An Ordinance Amending The Disturbing The Peace Code.

Administrative Report: Attached. The manager recommended Ordinance 2006-18 be introduced and set for public hearing at the next regular Assembly meeting.
c. Ordinance 2005-11(AV)
An Ordinance Appropriating To The Manager The Sum Of $63,077 As Partial Funding For Capital Transit Operations, Funding Provided By The Alaska Department Of Transportation And Public Facilities.

Administrative Report: Attached. The manager recommended Ordinance 2005-11(AV) be introduced and set for public hearing at the next regular Assembly meeting.

d. Ordinance 2005-11(AW)
An Ordinance Appropriating To The Manager The Sum Of $2,370 To Adjust Fiscal Year 2006 Budgeted Library Grants To The Actual Grant Amounts Received, Funding Provided By The Alaska Department Of Transportation And Public Facilities.

Administrative Report: Attached. The manager recommended Ordinance 2005-11(AW) be introduced and set for public hearing at the next regular Assembly meeting.

e. Ordinance 2005-11(AX)
An Ordinance Appropriating To The Manager The Sum Of $3,900 As Funding For The Purchase Of Public Access Computers, Funding Provided By The Bill And Melinda Gates Foundation.

Administrative Report: Attached. The manager recommended Ordinance 2005-11(AX) be introduced and set for public hearing at the next regular Assembly meeting.

f. Ordinance 2005-11(AY)
An Ordinance Appropriating To The Manager The Sum Of $109,000 As Funding For The Juneau International Airport’s Fiscal Year 2006 Operating Budget, Funding Provided By Operating Revenues.

Administrative Report: Attached. The manager recommended Ordinance 2005-11(AY) be introduced and set for public hearing at the next regular Assembly meeting.

g. Ordinance 2005-11(AZ)
An Ordinance Transferring To The Manager The Sum Of $69,302 As Funding For The Replacement Of Eaglecrest Ski Area’s Ski Rental Equipment, Funding Provided By Sales Tax.

Administrative Report: Attached. The manager recommended Ordinance 2005-11(AZ) be introduced and set for public hearing at the next regular Assembly meeting.

h. Ordinance 2005-11(BA)
An Ordinance Appropriating To The Manager The Sum Of $90,000 As Funding For The Fleet Maintenance Equipment, Funding Provided By Fleet Maintenance Fund Balance.

Administrative Report: Attached. The manager recommended Ordinance 2005-11(BA) be introduced and set for public hearing at the next regular Assembly meeting.

i. Ordinance 2005-11(BB)
An Ordinance Appropriating To The Manager The Sum Of $2,800,500 As Partial Funding For Bartlett Regional Hospital’s Fiscal Year 2006 Operating Budget, Funding Provided By User Fees And Interest Income.
Administrative Report: Attached. The manager recommended Ordinance 2005-11(BB) be introduced and set for public hearing at the next regular Assembly meeting.

j. Ordinance 2005-11(BE)
An Ordinance Appropriating To The Manager The Sum Of $648,700 To Fund The Transfer Of Title To The Scottish Rite Temple To The State Of Alaska, Funding Provided By Sales Tax Budget Reserve.

Administrative Report: Attached. The manager recommended Ordinance 2005-11(BE) be introduced and set for public hearing at the next regular Assembly meeting.

2. Resolutions

a. Resolution 2354

Administrative Report: Attached. The manager recommended Resolution 2354 be adopted.

b. Resolution 2355

Administrative Report: Attached. The manager recommended Resolution 2355 be adopted.

c. Resolution 2356
A Resolution Amending The Retention Schedule For City And Borough Of Juneau Records, And Repealing Resolution No. 2172.

Administrative Report: Attached. The manager recommended Resolution 2356 be adopted.

d. Resolution 2357

Administrative Report: Attached. The manager recommended Resolution 2357 be adopted.

3. Transfers

a. Transfer T-832
Transferring $70,000 Of Passenger Facility Charges To The Airport Revolving Capital Reserve Account.

Administrative Report: Attached. The manager recommended Transfer T-832 be adopted.

b. Transfer T-833
Transfer $160,000 from the Mendenhall Odor Management Project to the Juneau Douglas Treatment Plant Clarifier Building Rehabilitation Project.

VIII. PUBLIC HEARING

A. Ordinance 2006-13


Public Comment: None.

Assembly Action:

*MOTION*, by Bush, to adopt Ordinance 2006-13, and he asked for unanimous consent. Hearing no objection, Ordinance 2006-13 was adopted.

B. Ordinance 2006-14(b)
An Ordinance Relating To The Land Use Code Parking And Loading Requirements.

Administrative Report: Attached. The manager recommended Ordinance 2006-14(b) be adopted.

Public Comment: None.

Assembly Action:

*MOTION*, by Sanford, to adopt Ordinance 2006-14(b), and he asked for unanimous consent. Hearing no objection, Ordinance 2006-14(b) was adopted.

C. Ordinance 2005-11(AP)
An Ordinance Appropriating To The Manager The Sum Of $5,200,000 As Partial Funding For Phase Two Of The Bartlett Regional Hospital Project 2005 Capital Improvement Project, Funding Provided By Bartlett Regional Hospital’s Retained Earnings.


Public Comment: None.

Assembly Action:

*MOTION*, by Bush, to adopt Ordinance 2005-11(AP),

Mr. Bush asked how much Bartlett held in retained earnings. Mr. Hamblin said $13 million.

Hearing no objection, Ordinance 2005-11(AP) was adopted.

D. Ordinance 2005-11(AQ)
An Ordinance Appropriating To The Manager The Sum Of $100,000 As Partial Funding To Initiate A Planning Study For A Second Road Access Into The Lemon Creek Commercial Center, Funding Provided By The Lands Fund Fund Balance.

Public Comment: None.

Assembly Action:

**MOTION**, by Doll, to adopt Ordinance 2005-11(AQ), and he asked for unanimous consent. Hearing no objection, Ordinance 2005-11(AQ) was adopted.

E. Ordinance 2005-11(AR)

**An Ordinance Appropriating To The Manager The Sum Of $52,389 As Partial Funding For Three Juneau International Airport Capital Improvement Projects, Funding Provided By The Federal Aviation Administration.**


Public Comment: None.

Assembly Action:

**MOTION**, by Sanford, to adopt Ordinance 2005-11(AR), and he asked for unanimous consent. Hearing no objection, Ordinance 2005-11(AR) was adopted.

F. Ordinance 2005-11(AS)

**An Ordinance Appropriating To The Lands Fund The Sum Of $1,225,000 As Funding For Utility Services In The South Lena Subdivision, Funding Provided By Land Sale Revenues.**


Public Comment:

Gordon Evans, resident of 604 Gold St. in the winter and 16875 Lena Loop Rd. in the summer, said he was appearing on behalf of Kirk Miller, President of Lena Extended Neighborhood Association (LENA), and he distributed a letter to the Assembly. He said that the two ordinances on the agenda were “greased” to slide through as adopted, however, LENA had concerns about the final plat that was being reviewed now. He touched on four points in the letter, and all involved the on-site sewer septic tank systems that the Planning Commission had approved for this. LENA strongly disagreed with CBJ’s interpretation of Ordinance Serial No. 99-11, which was the latest update of the CBJ Land Management Plan and had not been changed to date. LENA also disagreed with the attempts to circumvent the requirements of 99-11 by the adoption last fall of Ordinances 2005-16 and 2005-17. Ordinance 99-11 clearly provided that the land that was the subject of this particular subdivision may not be sold until after public sewer and water had been provided to the parcel being offered. LENA would be meeting to consider further action on this matter. LENA urged the Assembly to postpone action on the two ordinances. The passage of this ordinance could be frivolous, as they were considering taking the Assembly to court on this matter to request an injunction against the city as it was not establishing a public sewer in the area. He could not believe that the money in these ordinances was needed. He thought all the utilities were in, including electricity and water. He reported that people were going on the lots and taking firewood from those lots. The thought that was stealing city property, and should be followed up.
He had lived in the area for 40 years and said he knew this sounded like a NIMBY (Not In My Back Yard), but this rural, idealic area was in danger of becoming a valley subdivision. This would be expensive housing and would not solve the problems of lack of affordable housing in Juneau.

Assembly Action:

*MOTION*, by Wanamaker, to adopt Ordinance 2005-11(AS), and he asked for unanimous consent.

Mr. Anderson asked for the reasons for separating the issue into two separate ordinances. Mr. Swope said that this was similar to appropriating sales tax which had not been collected. This was not done often, but this was legal and appropriate to do. The separation of the ordinances was for clarity to appropriate the money into the lands fund, then appropriate it out of the lands fund for the CIP project.

Mr. Anderson said he originally opposed this due to the lack of public sewer and asked for an interpretation of Ordinance 99-11 from Mr. Hartle. Mr. Hartle said he did not have the ordinance before him or the meeting minutes at which it was adopted. Ms. Boggs had drafted a memo on this, and he deferred an opinion to a later time when he had opportunity to review all documents.

Mayor Botelho asked about the urgency of adoption. Mr. Swope said this was time critical and the money was needed to get the utilities in and prepare them for sale. Mr. Wanamaker spoke in favor of the motion and said as a member of the Lands Committee he had the opportunity to review this issue thoroughly. If there were outstanding issues he felt confident in the staff to work them out.

Mr. Anderson said he had confidence in staff but was not comfortable voting on this without a review of Ordinance 99-11. Mr. Hartle said he could get more information in short order.

Mr. Sanford said Ordinance 2005-16 and Ordinance 2005-17 were sewer ordinances adopted specifically for this subdivision and were substantially reviewed by staff and the law department.

Mr. Doll suggested tabling both ordinances to another meeting to allow time for considering Mr. Evans’ comments.

Mayor Botelho announced a 10 minute recess from 7:50 p.m. to 8 pm.

Upon returning from the recess, Mayor Botelho suggested that the Assembly table both ordinances to trail new business and take up the two ordinances matters once new business was concluded. Hearing no objection, it was so ordered.

IX. UNFINISHED BUSINESS – None.

X. NEW BUSINESS

A. Export Manufacturing Exemptions

*Administrative Report*: Attached. The manager recommended approval of the export manufacturing exemptions.

*Public Comment*: None.

*Assembly Action*:
Hearing no objection, the export manufacturing exemption requests by Taku Smokeries, AKBEV Group, LLC and Black Feather Boats, Inc. were approved.

Mr. Swope said this ordinance would sunset on December 31, 2006, and it would be brought back before the Assembly for consideration before that time.

B. Senior Exemption, Late File – Daniel Kromerak

Administrative Report: Attached. The manager said that the CBJ code required that to qualify for a senior citizen exemption, the person must have filed and be found eligible for a Permanent Fund Dividend check for the tax year in which the exemption was sought. Although the reasons for being out of state were beyond Mr. Kromerak’s control, there was no provision for which the Assembly was allowed to provide an exemption according to a legal review by the city attorney. The manager recommended denial of the request.

Public Comment: None.

Assembly Action:

MOTION, by Wanamaker, to accept the manager’s recommendation and deny the request for granting a late filed exemption. Hearing no objection, it was so ordered.


MOTION, by Doll, to accept the appeal, to have the Assembly hear the appeal, and to have the mayor preside, and he asked for unanimous consent. Hearing no objection, it was so ordered.

Continuation of discussion on Ordinance 2005-11(AS) 8:05 p.m.

Mr. Hartle said he spoke to Ms. Boggs during the break in the meeting about her memo regarding Ordinance 99-11, and said that sale of the properties would not violate the ordinance. Mr. Evans had threatened a lawsuit and the city had many defenses. There should have been an appeal of the preliminary plat, which was the right time and place to take up the matters which LENA wanted to address, and the administrative remedies had not been exhausted.

Mr. Bush asked what was included in Ordinances 2005-16 and 2005-17. Mr. Sanford said it was a complete set of guidelines for setting up a sewer system program in a remote area, with the intention of not ending up with a situation that existed in the Bayview and Bonnie Brae subdivisions. The ordinances had a listing of requirements of the homeowners.

Mr. Bush asked if subsequently adopted ordinances took precedence over previous legislation. Mr. Hartle said yes and also that more specific legislation was intended to take precedence over general legislation. Ordinances 2005-16 and 2005-27 specifically addressed the Lena Subdivision.

Mr. Anderson removed his objections based on the legal advice provided.

Hearing no further objection, Ordinance 2005-11(AS) was adopted.
G. Ordinance 2005-11(AU)

An Ordinance Transferring To The Manager The Sum Of $1,225,000 As Funding For Utility Services And Land Acquisition To Complete The South Lena Subdivision, Funding Provided By The Fund Balance Of The Lands Fund.


Public Comment: None.

Assembly Action:

MOTION, by Sanford, to adopt Ordinance 2005-11(AU), and he asked for unanimous consent. Hearing no objection, Ordinance 2005-11(AU) was adopted.

Mr. Sanford requested that the letter from LENA be forwarded to the Planning Commission and the Community Development Department staff.

XI. STAFF REPORTS

Mr. Swope said that on April 3, 2006, the Assembly protested the renewal of the Rendezvous Liquor License, based upon the recommendation of the Human Resources Committee and the failure by the business owner to comply with the fire code, building code and the non-payment of sales tax accounts due to the CBJ. Since that time, the owners had worked very hard to comply, had paid all delinquent accounts, and fire inspections and building inspections were completed to the satisfaction of the CBJ Fire Marshal and Building Inspector to allow a maximum occupancy of 49 occupants. Permission to allow more than 49 occupants would be allowed upon completion of the remaining building and fire code items. Mr. Swope recommended the Assembly withdraw its protest, based upon a limited occupancy of 49 occupants pending final inspection.

Hearing no objection, the Assembly withdrew its protest of the renewal of the Rendezvous Liquor License, based upon a limited occupancy of 49 occupants pending final inspection.

Mr. Hartle noted that Judge Singleton had agreed to allow CBJ to file an amicus brief on the Kensington Mine permitting matter. The brief was filed, and a copy was provided to Assembly members.

Mr. Anderson said he thought the direction of the Assembly was to say that while expressing support for the mine it would not enter into a particular point of whether or not the Clean Water Act applied. Mr. Hartle said that was essentially what the law department did. It did not weigh in on the Clean Water Act, but expressed the Assembly’s interest in the Kensington mine. Mr. Sanford said the brief was well written.

XII. ASSEMBLY REPORTS

A. Committee Reports

Public Works and Facilities Committee: Chair Sanford said the committee met on Monday, May 8, and discussed port development fund project dollars. The utility board approved utility rates for 2007, which was an issue that would come before the Assembly. The FY07 CIP list was approved in concept and some changes would come before the Finance Committee.
Finance Committee: Vice Chair Anderson said that presentations were heard from the Airport and Docks and Harbors Boards, and both budgets were approved.

Lands and Resources Committee: Chair Bush said that the group met on Monday, May 8, and discussed the Scottish Rite Temple purchase by the city and subsequent sale to the Alaska State Legislature. The committee authorized staff to continue negotiations. The Lands Committee also heard about a commercial harvest request for harvest of 500 blueberry plants for potential growing in other areas.

B. Liaison Reports

High School Project Team: Liaison Bush asked staff for a plan for construction of the new high school. Mr. Swope said the project team recommended awarding the bid and staff had been developing a plan. He intended to work with the Assembly to discuss this before bringing this issue as ordinance. A funding ordinance would be introduced at a special meeting of the Assembly on Wednesday, May 24, with public hearing and action scheduled for June 5, 2006. The timing was important and delay was not desirable based upon increasing building costs. The sub-contractors were only willing to hold their offers for 30 days as the price of materials was going up daily. The contractor intended to order materials immediately and store them for use as soon as construction began.

Parks and Recreation Advisory Committee: Liaison Anderson said that the PRAC was busy amending the Parks and Recreation Comprehensive Plan. Chapter eight was posted on line. The PRAC also heard a proposal to rename the Adair Kennedy field in honor of Riley Richey, former physical education instructor in the Juneau School District and Head Coach of the Juneau Youth Football League – JDHS Bears High School Football team. No final decision had been made and there was a suggestion for keeping the fields named for former JPD Officers Adair and Kennedy and having the Stadium named for Richey. He said there had been lots of discussion and emotions displayed at the meeting.

Airport Board: Liaison Sanford said the board met May 10 and discussed how to protect the public from Avian flu, continued work on the EIS, the terminal project and an upcoming disaster drill. Mr. Sanford encouraged members to participate in the table top exercise that would be held at the airport on May 24.

Hospital Board: Liaison Peterson said the Hospital board would present its budget at the next Assembly Finance Committee meeting.

XIII. ASSEMBLY COMMENTS AND QUESTIONS

Mr. Anderson asked how the issue of CBJ funding for the arts community would be discussed and asked that it be reviewed in a timely manner prior to the budget session next year. Mayor Botelho said the matter remained in the Finance Committee.

XIV. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS - None.

XV. EXECUTIVE SESSION – None.

XVI. ADJOURNMENT – 8:27 P.M.

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

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