

**ASSEMBLY AGENDA/MANAGER'S REPORT
THE CITY AND BOROUGH OF JUNEAU, ALASKA**

August 31, 2015 7:00 PM

City Hall Assembly Chambers
Regular Meeting 2015-24

Submitted by: _____
Robert Steedle
Deputy Manager

I. FLAG SALUTE

II. ROLL CALL

III. SPECIAL ORDER OF BUSINESS

A. John Venables Proclamation

IV. APPROVAL OF MINUTES

A. August 10, 2015 Regular Assembly Meeting No. 2015-22

B. August 17, 2015 Special Assembly Meeting No. 2015-23

V. MANAGER'S REQUEST FOR AGENDA CHANGES

VI. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

VII. CONSENT AGENDA

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

B. Assembly Requests for Consent Agenda Changes

C. Assembly Action

1. Ordinances for Introduction

a. Ordinance 2015-40 An Ordinance Extending the Limited Moratorium on the Receipt or Processing of Applications, Permits, or Pending Approvals Pertaining to Marijuana Establishments.

On January 12, 2015, the Assembly adopted ordinance 2014-50, establishing a moratorium on the acceptance or approval of any development permit pertaining to marijuana establishments. The purpose of the moratorium was to allow the CBJ time to consider and enact time, place and manner legislation concerning the operation of marijuana establishments in the CBJ. The moratorium is set to end on October 19, 2015, but the CBJ's work has not yet been completed.

This ordinance would extend the moratorium to December 31, 2015, to allow the CBJ time to adopt land use regulations prior to the deadline set by state law for the State to begin the processing of marijuana establishment registrations.

The Manager recommends this ordinance be introduced and set for public hearing at the next regular Assembly meeting.

b. **Ordinance 2015-41 An Ordinance Amending the Uniform Sales Tax Code Relating to the Senior Citizen Sales Tax Exemption.**

Based on recommendations from both the Assembly Tax Exemption Review Committee and the Finance Committee, this ordinance would amend CBJ 69.05.045, Senior Sales Tax Exemption, by limiting the exemption to purchases of essential items (defined as food, heating fuel, electricity and CBJ water and sewer utilities) except for those seniors with a household income at or under 250% of the federal poverty level established for Alaska, who would retain the full existing senior exemption on all purchases.

On July 30, 2015, the Finance Committee addressed two significant implementation policies and recommended the following:

1. The ordinance should define essential food items based on the Federal Food Stamp / SNAP definition of food items. Additionally, only SNAP program participating merchants will be able to exempt senior purchases of qualifying food.
2. CBJ 69.05.045 would provide for an annual rebate in the amount of \$200 to each senior with a household income under 250% of the Federal poverty level for Alaska. This rebate would represent an estimate of the sales tax that would be paid on a senior's non-essential purchases.

The ordinance would have an effective date of January 1, 2016, to allow time for senior citizen education, merchant implementation and in order to allow the Finance Department sufficient time to plan for the implementation and administration of the program.

The manager recommends this ordinance be introduced and set for public hearing at the next regular Assembly meeting.

c. **Ordinance 2014-24(AW) An Ordinance Appropriating to the Manager the Sum of \$15,390,272 to Fund the City and Borough of Juneau's Fiscal Year 2015 Public Employee Retirement System Contribution; Funding Provided by the Alaska Department of Administration.**

This appropriation is the State's FY15 42.41% on-behalf PERS benefit paid for CBJ. Funding was authorized by passage of SB119 during the 2014 legislative session.

This is a housekeeping ordinance to properly account for this on-behalf payment and has no impact on the CBJ's finances.

The Manager recommends this ordinance be introduced and set for public hearing at the next regular Assembly meeting.

d. **Ordinance 2014-24(AX) An Ordinance Appropriating to the Manager the Sum of \$13,974,804, to Fund Bartlett Regional Hospital's Fiscal Year 2015**

Public Employee Retirement System Contribution; Funding Provided by the Alaska Department of Administration.

This appropriation is the State's FY15 42.41% on-behalf PERS benefit paid for Bartlett Regional Hospital. Funding was authorized by passage of SB119 during the 2014 legislative session.

This is a housekeeping ordinance to properly account for this on-behalf payment and has no impact on BRH's finances.

The Manager recommends this ordinance be introduced and set for public hearing at the next regular Assembly meeting.

- e. **Ordinance 2015-20(L) An Ordinance Appropriating to the Manager the Sum of \$543,671 as Funding for the Juneau International Airport Terminal Rehabilitation Capital Improvement Project; Funding Provided by the Federal Aviation Administration and the State of Alaska Department of Transportation.**

This ordinance would provide funding to acquire a Passenger Boarding Bridge and ADA Passenger Ramp. Funding is provided as follows:

Federal Aviation Administration grant:	\$526,133
State of Alaska Department of Transportation:	\$ 17,538

The FAA funds 93.75% of the project with the remainder being split between Alaska DOT and Juneau International Airport (Res 2713d Area Wide Sales Tax).

The Airport Board approved this action at its April 9, 2014, May 14, 2014, and August 13, 2014 meetings.

The Manager recommends this ordinance be introduced and set for public hearing at the next regular Assembly meeting.

- f. **Ordinance 2015-20(M) An Ordinance Appropriating to the Manager the Sum of \$500,000 as Funding for the Juneau School District Deferred Maintenance and Minor Improvements Capital Improvement Project, and \$300,000 for the Juneau School District Comprehensive Facility Plan; Funding Provided by the 2009 Special Capital Projects 1% Sales Tax Fund's Fund Balance.**

This ordinance would appropriate a total of \$800,000.

The Juneau Board of Education approved this action at its June 9, 2015 meeting.

The Committee of the Whole approved this action at its June 22, 2015 meeting.

The Assembly Finance Committee approved this action at its July 30, 2015 meeting.

The Manager recommends this ordinance be introduced and set for public hearing at the next regular Assembly meeting.

- g. **Ordinance 2015-20(N) An Ordinance Appropriating to the Manager the Sum of \$160,000 as Funding for the Emergency Management Performance Grant; Funding Provided by the State of Alaska, Department of Military and Veterans Affairs.**

This ordinance provides funding from the Division of Homeland Security and Emergency Management (DHS&EM) under the 2015 Emergency Management Performance Grant (EMPG), awarded to the City and Borough of Juneau.

Federal Grant Number: EMW-2014-EP-00054

State Grant Number: 20EMPG-GY15

These funds are provided to reimburse the City and Borough of Juneau for payroll and benefit costs incurred in direct support of the goals and activities of the Emergency Management Performance Grant for CBJ emergency programs, police, and fire staff in the performance of emergency management functions in planning, training, exercise, and equipment procurement within the grant performance period.

EMPG performance includes, but is not limited to, the following tasks:

1. Preparing the jurisdiction's Local Capability Assessment (LCA) document for the State.
2. Required attendance of the State's 2016 Bi-Annual Conference, Multi-Year Training, and Exercise Plan Workshop (TEPW), and development of a local jurisdiction Multi-Year Training and Exercise Plan to be submitted to the DHS&EM at the TEPW.
3. EMPG-funded personnel should make every attempt to participate in no less than three exercises during the performance period.
4. Continued utilization and work towards adoption and implementation of the National Incident Management System (NIMS).
5. Complete the FEMA Independent Study Professional Development Series.
6. Timely submissions of quarterly reports.
7. Required dollar-for-dollar, in-kind match is provided through CBJ emergency management staff personnel services.

The Manager recommends this ordinance be introduced and set for public hearing at the next regular Assembly meeting.

- h. **Ordinance 2015-20(O) An Ordinance Appropriating to the Manager the Sum of \$19,018 as Funding for the Local Planning Committee; Grant Funding Provided by the State of Alaska, Department of Military and Veterans Affairs.**

This ordinance provides funding from the Division of Homeland Security and Emergency Management (DHS&EM) under the 2016 Local Emergency Planning Committee Grant (LEPC), awarded to the City and Borough of Juneau.

State Grant Program Number: 20LEPC-GY16

These funds are provided to reimburse the City and Borough of Juneau for payroll, benefits, and LEPC program implementation costs incurred in direct

support of the goals and activities of the 2016 Local Emergency Planning Committee Grant for the Juneau LEPC. Activities funded under this grant include, but are not limited to:

1. Management to support the day-to-day sustainment of the committee.
2. Payroll and benefits.
3. Outreach to support the committee's baseline goals of public involvement in the emergency planning process, community right-to-know, all-hazards awareness, and LEPC membership.
4. Meeting room rental, office supplies, postal, printing, copying.
5. Promotional items: handouts and media campaigns.
6. Preparedness to support the LEPC's baseline goals of Tier II report monitoring, increasing awareness of and planning for chemical, and all-hazards events, and helping communities prepare and mitigate through planning and preparedness for potential events.
7. CERT program.
8. Preparedness Events (Training, EXPO).

There is no match requirement for this grant.

The Manager recommends this ordinance be introduced and set for public hearing at the next regular Assembly meeting.

2. Bid Award

a. Salt and Sand Storage Facility

Bid Award E16-013 Salt and Sand Storage Facility

Project includes construction of an approximately 18,000 square foot pre-engineered fabric structure, site work, concrete foundations, asphalt paving, ecology blocks, and limited lighting and power, for the bulk storage of salt and sand.

Bidders	Total Bid
Dawson Construction Inc.	\$1,139,200.00
Trucano Construction	\$1,161,179.00
North Pacific Erectors, Inc.	\$1,182,475.76
Alaska Commercial Contractors, Inc.	\$1,198,740.00
Miller Construction Co. Ltd.	\$1,287,750.00

ENGINEER'S/ARCHITECT'S ESTIMATE: \$1,191,164.00

The Manager recommends award of this bid to Dawson Construction Company, Inc. for the total bid amount of \$1,139,200.00.

VIII. PUBLIC HEARING

A. Ordinance 2015-03(c) An Ordinance Amending the Land Use Code Relating to Subdivisions.

The proposed ordinance would amend portions of Title 49, the Land Use Code, primarily regarding the requirements and improvements related to the subdivision of land.

The most significant proposed changes include increasing the number of lots in a minor subdivision, streamlining the process for major subdivision review, revising remote subdivision requirements, and revising street improvement standards to provide more options for street construction - including the option for developers to construct privately maintained access roads. There are a number of minor changes as well.

The Planning Commission reviewed the proposed ordinance at its May 26, 2015, meeting and recommended forwarding it to the full Assembly for approval. The Assembly Committee of the Whole considered this ordinance at its July 27 and August 3, 2015, meetings. Amendments are reflected in version (c) of the ordinance and are shown by italicized underlines and strikethroughs.

The Manager recommends this ordinance be adopted.

B. Ordinance 2015-20(F) An Ordinance Appropriating to the Manager the Sum of \$72,500 as a Transfer to the Parks and Recreation Department, Recreation Division in the Roaded Service Area as Partial Funding for the After School Program and Young Parents Healthy Teen Program; Funding Provided by a Portion of the Social Services Advisory Board and Mayor and Assembly Grants in the General Fund.

This appropriation would consist of a \$47,500 Assembly grant for the Juneau After School Coalition and a \$25,000 Social Services Advisory Board grant for the Young Parents Healthy Teen program.

Parks and Recreation has been offered the opportunity to take over management of the Body and Mind (BAM) After School Program, and the Young Parent Healthy Teen Center (YPHTC). Both of these programs had been previously managed by Catholic Community Services. The senior management team of Parks and Recreation believes this is an excellent fit with the Zach Gordon Youth Center (ZGYC).

BAM operates in both middle schools and the YPHTC operates out of the ZGYC. Both programs will be managed by the ZGYC manager and will allow for Parks and Recreation to be at the forefront of youth offerings in our community. These programs will rely heavily on partnership and collaboration, so as to remain financially viable and offer the highest possible service to our community's youth.

The Manager recommends this ordinance be adopted.

C. Ordinance 2015-20(I) An Ordinance Appropriating to the Manager the Sum of \$669,055 as Funding for the Juneau International Airport Aircraft Rescue & Fire Fighting (ARFF) Truck Capital Improvement Project; Funding Provided by the Federal Aviation Administration and Alaska Department of Transportation.

Funding is provided as follows:

Federal Aviation Administration grant:	\$647,473
Alaska Department of Transportation grant:	\$ 21,582

The FAA funds 93.75% of the project with the remainder being split between Alaska Department of Transportation and Juneau International Airport (Res 2713d Area Wide Sales Tax).

The Airport Board approved this action at its July 18, 2015 meeting, and recommended forwarding it to the full Assembly for approval.

The Manager recommends this ordinance be adopted.

D. Ordinance 2015-20(J) An Ordinance Appropriating to the Manager the Sum of \$413,333 as Funding for the Juneau International Airport Aircraft Rescue & Fire Fighting (ARFF) Building Modification Design & Environmental Capital Improvement Project; Funding Provided by the Federal Aviation Administration and Alaska Department of Transportation.

This appropriation is for designing the modification of the ARFF station to accommodate a new larger truck, and satisfying environmental requirements. Funding is provided as follows:

Federal Aviation Administration grant:	\$400,000
Alaska Department of Transportation:	\$ 13,333

The FAA funds 93.75% of the project with the remainder being split between Alaska Department of Transportation and Juneau International Airport (Res 2713d Area Wide Sales Tax).

The Airport Board approved this action at its July 18, 2015 meeting, and recommended forwarding it to the full Assembly for approval.

The Manager recommends this ordinance be adopted.

E. Ordinance 2015-20(K)(b) An Ordinance Appropriating to the Manager the Sum of \$868,025 as Funding for the Juneau International Airport Runway Safety Area (RSA) Phase IIB Design Northeast (NE)/Northwest (NW) Apron and Continued Perimeter Fencing Capital Improvement Project; Funding Provided by the Federal Aviation Administration, Alaska Department of Transportation, and Juneau International Airport Fund's Fund Balance.

Funding is provided as follows:

Federal Aviation Administration grant:	<u>\$813,773*</u>
Alaska Department of Transportation:	<u>\$ 27,126*</u>
Juneau International Airport (Airport Fund Balance):	<u>\$ 27,126*</u>

The FAA 2015 Reauthorization Bill allows federal financial participation on this project at 93.75%*, the remainder being split between Alaska Department of Transportation and Juneau International Airport.

The Airport Board approved this action at its July 18, 2015 meeting, and recommended forwarding it to the full Assembly for approval.

***Updates reflected in the (b) version of the Ordinance available in the packet. Does not constitute substantive change.**

The Manager recommends this ordinance be adopted.

IX. UNFINISHED BUSINESS

A. Bicknell v Planning Commission - Appeal of AME2013 0015 - Request for Rezoning USS 1568 TR B

At the regular Assembly meeting on February 24, 2014, the Assembly accepted the appeal from petitioner Bicknell, Inc., regarding the Planning Commission's Decision in AME2013 0015 denying a request to rezone 82 acres of Rural Reserve land at USS 1568 TR B to a mixture of Industrial, Light Commercial and Rural Reserve. At a special Assembly meeting on March 10, 2014, the Assembly retained John Corso as hearing officer for the matter.

The hearing was held on June 15, 2015. Mr. Corso submitted a draft decision to the parties on July 29, 2015. One party objected. No response in support was received. Mr. Corso responded under separate cover.

The draft decision, the objection, and Mr. Corso's response have been provided to the Assembly for its review. You must decide whether to accept the draft decision as written, accept the decision with modifications, or reject the decision.

Code 01.50.140 Decision on the appeal, provides in (c)

(2)...Unless rejected or modified by an affirmative vote of the appeal agency on a motion to reject or modify, the proposed decision, as amended by the hearing officer if such an amendment has been filed, shall be deemed adopted by the appeal agency and shall be the appeal agency decision. No testimony or evidence of any nature other than that contained in a timely filed objection may be received by the appeal agency at the meeting at which the proposed decision is presented.

(3) If the proposed decision is rejected by the appeal agency, the matter shall be immediately referred to the hearing officer for a rehearing of the appeal after notice to the parties; provided, the appeal agency may refer the appeal to a different hearing officer, may limit the scope of the rehearing to specified issues, may request the hearing officer to reconsider the proposed decision solely in light of new evidence raised in an objection, may place similar or different limits or conditions on the rehearing or reconsideration by the hearing officer, may remand the matter, or may rehear the matter itself after notice to the parties.

As this is a matter before the Assembly, the Manager makes no recommendation.

X. NEW BUSINESS

A. New Public Convenience Liquor License #5415 - Canton Asian Bistro, LLC d/b/a Canton Asian Bistro

The Assembly Human Resources Committee, at its meeting on Monday, August 31, will be reviewing the application for the above-mentioned liquor license. The HRC packet in your binders contains all the documents pertaining to the application and will provide a recommendation to the Assembly for action.

The Manager recommends the Assembly proceed according to the recommendations of the Assembly Human Resources Committee.

B. Senior Citizen/ Disabled Veteran Exemption Late File Determination - Nicolls

XI. STAFF REPORTS

XII. ASSEMBLY REPORTS

- A. Mayor's Report
- B. Committee Reports
- C. Liaison Reports
- D. Presiding Officer Reports

XIII. ASSEMBLY COMMENTS AND QUESTIONS

XIV. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

XV. EXECUTIVE SESSION

- A. **Update on Recent Incident at Lemon Creek Correctional Center**

XVI. ADJOURNMENT

ADA accommodations available upon request: Please contact the Clerk's office 72 hours prior to any meeting so arrangements can be made to have a sign language interpreter present or an audiotape containing the Assembly's agenda made available. The Clerk's office telephone number is 586-5278, TDD 586-5351, e-mail: city.clerk@juneau.org

THE CITY AND BOROUGH OF JUNEAU, ALASKA

Meeting Minutes - August 10, 2015

MEETING NO. 2015-22: 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 Merrill Sanford.

I. ROLL CALL

Assembly Present: Mary Becker, Karen Crane, Maria Gladziszewski, Loren Jones, Jesse Kiehl, Jerry Nankervis, Merrill Sanford, Kate Troll and Debbie White.

Assembly Absent: None.

Staff Present: Kim Kiefer, City Manager; Rob Steedle, Deputy City Manager; Amy Mead, Municipal Attorney; Laurie Sica, Municipal Clerk; Patricia DeLaBruere, Airport Manager; Carl Uchytel, Port Manager; Hal Hart, Community Development Director; Beth McKibben, Senior Planner; Kirk Duncan, Parks and Recreation Director; Bob Bartholomew, Finance Director; Greg Chaney, Lands and Resources Manager.

Mayor Sanford introduced Susan Phillips, Executive Assistant III in the Manager's office, and thanked Diane Cathcart for her work on behalf of the City and Borough of Juneau.

II. SPECIAL ORDER OF BUSINESS

A. Purple Heart City Proclamation

Mayor Sanford proclaimed the City and Borough of Juneau, Alaska to be a Purple Heart City, honoring the service and sacrifice of the nation's men and women in uniform wounded or killed by the enemy while serving to protect the freedoms enjoyed by all Americans.

III. APPROVAL OF MINUTES

A. July 20, 2015 Regular Assembly Meeting No. 2015-21

Hearing no objection, the minutes of the July 20, 2015 Regular Assembly Meeting Year-21 were approved.

IV. MANAGER'S REQUEST FOR AGENDA CHANGES

- A. Ordinance 2015-37 An Ordinance Authorizing the Issuance of General Obligation Bonds in the Principal Amount of Not to Exceed \$1,300,000 to Finance the cost of Educational Capital Improvements and Districtwide Major Maintenance Projects, and Submitting a Proposition to the Voters at the Election to Be Held Therein on October 6, 2015.**

The Assembly Finance Committee, at its July 30, 2015 meeting, discussed other methods of funding school maintenance and voted to remove from the Public Hearing section of the August 10, 2015 Assembly agenda Ordinance 2015-37.

The Manager has removed this ordinance per the Assembly Finance Committee's directive.

Public Comment: None.

Assembly Action:

Hearing no objection, Ordinance 2015-37 was removed from the agenda.

V. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

None.

VI. 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 Becker, to adopt the consent agenda. Hearing no objection, the consent agenda was adopted.

1. Ordinances for Introduction

- a. Ordinance 2015-20(F) An Ordinance Appropriating to the Manager the Sum of \$72,500 as a Transfer to the Parks and Recreation Department, Recreation Division in the Roaded Service Area as Partial Funding for the After School Program and Young Parents Healthy Teen Program; Funding Provided by a Portion of the Social Services Advisory Board and Mayor and Assembly Grants in the General Fund.

This ordinance would appropriate \$72,500 as a transfer from the General Fund composed of \$47,500 Assembly grant for the Juneau After School Coalition and a \$25,000 portion of the Social Services Advisory Board grant for the Young Parents Healthy Teen program.

Parks and Recreation has been offered the opportunity to take over management of the Body and Mind (BAM) After School Program, and the Young Parent Healthy Teen Center (YPHTC). Both of these programs had been previously managed by Catholic Community Services. The senior management team of Park and Recreation believes this is an excellent fit with the Zach Gordon Youth Center (ZGYC).

BAM operates in both middle schools and the YPHTC operates out of the ZGYC. Both programs will be managed by the ZGYC manager and will allow for Parks and Recreation to be at the forefront of youth offerings in our

community. These programs will rely heavily on partnership and collaboration, as to remain financially viable and offer the highest possible service to our community's youth.

The Manager recommends this ordinance be introduced and set for public hearing at the next regular Assembly meeting.

- b. Ordinance 2015-20(I) An Ordinance Appropriating to the Manager the Sum of \$669,055 as Funding for the Juneau International Airport Aircraft Rescue & Fire Fighting (ARFF) Truck Capital Improvement Project; Funding Provided by the Federal Aviation Administration and Alaska Department of Transportation.

This ordinance would appropriate \$669,055 to the Juneau International Airport for the purchase of an Aircraft Rescue & Fire Fighting (ARFF) Truck and bid documents. Funding is provided as follows:

Federal Aviation Administration grant:	\$647,473
Alaska Department of Transportation grant:	\$ 21,582

The FAA funds 93.75% of the project with the remainder being split between Alaska Department of Transportation, and Juneau International Airport (Res 2713d Area Wide Sales Tax).

The Airport Board approved this action at its July 18, 2015 meeting, and recommended forwarding it to the full Assembly for approval.

The Manager recommends this ordinance be introduced and set for public hearing at the next regular Assembly meeting.

- c. Ordinance 2015-20(J) An Ordinance Appropriating to the Manager the Sum of \$413,333 as Funding for the Juneau International Airport Aircraft Rescue & Fire Fighting (ARFF) Building Modification Design & Environmental Capital Improvement Project; Funding Provided by the Federal Aviation Administration and Alaska Department of Transportation.

This ordinance would appropriate \$413,333 to the Aircraft Rescue & Fire Fighting (ARFF) Building Modification Design & Environmental Capital Improvement Project, to design the modification of the ARFF station to accommodate a new larger truck, and satisfy environmental requirements. Funding is provided as follows:

Federal Aviation Administration grant:	\$400,000
Alaska Department of Transportation	\$13,333

The FAA funds 93.75% of the project with the remainder being split between Alaska Department of Transportation, and Juneau International Airport (Res 2713d Area Wide Sales Tax).

The Airport Board approved this action at its July 18, 2015 meeting, and recommended forwarding it to the full Assembly for approval.

The Manager recommends this ordinance be introduced and set for public hearing at the next regular Assembly meeting.

- d. Ordinance 2015-20(K) An Ordinance Appropriating to the Manager the Sum of \$868,025 as Funding for the Juneau International Airport Runway Safety Area (RSA) Phase IIB Design Northeast (NE)/Northwest (NW) Apron and Continued Perimeter Fencing Capital Improvement Project; Funding Provided by the Federal Aviation Administration, Alaska Department of Transportation, and Juneau International Airport Fund's Fund Balance.

This ordinance would appropriate \$868,025 to the Juneau International Airport Runway Safety Area (RSA) Phase IIB Design Northeast (NE)/Northwest (NW) Apron and Continued Perimeter Fencing capital improvement project. Funding is provided as follows:

Federal Aviation Administration grant:	\$824,624
Alaska Department of Transportation:	\$ 21,700
Juneau International Airport (Airport Fund Balance):	\$ 21,701

The FAA 2015 Reauthorization Bill allows federal financial participation on this project at 95%, the remainder being split between Alaska Department of Transportation and Juneau International Airport.

The Airport Board approved this action at its July 18, 2015 meeting, and recommended forwarding it to the full Assembly for approval.

The Manager recommends this ordinance be introduced and set for public hearing at the next regular Assembly meeting.

2. Resolutions

- a. Resolution 2729 A Resolution De-Appropriating \$108,294.98 from the Jordan Creek/East Valley Reservoir Restoration Capital Improvement Project, Grant Funding from the Alaska Department of Environmental Conservation.

This resolution would de-appropriate \$108,294.98 in grant budget from the Jordan Creek/East Valley Reservoir Restoration Capital Improvement Project, which is complete.

The grant funding comes from the Alaska Department of Environmental Conservation. The grant lapsed, was not fully expensed, and is now closed. The grant amount was \$498,018, leaving \$378,623.02 expended and the remaining amount of \$108,294.98 to be de-obligated with this resolution.

The Manager recommends the resolution be adopted.

3. Bid Award

- a. Bid Recommendation for Bid No. 16-027 - Purchase & Delivery of Aircraft Rescue & Fire Fighting Truck

Bids were opened on the subject project on August 5, 2015. The bid protest period expired 4:30 p.m. on August 6, 2015. Two bidders responded and results of the bid opening are as follows:

<u>Bidder</u>	<u>Total Base Vehicle Bid</u>
Rosenbauer America, Inc.	\$654,638.00
Oshkosh Airport Products, Inc.	\$672,855.00
<i>Engineer's Estimate:</i>	<i>\$720,000.00</i>

Funding Source will be Federal Aviation Administration Airport Improvement Program grant, with State of Alaska and local City & Borough of Juneau match funds. Local match funds are provided in the FY16 sales tax CIP.

The final grant application documents have been submitted to FAA for grant award approval.

The Manager recommends a Notice of Intent to Award be issued to Rosenbauer America, Inc., for the total bid amount of \$654,638.

VII. PUBLIC HEARING

- A. Ordinance 2014-24(AV) An Ordinance Appropriating to the Manager the Sum of \$7,830 as Funding to Provide for Commercial Motor Vehicle Inspections; Grant Funding Provided by the Alaska Department of Transportation and Public Facilities.

This ordinance would appropriate a \$7,830 grant from the Alaska Department of Transportation and Public Facilities to provide commercial motor vehicle inspections.

The inspections are intended to determine the appropriateness of driver credentials as well as road worthiness of commercial vehicles with the ultimate goal of improving commercial vehicle safety in Juneau.

There is no match requirement for this grant.

The Manager recommends this ordinance be adopted.

Public Comment: None.

Assembly Action:

MOTION, by Nankervis, to adopt Ordinance 2014-24(AV). Hearing no objection, it was so ordered.

- B. Ordinance 2015-20(E) An Ordinance Appropriating to the Manager the Sum of \$642,300 as a Transfer to the General Fund as Partial Funding for the Housing First Grant, Funding Provided by the Sales Tax Funds in the Housing Land Development Capital Improvement Project (CIP) D14-095.

This ordinance would appropriate \$642,300 as a transfer from the Housing Land Development capital improvement project (D14-095) to fund the Housing First Grant. The funding source is sales tax.

The CIP was never expended because the Assembly had not finalized an order of priority for CBJ's housing development projects. In lieu of placing the funds into the Peterson or Switzer CIPs, the Assembly decided to create a new CIP called "Housing Land Development" to hold the funds until the Assembly made a decision on transferring the funds.

This funding represents a portion of the CBJ's \$1.5 million commitment to the Juneau Housing First Project.

After this appropriation is completed, CIP D14-095 will be closed.

The Finance Committee approved this action at its March 28, 2015, regular meeting, and recommended forwarding it to the full Assembly for approval.

The Manager recommends this ordinance be adopted.

Public Comment: None.

Assembly Action:

MOTION, by Gladziszewski, to adopt Ordinance 2015-20(E). Hearing no objection, it was so ordered.

- C. Ordinance 2015-20(G) An Ordinance Appropriating to the Manager the Sum of \$100,000 as Funding for the Lemon Creek Gravel Scale Replacement Capital Improvement Project (CIP) D14-020, Funding Provided by the Lands Fund's Fund Balance.

This ordinance would appropriate \$100,000 as a transfer from the Lands Fund's fund balance to the Lemon Creek Gravel Scale Replacement CIP (D14-020).

The existing Lemon Creek truck scale, which serves two CBJ material sources in Lemon Creek, has worn out to the point that it cannot be repaired and a replacement scale is necessary. This appropriation is required to establish a CIP for the purchase and installation of the replacement scale.

The Lands Committee approved this action at its July 13, 2015, regular meeting, and recommended forwarding it to the full Assembly for approval.

The Manager recommends this ordinance be adopted.

Public Comment: None.

Assembly Action:

MOTION, by Becker, to adopt Ordinance 2015-20(G). Hearing no objection, it was so ordered.

- D. Ordinance 2015-20(H) An Ordinance Authorizing the Manager to Accept the State of Alaska, Department of Environmental Conservation's Offer of Grant Amendment No. 1 for Partial Funding of the Salmon Creek Secondary Disinfection Capital Improvement Project and Appropriating to the Manager \$3,000,000 in additional Grant Funding Provided by the State of Alaska, Department of Environmental Conservation.

This ordinance would appropriate an additional \$3,000,000 in Municipal Matching grant funding in addition to the \$1,000,000 already on the project, from the Alaska Department of Environmental Conservation (ADEC) Division of Water for the following project:

Water Treatment Improvements - Salmon Creek LT2 Upgrades
\$3,000,000

This grant has a 40% match requirement which will be provided with the funds already on the CIP.

ADEC Grant 44593 originally appropriated \$1,000,000 with Ordinance 2014-24(Q) and ADEC Grant Amendment No. 1 increases the grant amount by \$3,000,000, which this ordinance 2015-20(H) will put on the project, bringing the total grant to \$4,000,000.

The Public Works and Facilities Committee reviewed this item at its August 3, 2015 regular meeting.

The Manager recommends this ordinance be adopted.

Public Comment: None.

Assembly Action:

MOTION, by Crane, to adopt Ordinance 2015-20(H). Hearing no objection, it was so ordered.

- E. Ordinance 2015-32 An Ordinance Amending the Land Use Code Relating to Child and Day Care Facilities.

This ordinance would amend CBJ Title 49 as it relates to child and day care homes and centers in order to address an identified need in the community for child care.

The ordinance would amend the Table of Permissible Uses to expand where child care homes and centers can operate, would add minimum standards for these operations, and would amend the definitions for child care centers and homes.

At its regular public meeting on June 23, 2015, the Planning Commission adopted the analysis and findings in the Community Development Department's staff report and, with some revisions, recommended that the Assembly approve the ordinance.

The Lands Committee considered the ordinance at its July 13, 2015, meeting, and recommended that the Assembly approve the ordinance.

The Manager recommends the ordinance be adopted.

Public Comment:

Abigail Capestany, said she moved to Juneau recently, and had been on a waiting list for child care since February for their 19-month old child. Her husband was on active duty with the coast guard, and had they known the extent of the child care problem in Juneau, they likely would not have moved here. She supported the ordinance.

Assembly Action:

MOTION, by Kiehl, to adopt Ordinance 2015-32.

Mr. Jones asked if the Planning Commission's concerns to address child and adult day care centers were appropriate with Law. Ms. Mead said she reviewed the matter and the changes discussed at the Planning Commission would be proposed at a later date.

Hearing no objection, it was so ordered.

F. Ordinance 2015-33 An Ordinance Amending the Uniform Sales Tax Code Relating to the Single Item Tax Exemption.

This ordinance would exclude jewelry sales from the single item sales tax cap exemption. The Finance Committee addressed this issue at its meetings on April 22, 2015 and July 30, 2015, and recommended forwarding this change to the full Assembly for adoption.

This ordinance would be effective January 1, 2016, to allow for the current summer and holiday retail season to continue uninterrupted, and to allow affected merchants adequate time to prepare.

The Finance Committee considered this ordinance at its July 30, 2015, meeting and recommended forwarding it to the Assembly for adoption.

The Manager recommends this ordinance be adopted.

Public Comment: None.

Assembly Action:

MOTION, by Troll, to adopt Ordinance 2015-33.

Mr. Nankervis objected. He said this ordinance unfairly targets one industry. It was an attempt to address an anecdotal issue that was not supported by facts from the Finance Department.

Ms. Troll said this ordinance did not single out particular business but getting the policy back to its original intent, which was to ensure that there was an incentive for locals to purchase large, expensive ticket items locally. When identifying items to be exempt and establishing an upper cap, it was intended to be directed towards automobiles and electronics, for example, and not to include jewelry, according to the record. By making this change, the Juneau tax code would be the same as Skagway's in regards to jewelry sales.

Roll call:

Aye: Becker, Crane, Jones, Gladziszewski, Kiehl, Troll

Nay: Nankervis, White, Sanford.

Motion passed, 6 ayes, 3 nays.

G. Ordinance 2015-36 An Ordinance Amending the Official Zoning Map of the City and Borough to Change the Zoning of USS 2386 Lots N, J1 and J2, Located near Glacier Highway at the South End of Auke Lake, from D1(T)D10 to D-3.

In May 2015, the Community Development Department initiated an application to transition Lots N, J1 and J2 of USS 2386, located near Glacier Highway at the south end of Auke Lake, from D1(T)D10 to D10. These three lots were part of a larger transition area granted a zoning upgrade by the Planning Commission in November 2012, when it transitioned 49 lots east of the subject lots from D1(T)D10 to D-10. The subject lots were not ready to be transitioned at that time however.

At the June 23, 2015, Planning Commission meeting the Commission heard public testimony on the proposed transition. Based on the public testimony received, the Planning Commission declined to finalize the zoning upgrade and instead approved recommending to the Assembly a rezone of the three lots to D-3.

Two of the subject lots have a Comprehensive Plan land use designation of Medium Density Residential (MDR). The third lot is designated MDR and Urban Low Density Residential (ULDR). The MDR designation calls for between 5 and 20 units per acre. The ULDR designation calls for 1 to 6 units per acre.

Per CBJ 49.75.120, Restrictions on rezones, rezones shall only be approved upon a finding that the proposed zoning district and the uses allowed therein are in substantial conformance with the land use maps of the comprehensive plan. In considering rezone requests, Staff makes a threshold determination as to whether the proposed zoning district meets the density limitations specified by the land use designation of the comprehensive plan land use maps.

CBJ 49.25.210(b) provides that D-3 has a density of 3 units per acre, is located primarily outside the urban service boundary where public utilities are not provided, and that the limited amount of D-3 zoned land within the urban service boundary is appropriate where a lower density is deemed appropriate or, in the case of transition zones, where the zoning is intended to be changed to a higher density when sewer and water are provided.

At its meeting on July 13, 2015, the Lands Committee considered the Planning Commission's recommendation of D-3 and recommended forwarding it to the full Assembly for its approval.

The Manager recommends this ordinance be adopted.

Public Comment:

James Franco said he is a landowner in the property subject to the rezone and shared it with his father-in-law and his wife. He attended the Planning Commission, and at that meeting they were mentioned as wishing to add one additional unit. He said they do want to add a unit to their lot, for the benefit of his mother-in-law and father-in-law. A .9 acre lot would be a sufficient size to add one additional residence on their property if the zone change to D3 went into effect. They did not want to see it go to D-10. There were thirteen lots that recently got a sewer installation with a 1.5 inch line, and each lot had to buy a grinder pump under pressure to facilitate use of that line. If zoned to D-10 and people built to the maximum allowed, it was questionable whether the sewer line could handle the volume. The other issue was traffic. He spoke about a recent accident on the highway at the corner heading towards Auke Lake, and another accident with a person towing another vehicle. The speed limit was 50 mph, and they question whether the road in the area could handle traffic at that speed. He said there was little visibility of traffic from one direction coming from their property. They applied for an

additional driveway and were denied due to the visibility and had to have an easement to access the property. He questioned whether traffic of D-10 zoning could be absorbed in that area. They were not intending to build more than one additional house on their lot.

David Pannette, said he was also a property owner of the property subject to this rezone. He said that this rezone was an exception for one resident. He spoke about another separate rezone that was not allowed as an exception to the rule. He said this rezone was out of harmony with the neighborhood. The highway access in the area was very difficult for traffic access and unsafe. There should not be any more houses built in the area. He said he did not believe the Planning Commission considered all the facts. He said the people requesting the rezone could apply for a mother-in-law apartment or a variance.

Gail Chaney, also a property owner with Mr. Franco, said when they purchased the land, they potential for transitional zoning to D-10 when the sewer was installed was an incentive to purchase the property. They looked at it with the idea of building a home for their parents, and then the sewer came in, the possibility of upzoning was an option. She did not believe the land could support D-10, but supported the change to D-3.

Assembly Action:

MOTION, by Jones, to adopt Ordinance 2015-36.

Ms. Troll said she did not have a chance to read the Planning Commission minutes, so why did the Planning Commission recommend D-3 instead of D-10.

Ms. McKibben said it was based on the public testimony and the concern about traffic, accidents and highway access.

Mr. Kiehl asked what was the triggering action for D-1-D-10. Ms. McKibben said these lots were not considered with a recent rezone in the area because the entire sewer project was not complete yet. Once the sewer was complete, and there was an interest in upzoning from one of the parcels, this rezone was forwarded. Mr. Kiehl asked if the Assembly did not agree with the Planning Commission on D-3, would it be zoned D-10 or D-1.

Ms. Mead the code is unclear what happens in a transition zone. The code gave the Planning Commission discretion and authority to complete the upzone process. If the PC fails to complete the process and the Assembly declines to approve the rezone request made by Planning Commission, it was up to the Assembly to decide how to proceed. The Assembly would need to make an affirmative decision on how to proceed.

Mr. Kiehl asked if it was possible to add two structures to the lot if it were not rezoned up from D-1. Ms. McKibben said there were no variances to density. It might be possible to obtain approval for an accessory apartment but she had not looked into the specifics of the lot.

Mr. Kiehl said that part of this property is in the Comprehensive Plan Map as medium density and part is in low density. He supported the Planning Commission proposal for D-3 at the Lands Committee.

Mayor Sanford objected saying that when there was land available for upzoning, the Assembly should increase density to help address housing issues.

Roll call:

Aye: Becker, Crane, Jones, Gladziszewski, Kiehl, Nankervis, Troll, White

Nay: Sanford

Motion passed, 8 ayes, 1 nay.

VIII. UNFINISHED BUSINESS

None.

IX. NEW BUSINESS

- A. Contract with AEL&P for work related to the Statter Harbor Launch Ramp project.

The Statter Harbor Launch Ramp project requires repositioning of an AEL&P power pole and associated realignment of power conductors along Glacier Highway. In such cases AEL&P performs the work but charges the party requiring the changes. AEL&P has been in the engineering phase of the project and recently provided a cost estimate for the work required. Before AEL&P begins the work Docks and Harbors will need to sign a contract for the amount of the work. The work is estimated to cost \$133,488.37.

The Manager recommends approval of this contract.

Assembly Action:

***MOTION**, by Gladziszewski, to approve the contract with AEL&P for work at the Statter Harbor Launch Ramp Project, in an estimated amount of \$133,488.37. Hearing no objection, it was so ordered.*

- B. Regulation Docks and Harbors ABLF Facility Fees, Statter Harbor Parking Fees, and Staff Labor Fees

The Docks and Harbors Board, at its July 30, 2015, regular meeting, elected to approve amendments to 05 CBJAC 20 (Small Boat Harbor Fees) and 05 CBJAC 45 (Small Boat Harbor and Port Facilities Use Regulations).

The proposed amendments were also discussed at the Harbor Fee Review Committee meeting as early as January 14, 2015, and were approved by the Docks and Harbors standing committees (Operations-Planning Committee and Finance Committee). The proposed amendments are part of a broad review by the Docks and Harbors Board to update fees and regulations affecting both the Docks Enterprise and Harbor Enterprise.

No public comments were received at the July 30, 2015, Docks and Harbors public hearing, or during the required 21-day public comment period prior to public hearing. CBJ 01.60.260 provides that regulations be presented to the Assembly for review. Taking no action constitutes approval of the regulations, with an effective date of 7 days following adoption. The Assembly may not amend the regulations. If the Assembly disapproves the regulations, it shall return the regulations to the agency and may state the reasons for its disapproval, but shall not establish explicit conditions for subsequent approval or direct particular amendments of the regulation. Alternatively, the Assembly may direct that the matter be prepared as an ordinance or resolution for its consideration.

Assembly Action:

MOTION, by Jones, for orders of the day. Hearing no objection, the regulations were allowed to become effective.

C. Senior Citizen Exemption Late File - Leach

Assembly Action:

MOTION, by Crane, to accept the late filed appeal for consideration by the Assessor. Hearing no objection, it was so ordered.

D. Senior Citizen Exemption Late File - Hancock

Assembly Action:

MOTION, by Crane, to accept the late filed appeal for consideration by the Assessor. Hearing no objection, it was so ordered.

X. STAFF REPORTS

A. Airport Supplemental Agreement #1 - E14-201 JNU Sustainability Master Plan

Ms. Kiefer notified the Assembly that she approved a supplemental agreement for the Airport sustainability master plan for additional economic impact data, and due to the timing of the project, going out to bid for this work would slow down the project. The work was similar to the present scope of work and she was required to let the Assembly know about any supplemental agreements approved by the manager that were in an amount of less than \$250,000. The overall bid was \$702,903 and the supplemental was for \$8,500.

B. Manager's Follow Up on Assemblymember Nankervis' July 20, 2015 Questions

Ms. Kiefer said the recycling baler was due to arrive in mid-September and would be operational in the first week of October. The Centennial Hall roof is complete and the fence would come down this week. The project was delayed due to weather and an extension to the work was agreed to by CBJ and the contractor. The trucks and containers for biosolids at the Mendenhall Wastewater Treatment plant are stored there and taken to AML with contents. CBJ owns 65 sludge shipping containers and the sludge hauling is accomplished with a contracted hauler due to the weight of the sludge.

Mr. Nankervis appreciated the answers. He asked what would happen with the old baler and Mr. Steedle said it would be surplus. Mayor Sanford said there were several southeast cities interested in bidding on it.

Mr. Nankervis asked if there was any way to fix the trucks CBJ bought that are not able to haul the sludge due to the weight. Ms. Kiefer said there was not a way to fix them so it was better to surplus them.

Mayor Sanford said the roofers for Centennial Hall responded to the flooding emergency at the homeless shelter so that was another reason for the delay on the project.

Ms. Kiefer said Ms. Becker asked about ADA doors at Centennial Hall and those were in the 2017 CIP. She was looking at a way to move that project up earlier.

XI. ASSEMBLY REPORTS

A. Mayor's Report

Mayor Sanford reported on his attendance at the Transboundary Border Mining and Fishery meeting last week. He said it was well attended and very informative. The next step may be a meeting when Mr. Bennett visit at the end of the month and the Lt. Governor's office was requesting that the Assembly sponsor a lunch, so staff was investigating this.

1. Approval of City Manager's Evaluation

Mayor Sanford asked if everyone had read the final evaluation and there was agreement. Mr. Nankervis objected. Hearing no further objection, the evaluation was approved along with the associated pay increase of 3%.

B. Committee Reports

Committee of the Whole: Chair Becker said the COW held two meetings to review the subdivision ordinance and the next meeting was set for August 24.

Finance Committee: Chair Crane said the next meeting was set for August 26.

Human Resources Committee: Chair Jones said the HRC meeting was rescheduled to August 17, at 5:15 p.m. in the Chambers, and at 6 p.m. the Full Assembly would meet as the HRC to interview candidates for the Docks and Harbors Board in City Hall Conference Room 224. This would be followed by a Special Assembly meeting to appoint a new member to the Docks and Harbors Board.

Lands and Resources Committee: Chair Kiehl said the next meeting was set for August 24.

Public Works and Facilities Committee: Chair Nankervis said the next meeting was set for August 24.

Marijuana Committee: Chair Kiehl said the next meeting was set for August 13.

C. Liaison Reports

Airport Board: Liaison White said the next meeting was set for August 12.

Bartlett Regional Hospital Board: Liaison Crane said the next meeting was set for August 25.

Docks and Harbors Board: Liaison Nankervis said the Board met on July 30 and heard that the Fisherman's Memorial group would file a stay on the construction of dock project 16b, received and update on the Douglas Harbor rebuild, and was hoping to use the new Statter Harbor

parking lot for the Salmon Derby. Proposals for use of the Thane Ore House were due August 14. He thanked Mr. Logan and Mr. Spickler for their service to the Docks and Harbors Board and said the next meeting was set for August 27.

Ms. Mead said Mr. Weyhrauch contacted the law department to say the Fisherman's Memorial would be filing a stay. She would follow up with the Assembly in an email.

Eaglecrest Board: Liaison Nankervis said the Board met and determined the financial loss for the season was reduced to \$27,000, down from the anticipated \$60,000 approved by the Assembly. He reported on the upgrades to the ski area and the construction of a mountain bike trail. A 4th snow maker would come on-line in the coming season increasing the snow making capacity by 33%. The next meeting was set for September 3.

Affordable Housing Commission: Liaison Troll said the commission met on August 4 and reviewed the priorities that were part of the Housing Action Plan. They were pushing for the consultants to give examples of their recommendations and numbers to back up the statements and the commission was very engaged in obtaining a good report, which would be released near the end of September. The AHC also reviewed the mobile home program.

Chamber of Commerce: Liaison Becker said the Chamber was meeting every Thursday for lunch and recently held a successful golf tournament.

Downtown Business Association: Liaison Jones the next meeting was set for August 22.

Juneau Commission on Sustainability: Liaison Troll said the next meeting was set for August 12.

Juneau Convention and Visitors Bureau: Liaison White said the bureau was working through a very busy tourism season.

Juneau Economic Development Council: Liaison Jones said JEDC would report on a recent visitor survey at the next Chamber of Commerce lunch meeting.

Local Emergency Planning Committee: Liaison Gladziszewski said the next meeting was set for August 12. The Preparedness Expo would be held September 11 and 12.

Parks and Recreation Advisory Committee: Liaison Gladziszewski said the next meeting was set for September 1.

Planning Commission: Liaison Jones said the next meeting was set for August 11.

School Board: Liaison Kiehl said the next meeting was set for August 11.

Southeast Conference: Liaison Becker said the SEC would meet in annual conference September 15 - 17 in Prince Rupert, BC. The Governor was expected to attend and there would be significant discussion about the ferry system and transportation in the region.

UAS Campus Council: Liaison Kiehl said the Governor's Community Picnic would be held at the UAS Campus on August 14.

D. Presiding Officer Reports

Ms. Mead reported that the Bicknell Appeal draft decision, with objections and responses, would be before the Assembly as a complete package at the August 31 Assembly meeting.

XII. ASSEMBLY COMMENTS AND QUESTIONS

Ms. Crane said she would be attending the AML summer meeting in Ketchikan.

Ms. Troll reported on the Tongass Advisory Committee.

Ms. Becker asked about the possibility of Capital Transit bus service on Thanksgiving so people could attend the community dinner. Ms. Kiefer said she would look at that but this was an opportunity for the community transportation businesses to contribute to the event.

Ms. White said Chief Johnson was very proactive about a citizen complaint over the weekend.

Mr. Kiehl said he spoke to DIG about Marijuana Committee discussions.

Mr. Kiehl said he attended the Filipino Association scholarship awards along with Mr. Jones. It was a very good event which displayed an impressive investment in the future of the students.

Ms. Gladziszewski congratulated Beau Schooler, Chef at the Rookery, for his first place award winning performance at the National Seafood Cooking Contest.

Ms. Troll complimented the work of Ms. White and Mr. Kiehl regarding the day care ordinance. There is more to do. She thanked Ms. Becker for her work on the Seward Statue.

Mr. Nankervis thanked everyone involved in getting the parking signs changed out on Channel Drive to allow people access to fishing in the area. He reminded everyone of the Golden North Salmon Derby the coming weekend and encouraged people to be safe.

Mr. Jones said he would attend the AML meetings in Ketchikan next week and the Executive Director of the ABC Board would be there to discuss marijuana legislation. The next meeting of the Marijuana Control Board was set for September 15 in Kotzebue and he would be attending as a member of the MCB.

XIII. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

None.

XIV. EXECUTIVE SESSION

None.

XV. ADJOURNMENT

There being no further business to come before the Assembly, the meeting adjourned at 8:23 p.m.

Signed: _____
Laurie Sica, Municipal Clerk

Signed: _____
Merrill Sanford, Mayor

**SPECIAL ASSEMBLY MEETING
THE CITY AND BOROUGH OF JUNEAU, ALASKA**

Meeting Minutes - August 17, 2015

MEETING NO. 2015-23: The Special Meeting of the City and Borough of Juneau Assembly, held in Conference Room 224 of the Municipal Building, was called to order at 7:24 p.m. by Mayor Merrill Sanford.

I. CALL TO ORDER / ROLL CALL

Assembly Present: Mary Becker, Karen Crane, Maria Gladziszewski, Loren Jones, Jesse Kiehl, Jerry Nankervis, Merrill Sanford, Kate Troll and Debbie White.

Assembly Absent: None.

Others present: Deputy Clerk Beth McEwen and BPO Elks members.

II. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

None.

III. AGENDA TOPICS

Mayor Sanford asked the Assemblymembers if they would be willing to switch the order of items on the agenda to take up the matter of the BPO Elks liquor license prior to the action on board appointments. He also noted that he and Mr. Kiehl both had items they wanted to bring up for discussion during the "Assembly Comments and Questions" portion of the meeting. *Hearing no objection, those agenda changes were made.*

A. Board Appointments

The Assembly Human Resources Committee held two meetings earlier this evening including a meeting of the Full Assembly sitting as the Human Resources Committee to interview applicants for the Docks and Harbors Board and is forwarding recommendations to the Assembly for appointments to a number of boards and commissions.

The Manager has no recommendation regarding these appointments.

Mr. Jones reported that the regular Human Resources Committee meeting was held at 5:15pm and forwarded the below recommendations for appointments. *Hearing no objections, the appointments were made as follows:*

Building Code Board of Appeals

Bradley Austin – reappointed to a term ending August 31, 2018

Randall Walling – reappointed to a term ending August 31, 2018

Jeffrey Wilson – reappointed to a term ending August 31, 2018

Michael C. Story – reappointed to a term ending August 31, 2017

Darrell Wetherall – reappointed to a term ending August 31, 2017

Juneau Affordable Housing Commission

Erin Walker-Tolles – appointed to a term ending January 31, 2017

Juneau Commission on Sustainability

Darrell Wetherall – reappointed to a term ending June 30, 2018
Steve Behnke – reappointed to a term ending June 30, 2018
Sara Truitt – appointed to a term ending June 30, 2018

Treadwell Arena Advisory Board

Taylor Horne – appointed to a term ending May 31, 2018
Bret Connell – appointed to a term ending May 31, 2017

Sister Cities Committee

Barbara Burnett – appointed to a term ending January 1, 2018

Juneau Commission on Aging

Richard “Ric” Iannolino – appointed to a term ending June 30, 2018
Eileen Hosey – appointed to a term ending June 30, 2018
Carol Trebian – appointed to a term ending June 30, 2018
Mary Lou Spartz – reappointed to a term ending June 30, 2017
S. Brynn Keith – appointed to a term ending June 30, 2016

Mr. Jones reported that the Full Assembly sitting as the Human Resources Committee met at 6:00pm and forwarded the following recommendation for appointment:

Docks & Harbors Board

Robert Mosher – appointed to a term ending June 30, 2018

Hearing no objection, the appointment was made as recommended.

- B. New Club Liquor License #5414: BPO Elks Lodge #420 d/b/a Juneau Elks Club No. 420

On July 15, the CBJ received the attached notice from the Alcohol Beverage Control Board of a pending application for a new club liquor license for the Elks Lodge #420, located at Glacier Highway, in the building formerly occupied by Valley Paint Company. The CBJ has 60 days to review this license, or until September 15, 2015. The Elks requested an expedited review due to a special event to be held at the club on August 24. CBJ staff met with the applicant, reviewed the files, performed inspections and has found no basis for protest.

The manager recommends the Assembly waive its right to protest New Club License Application #5414 for Elks Lodge #420.

Ms. McEwen gave a brief staff report on the liquor license action before the Assembly.

Ms. Debbie White had asked about the list of officers on the application for the Elks since their treasurer, Rick White, moved out of town to Montana.

Mr. Steve Hinckle, BPO Elks Trustee, stated that a new treasurer was elected at the most recent meeting of the Elks club to replace Mr. White. Mr. Hinckle also stated that when the Elks club moved out of its premises downtown, they voluntarily surrendered the previous license so they would not have to go through the waiver process with the ABC Board.

Ms. McEwen explained some of the differences between Club liquor licenses and other types of liquor licenses.

MOTION by Mr. Jones for the Assembly to waive its right to protest the application for the new Club liquor license #5414 for the BPO Elks Lodge #420 d/b/a Juneau Elks Club #420. *Hearing no objections, the motion carried.*

Mayor Sanford asked staff if there was enough time for the Assembly's action to go to the ABC Board and be issued a temporary permit in time for the Elk's event on August 24. Ms. McEwen explained that the letter from CBJ would go out first thing the next day and that while there is not an ABC Board meeting prior to August 24, it would be up to the ABC staff to determine whether a temporary permit could be issued prior to the August 24 event or not.

IV. ASSEMBLY COMMENTS AND QUESTIONS

Marijuana Committee Chair Jesse Kiehl noted that the committee has determined that it will not have its work finished and submitted to the Planning Commission for its review and recommendations to the Assembly for final action prior to the end of the current moratorium on Oct. 19. The committee is requesting an extension of the moratorium and Mr. Kiehl asked the Assembly if they would agree to his request for an ordinance to be drafted extending the moratorium. He said he did not have an anticipated date yet as to when this would go to the Planning Commission but that he will work with Community Development Department and Law Department staff to come up with an appropriate date. He said he anticipates it may need an additional two months at least for the process to take place. *Hearing no objection, he will work with Law and CDD staff to determine an extension date and draft an ordinance for introduction at the August 31, 2015 Assembly meeting.*

Mayor Sanford said that with City Manager Kim Kiefer announcing her retirement effective December 31, he would like to start now to determine the process they will take to find a new City Manager. He noted that Assemblymember Karen Crane served on a three-person task force during the last round of hiring for the City Manager and he would like to create a similar three-person task force to determine the process this time.

He said he will appoint members to the three person task force based on those willing to serve and asked if any of the members did not choose to serve on the committee. All members indicated a willingness to serve on the task force. The Mayor said he would let them know who he decides to appoint. The task force will be charged with making recommendations to the Assembly on the process they wish to undertake and the final decision on the process will be up to the full Assembly to vote on. Mayor Sanford said that HRRM Director Mila Cosgrove has sent him an email with information on possible dates and process and he will ask his new assistant, Susan Phillips, to forward that email to the Assemblymembers so they can also see the information.

Mayor Sanford said he wished all Assemblymembers would send good thoughts Ms. Kiefer's way this next week.

V. ADJOURNMENT

There being no further business to come before the Assembly, Mayor Sanford adjourned the meeting at 7:37p.m.

Presented by: The Manager
 Introduced:
 Drafted by: A. G. Mead

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2015-40

An Ordinance Extending the Limited Moratorium on the Receipt or Processing of Applications, Permits, or Pending Approvals Pertaining to Marijuana Establishments.

WHEREAS, on January 12, 2015, the City and Borough Assembly adopted Ordinance 2014-50, establishing a moratorium until October 19, 2015, prohibiting the acceptance or approval of land use permit applications related to marijuana establishments; and

WHEREAS, the purpose of the moratorium established by Ordinance 2014-50 was to allow the City and Borough a reasonable period of time to consider and enact legislation concerning the operation of marijuana establishments in the City and Borough; and

WHEREAS, the City and Borough, through the Marijuana Committee established by order of the mayor dated February 9, 2015, has been working on its recommendations related to the adoption of time, place, and manner regulations for marijuana establishments but that work is not yet complete.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is a non-code ordinance.

Section 2. The moratorium established by Ordinance 2014-50 is extended.

Notwithstanding CBJ 49.25.300 or any other section of the Land Use Code, no development permit application shall be accepted, or pending applications approved, pertaining to

marijuana establishments, including marijuana cultivation, testing, and product manufacturing facilities and marijuana retail stores, through December 31, 2015.

Section 3. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this _____ day of _____, 2015.

Merrill Sanford, Mayor

Attest:

Laurie J. Sica, Municipal Clerk

Presented by: The Manager
Introduced:
Drafted by: A. G. Mead

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2015-41

An Ordinance Amending the Uniform Sales Tax Code Relating to the Senior Citizen Sales Tax Exemption.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the City and Borough of Juneau Municipal Code.

Section 2. Amendment of Section. CBJ 69.05.045 is amended to read:

69.05.045 - Senior citizen sales tax exemption.

(a) Anyone 65 years of age or older who is a resident of the state and of the City and Borough may apply for and be issued by the manager a senior citizen sales tax exemption card, which entitles the cardholder and the cardholder's spouse or same-sex domestic partner to be exempt from sales tax for the sales of essential food and utilities ~~goods, services and rentals,~~ ~~with the exception of sales of alcoholic beverages~~ that are solely for the personal use or consumption of the cardholder, the cardholder's spouse, or same-sex domestic partner. The sales tax administrator shall provide a form setting forth the criteria for proof of domestic partnership.

(b) No person issued or authorized to use a senior citizen sales tax exemption card may use it to obtain such tax exemption when the qualifying sales ~~; services or rentals~~ is ~~are~~ for use in

1
2 any trade or business, or are used or consumed by any person other than the cardholder or his
3 or her spouse or same-sex domestic partner.

4 (c) If a person who is authorized to be issued a senior citizen sales tax exemption card is an
5 invalid or is otherwise physically unable to use the card, the manager will issue a designated
6 shopper card to be used by another person for the benefit of the invalid person or the person
7 who is otherwise unable to use the card.

8
9 (d) A person holding a Power of Attorney authorizing that person to exercise powers
10 relevant to this chapter on behalf of a person who is authorized to be issued a senior citizen
11 sales tax exemption card may, upon presentation of a validly executed Power of Attorney on a
12 form acceptable to the manager, be issued a designated shopper card to make purchases on
13 behalf of the person authorized to be issued a card.

14 (e) As used in this section, the term "resident of the State of Alaska" means a person who is
15 physically present in the state with the intent to remain in the state indefinitely and to make a
16 home in the state. A person demonstrates the intent required under this subsection by
17 maintaining a principal place of abode in the state for at least 30 consecutive days immediately
18 preceding the date of application for the senior citizen sales tax exemption card, and by
19 providing other proof of intent as may be required by the manager, which may include proof
20 that the person is not claiming residency outside the state or obtaining benefits under a claim
21 of residency outside the state. A person who establishes residency in the state remains a
22 resident during an absence from the state, unless during the absence, the person establishes or
23 claims residency in another state or country, or performs other acts or is absent under
24 circumstances that are inconsistent with the intent required under this subsection to remain a
25 resident of this state.

(f) As used in this section, the term resident of the City and Borough means a person who has established a residence in the City and Borough and has the intent to remain in the City and Borough indefinitely and to make a home in the City and Borough. A person demonstrates the intent required under this subsection by maintaining a principal place of abode in the City and Borough for at least 30 consecutive days immediately preceding the date of application for the senior citizen sales tax exemption card and by providing other proof of intent as required by the manager.

(g) As used in this section, “essential food and utilities” means:

(a) Sales of “food” as defined by the Food and Nutrition Act of 2008, 7 USC § 2012(c);

(b) Sales of electricity by a utility;

(c) Sales of heating fuel, including wood, wood pellets, and fuel oil;

(d) Sales of water and wastewater by the City and Borough of Juneau.

Section 3. Amendment of Chapter. Chapter 69.05 Uniform Sales Tax is amended by adding a new section to read:

69.05.046 Rebate for qualifying senior citizens.

(a) Any individual who qualifies for a senior citizen sales tax exemption shall qualify for a hardship rebate if the criteria set forth in this section are met. Applicants shall be entitled to a \$225.00 rebate every year the applicant qualifies. Rebates for approved applications shall be remitted by September 30.

(b) *Criteria.* The following criteria must be met in order for an applicant to be eligible for a hardship rebate:

(1) The applicant must be 66 years of age or older as of January 1 of the calendar year during which the application is submitted;

(2) The applicant must hold a valid senior citizen tax exemption card; and

(3) The applicant's gross household income, from all sources in the prior year, may not exceed 250 percent of the most current U.S. Federal Poverty Guidelines for the State of Alaska for a similar sized household.

(c) *Procedure.* An application for a hardship rebate must be received by the sales tax administrator or postmarked by June 30 of the calendar year in which the rebate is sought.

The following documentation must be submitted:

(1) A Federal Income Tax Return filed in the same year in which the rebate is sought; and

(2) A hardship rebate application supplied by the sales tax administrator, including any necessary attachments or additional documentation as may be required by the administrator.

(d) *Appeal.* A final determination of the sale tax administrator as to whether a person is qualified to receive the hardship rebate can only be appealed to the assembly. Appeals shall be conducted in accordance with CBJ Chapter 01.50.

Section 4. Effective Date. This ordinance shall be effective January 1, 2016.

Adopted this _____ day of _____, 2015.

Merrill Sanford, Mayor

Attest:

Laurie J. Sica, Municipal Clerk

Presented by: The Manager
 Introduced: August 31, 2015
 Drafted by: Finance

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2014-24(AW)

An Ordinance Appropriating to the Manager the Sum of \$15,390,272 to Fund the City and Borough of Juneau's Fiscal Year 2015 Public Employee Retirement System Contribution; Funding Provided by the Alaska Department of Administration.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. Appropriation. There is appropriated to the Manager the sum of \$15,390,272 to fund the City and Borough of Juneau's fiscal year 2015 Public Employee Retirement System contribution distributed as follows:

General Fund:

Mayor & Assembly	\$ 5,248
Law	398,103
Manager's Office	315,857
Clerk's Office	99,237
Management Information Systems	464,446
Libraries	556,969
Human Resources	166,774
Community Development	612,889
General Engineering	667,411
Building Maintenance	337,353
Finance	1,211,425
Arboretum	31,261
Parks and Landscape	<u>279,392</u>
Total General Fund	<u>\$ 5,146,365</u>

Special Revenue Funds:

Capital Transit	\$ 1,096,328
Lands and Resources	102,163
Eaglecrest Ski Area	214,218
Police	2,857,862
Streets	597,288
Capital City Fire	1,538,550
Parks and Recreation	644,246
Visitor Services	<u>119,603</u>
Total Special Revenue Funds	<u>7,170,258</u>

Enterprise Funds:

Airport	732,069
Bartlett Regional Hospital	19,335
Harbors	439,167
Docks	266,775
Water	403,354
Wastewater	852,169
Waste Management	<u>49,218</u>
Total Enterprise Funds	<u>2,762,087</u>

Internal Service Funds:

Public Works Fleet	169,810
Self-Insurance	<u>141,752</u>
Total Internal Service Funds	<u>311,562</u>

Total Appropriation **\$ 15,390,272**

Section 3. Source of Funds

Alaska Department of Administration \$ 15,390,272

Section 4. Effective Date. This ordinance shall become effective upon adoption.

Adopted this ___ day of _____, 2015.

Merrill Sanford, Mayor

Attest:

Laurie J. Sica, Municipal Clerk



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of
Administration

DIVISION OF RETIREMENT AND BENEFITS

6th Floor State Office Building
333 Willoughby Avenue
P.O. Box 110203
Juneau, AK 99811-0203
FAX: (907) 465-3086
Phone: (907) 465-4460
Toll-Free: (800) 821-2251

August 05, 2015

ROBERT N BARTHOLOMEW, FINANCE DIRECTOR
CITY AND BOROUGH OF JUNEAU
155 SOUTH SEWARD ST
JUNEAU AK 99801

Sent via email to: BOB_BARTHOLOMEW@CI.JUNEAU.AK.US

RE: FY15 Employer On-Behalf Funding - PERS ER 126

During the 2014 legislative session, Senate Bill 119 (SB119) passed providing on-behalf funding for PERS employer contributions for Fiscal Year 2015 (FY15). SB119, Section 48 (a) reads as follows:

(a) The sum of \$1,000,000,000 is appropriated from the budget reserve fund (art. IX, Sec. 17, Constitution of the State of Alaska) to the Department of Administration for deposit in the defined benefit plan account in the public employees' retirement system as an additional state contribution for the fiscal year ending June 30, 2015.

SB119 at <http://www.legis.state.ak.us/PDF/28/Bills/SB0119Z.PDF> (Section 48, pages 137-138).

The Alaska Retirement Management Board set the actuarially determined rate of 44.03% for FY15. However, SB119 provided more funding than statutorily required. The legislative on-behalf rate of 42.41% takes into account the full FY15 funding provided to PERS by SB119 for each FY15 employer payroll, resulting in a total contribution rate of 64.41%. On-behalf funding is applied with the processing of each employer payroll with payroll end dates between July 1, 2014 and June 30, 2015, and received by the Division by July 15, 2015. All such payrolls have been processed, and we have trued-up your account by making an adjusting entry.

Included is a report detailing the Employer On-Behalf Funding allocated for FY15 payrolls.

This is your final statement for FY15. Please feel free to contact me via telephone at (907) 465-2279 or email at tamara.criddle@alaska.gov if you have any questions or need additional information regarding SB119.

Sincerely,

Tamara Criddle, Accountant

State of Alaska, Division of Retirement & Benefits FY2015 - SB119 Employer On-Behalf Detail - Final Actuals CITY AND BOROUGH OF JUNEAU - ER 126			
Payroll Ending Date	On-Behalf		Total
	Pension	Other Post-employment Healthcare	
07/13/2014	568,420.23	0.00	568,420.23
07/27/2014	575,105.36	0.00	575,105.36
08/10/2014	575,591.45	0.00	575,591.45
08/24/2014	576,442.48	0.00	576,442.48
09/07/2014	579,421.94	0.00	579,421.94
09/21/2014	575,780.89	0.00	575,780.89
10/05/2014	570,862.10	0.00	570,862.10
10/19/2014	556,719.03	0.00	556,719.03
11/02/2014	550,069.84	0.00	550,069.84
11/16/2014	561,569.33	0.00	561,569.33
11/30/2014	565,635.27	0.00	565,635.27
12/14/2014	567,697.07	0.00	567,697.07
12/28/2014	551,392.85	0.00	551,392.85
01/11/2015	559,112.78	0.00	559,112.78
01/25/2015	566,360.97	0.00	566,360.97
02/08/2015	566,914.32	0.00	566,914.32
02/22/2015	572,515.00	0.00	572,515.00
03/08/2015	560,984.94	0.00	560,984.94
03/22/2015	563,687.35	0.00	563,687.35
04/05/2015	562,498.71	0.00	562,498.71
04/19/2015	566,915.98	0.00	566,915.98
05/03/2015	570,344.22	0.00	570,344.22
05/17/2015	572,627.92	0.00	572,627.92
05/31/2015	578,050.91	0.00	578,050.91
06/14/2015	568,579.92	0.00	568,579.92
06/28/2015	Payroll Ineligible	0.00	0.00
	Year-End Adjustment	1,206,971.62	1,206,971.62
TOTALS FOR CITY AND BOROUGH OF JUNEAU			
	\$15,390,272.48	\$0.00	\$15,390,272.48

DISCLAIMER: The information contained in this letter is based on the specific facts and circumstances presented and cannot be applied to other facts and circumstances. This letter may contain a summary description of benefits, costs, rates, valuations, other calculations, policies or procedures for one or more pension or benefit plans administered by the Division of Retirement and Benefits, including but not limited to, the Public Employees' Retirement System, the Teachers' Retirement System, the Judicial Retirement System, the Supplemental Annuity Plan, the Deferred Compensation Plan, the AlaskaCare Employee Health Plan, or the AlaskaCare Retiree Benefit Plan. The Division of Retirement and Benefits has made every effort to ensure, but does not guarantee, that the information provided is accurate and up to date. Where this letter conflicts with the relevant Plan Document, the Plan Document controls.

Presented by: The Manager
Introduced: August 31, 2015
Drafted by: Finance

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2014-24(AX)

An Ordinance Appropriating to the Manager the Sum of \$13,974,804, to Fund Bartlett Regional Hospital's Fiscal Year 2015 Public Employee Retirement System Contribution; Funding Provided by the Alaska Department of Administration.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. Appropriation. There is appropriated to the Manager the sum of \$13,974,804 to fund Bartlett Regional Hospital's fiscal year 2015 Public Employee Retirement System contribution.

Section 3. Source of Funds

Alaska Department of Administration	\$ 13,974,804
-------------------------------------	---------------

Section 4. Effective Date. This ordinance shall become effective upon adoption.

Adopted this ___ day of _____, 2015.

Merrill Sanford, Mayor

Attest:

Laurie J. Sica, Municipal Clerk



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of
Administration

DIVISION OF RETIREMENT AND BENEFITS

6th Floor State Office Building
333 Willoughby Avenue
P.O. Box 110203
Juneau, AK 99811-0203
FAX: (907) 465-3086
Phone: (907) 465-4460
Toll-Free: (800) 821-2251

August 05, 2015

TRACY OLSON, ACCOUNTING TECH
BARTLETT REGIONAL HOSPITAL
3260 HOSPITAL DR
JUNEAU AK 99801-7808

Sent via email to: TOLSON@BARTLETTTHOSPITAL.ORG

RE: FY15 Employer On-Behalf Funding - PERS ER 219

During the 2014 legislative session, Senate Bill 119 (SB119) passed providing on-behalf funding for PERS employer contributions for Fiscal Year 2015 (FY15). SB119, Section 48 (a) reads as follows:

(a) The sum of \$1,000,000,000 is appropriated from the budget reserve fund (art. IX, Sec. 17, Constitution of the State of Alaska) to the Department of Administration for deposit in the defined benefit plan account in the public employees' retirement system as an additional state contribution for the fiscal year ending June 30, 2015.

SB119 at <http://www.legis.state.ak.us/PDF/28/Bills/SB0119Z.PDF> (Section 48, pages 137-138).

The Alaska Retirement Management Board set the actuarially determined rate of 44.03% for FY15. However, SB119 provided more funding than statutorily required. The legislative on-behalf rate of 42.41% takes into account the full FY15 funding provided to PERS by SB119 for each FY15 employer payroll, resulting in a total contribution rate of 64.41%. On-behalf funding is applied with the processing of each employer payroll with payroll end dates between July 1, 2014 and June 30, 2015, and received by the Division by July 15, 2015. All such payrolls have been processed, and we have trued-up your account by making an adjusting entry.

Included is a report detailing the Employer On-Behalf Funding allocated for FY15 payrolls.

This is your final statement for FY15. Please feel free to contact me via telephone at (907) 465-2279 or email at tamara.criddle@alaska.gov if you have any questions or need additional information regarding SB119.

Sincerely,

A handwritten signature in cursive script that reads "Tamara Criddle".

Tamara Criddle, Accountant

State of Alaska, Division of Retirement & Benefits
FY2015 - SB119 Employer On-Behalf Detail - Final Actuals
BARTLETT REGIONAL HOSPITAL - ER 219

Payroll Ending Date	On-Behalf		Total
	Pension	Other Post-employment Healthcare	
07/05/2014	473,497.16	0.00	473,497.16
07/19/2014	489,161.95	0.00	489,161.95
08/02/2014	476,748.00	0.00	476,748.00
08/16/2014	478,834.36	0.00	478,834.36
08/30/2014	486,328.35	0.00	486,328.35
09/13/2014	495,733.36	0.00	495,733.36
09/27/2014	484,264.51	0.00	484,264.51
10/11/2014	490,886.81	0.00	490,886.81
10/25/2014	502,035.52	0.00	502,035.52
11/08/2014	494,746.45	0.00	494,746.45
11/22/2014	503,494.22	0.00	503,494.22
12/06/2014	510,207.49	0.00	510,207.49
12/20/2014	500,966.72	0.00	500,966.72
01/03/2015	498,381.08	0.00	498,381.08
01/17/2015	501,123.41	0.00	501,123.41
01/31/2015	510,546.87	0.00	510,546.87
02/14/2015	496,499.95	0.00	496,499.95
02/28/2015	514,398.54	0.00	514,398.54
03/14/2015	500,737.25	0.00	500,737.25
03/28/2015	492,595.82	0.00	492,595.82
04/11/2015	482,883.72	0.00	482,883.72
04/25/2015	493,061.05	0.00	493,061.05
05/09/2015	487,940.41	0.00	487,940.41
05/23/2015	506,062.50	0.00	506,062.50
06/06/2015	507,818.35	0.00	507,818.35
06/20/2015	499,885.52	0.00	499,885.52
Year-End Adjustment	1,095,964.45	0.00	1,095,964.45
TOTALS FOR BARTLETT REGIONAL HOSPITAL			
	\$13,974,803.82	\$0.00	\$13,974,803.82

DISCLAIMER: The information contained in this letter is based on the specific facts and circumstances presented and cannot be applied to other facts and circumstances. This letter may contain a summary description of benefits, costs, rates, valuations, other calculations, policies or procedures for one or more pension or benefit plans administered by the Division of Retirement and Benefits, including but not limited to, the Public Employees' Retirement System, the Teachers' Retirement System, the Judicial Retirement System, the Supplemental Annuity Plan, the Deferred Compensation Plan, the AlaskaCare Employee Health Plan, or the AlaskaCare Retiree Benefit Plan. The Division of Retirement and Benefits has made every effort to ensure, but does not guarantee, that the information provided is accurate and up to date. Where this letter conflicts with the relevant Plan Document, the Plan Document controls.

Presented by: The Manager
Introduced: August 31, 2015
Drafted by: Finance

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2015-20(L)

An Ordinance Appropriating to the Manager the Sum of \$543,671 as Funding for the Juneau International Airport Terminal Rehabilitation Capital Improvement Project; Funding Provided by the Federal Aviation Administration and the State of Alaska Department of Transportation.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. Appropriation. There is appropriated to the Manager the sum of \$543,671 for the Juneau International Airport Terminal Rehabilitation capital improvement project.

Section 3. Source of Funds

Federal Aviation Administration grant	\$526,133
State of Alaska Department of Transportation	\$ 17,538

Section 4. Effective Date. This ordinance shall become effective upon adoption.

Adopted this _____ day of _____, 2015.

Merrill Sanford, Mayor

Attest:

Laurie J. Sica, Municipal Clerk

"ECONOMIC IMPACT" NOTE**ORDINANCE #: 2015-20(L)****OPERATIONAL IMPACT**Check No/Yes ☒ No ☐ Yes, explain in detail

Explanation of Impact:

Scenario 1: There is no operational impact with this ordinance. **Scenario 2:** This grant will supplement salaries for two CBJ employees. **Scenario 3:** This ordinance will add \$500,000 from a capital improvement project to ABC Fund's Fund Balance. **Scenario 4:** This ordinance will be using \$500,000 of Airport Operating Reserves to fund a CIP.

(Attach Additional Pages as Necessary)

FINANCIAL IMPACTCheck No/Yes ☒ No ☐ Yes (if Yes, complete the following)

Juneau International Airport Operating Reserves

FY16	FY17	FY18	FY19	FY20
------	------	------	------	------

Expenditure Budget

Juneau International Airport Operating Reserves

\$ -	\$ -	\$ -	\$ -	\$ -
-	-	-	-	-
-	-	-	-	-

Total Expenditures

\$ -	\$ -	\$ -	\$ -	\$ -
------	------	------	------	------

Funding Sources:

Juneau International Airport Operating Reserves

-	-	-	-	-
---	---	---	---	---

Total Funding Sources

\$ -	\$ -	\$ -	\$ -	\$ -
------	------	------	------	------

Personnel

Full-Time FTE's

Part-Time FTE's

Temporary FTE's

CAPITAL IMPROVEMENT PROJECTS (CIP)**Project Budget**

Direct Project Costs

\$ 29,554,545	\$ -
	-
\$ 29,554,545	\$ -

Total Project Budget

\$ 29,554,545	\$ -
---------------	------

Funding Sources

Federal Grant

State Grant

CBJ Sales Tax

Marine Passenger Fee

Bonds

PFCs

\$ 1,526,133	\$ -
2,830,538	-
9,440,779	-
35,328	
6,905,977	
8,815,790	
\$ 29,554,545	\$ -

Total Funding Sources

\$ 29,554,545	\$ -
---------------	------

Personnel

Full-Time FTE's

Part-Time FTE's

Temporary FTE's

Amounts noted at left are 100% of the project total expenses

Project Totals Before Appropriation: \$ 29,010,874

This Appropriation: 543,671

Total Project: \$ 29,554,545

Comment: This airport capital project will purchase and install a Passenger Boarding Bridge and ADA Passenger Loading Ramp. The FAA funds 93.75% of the project with the remainder being split between Alaska DOT and Juneau International Airport (Res 2713d Area Wide Sales Tax).

Prepared by: John Coleman

Affected Depts a) Airport

(Dir/Dept): b) Patricia deLaBruere

Finance Dir: Bob Bartholomew

City Manager: Kim Kiefer

Date: 7/29/2015

Date:

Date:

Date:

Date:

Presented by: The Manager
Introduced: August 31, 2015
Drafted by: Finance

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2015-20(M)

An Ordinance Appropriating to the Manager the Sum of \$500,000 as Funding for the Juneau School District Deferred Maintenance and Minor Improvements Capital Improvement Project, and \$300,000 for the Juneau School District Comprehensive Facility Plan; Funding Provided by the 2009 Special Capital Projects 1% Sales Tax Fund's Fund Balance.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. Appropriation. There is appropriated to the Manager the sum of \$800,000; \$500,000 for the Juneau School District Deferred Maintenance and Minor Improvements Capital Improvement Project, and \$300,000 for the Juneau School District Comprehensive Facility Plan.

Section 3. Source of Funds

2009 Special Capital Projects 1% Sales Tax	\$800,000
Fund's Fund Balance	

Section 4. Effective Date. This ordinance shall become effective upon adoption.

Adopted this _____ day of _____, 2015.

Merrill Sanford, Mayor

Attest:

Laurie J. Sica, Municipal Clerk

Presented by: The Manager
Introduced: August 31, 2015
Drafted by: Finance

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2015-20(N)

An Ordinance Appropriating to the Manager the Sum of \$160,000 as Funding for the Emergency Management Performance Grant; Funding Provided by the State of Alaska, Department of Military and Veterans Affairs.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. Appropriation. There is appropriated to the Manager the sum of \$160,000 as funding to reimburse the City and Borough of Juneau, Emergency Programs Division, for costs incurred in direct support of the goals and activities of the Emergency Management Performance Grant.

Section 3. Source of Funds

Alaska Department of Military and Veterans Affairs	\$160,000
--	-----------

Section 4. Effective Date. This ordinance shall become effective upon adoption.

Adopted this _____ day of _____, 2015.

Merrill Sanford, Mayor

Attest:

Laurie J. Sica, Municipal Clerk

"ECONOMIC IMPACT" NOTE

ORDINANCE #: 2015-20(N)

OPERATIONAL IMPACT

Check No/Yes ☐ No ☒ Yes, explain in detail

Explanation of Impact: The EMPG-GY15 grant will supplement salaries and benefits for three to five CBJ employees. 50/50 in-kind match required.

(Attach Additional Pages as Necessary)

FINANCIAL IMPACT

Check No/Yes ☐ No ☒ Yes (if Yes, complete the following)

50/50 in-kind match required. Salaries and benefits for Emergency Programs staff, Fire, and Police.

FY16	FY17	FY18	FY19	FY20
------	------	------	------	------

Expenditure Budget

Emergency Programs	\$ 56,750	\$ -	\$ -	\$ -
Frie Dept.	51,625	-	-	-
Police Dept.	51,625	-	-	-

Total Expenditures

\$ 160,000	\$ -	\$ -	\$ -	\$ -
------------	------	------	------	------

Funding Sources:

EMPG Grant	160,000	-	-	-
------------	---------	---	---	---

Total Funding Sources

\$ 160,000	\$ -	\$ -	\$ -	\$ -
------------	------	------	------	------

Personnel

Full-Time FTE's				
Part-Time FTE's				
Temporary FTE's				

CAPITAL IMPROVEMENT PROJECTS (CIP)

Project Budget

Direct Project Costs	\$ -
	-
Total Project Budget	\$ -

Amounts noted at left are 100% of the project total expenses

Project Totals Before Appropriation:

This Appropriation:

Total Project: \$ -

Funding Sources

Federal Grant	\$ -
State Grant	-
CBJ Sales Tax	-
JNU Operating Reserves	-
JNU Revolving Funds	
Total Funding Sources	\$ -

Comment:

Personnel

Full-Time FTE's	
Part-Time FTE's	
Temporary FTE's	

Prepared by: Michelle Brown

Affected Depts a) Admin, Fire, Police

(Dir/Dept): b) Tom Mattice

Finance Dir: Bob Bartholomew

City Manager: Kim Kiefer

Date: 8/11/2015

Date:

Date:

Date:

Date:

Presented by: The Manager
Introduced: August 31, 2015
Drafted by: Finance

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2015-20(O)

An Ordinance Appropriating to the Manager the Sum of \$19,018 as Funding for the Local Planning Committee; Grant Funding Provided by the State of Alaska, Department of Military and Veterans Affairs.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. Appropriation. There is appropriated to the Manager the sum of \$19,018 to support Local Emergency Planning Committee activities.

Section 3. Source of Funds

Alaska Department of Military and Veterans Affairs	\$19,018
--	----------

Section 4. Effective Date. This ordinance shall become effective upon adoption.

Adopted this _____ day of _____, 2015.

Merrill Sanford, Mayor

Attest:

Laurie J. Sica, Municipal Clerk

"ECONOMIC IMPACT" NOTE

ORDINANCE #: 2015-20(O)

OPERATIONAL IMPACT

Check No/Yes ☐ No ☒ Yes, explain in detail

Explanation of Impact: The 20LEPC-GY16 grant will supplement salaries and benefits for two to four CBJ employees and Local Emergency Planning Committee (LEPC) program costs. No match required.

(Attach Additional Pages as Necessary)

FINANCIAL IMPACT

Check No/Yes ☐ No ☒ Yes (if Yes, complete the following)

50/50 in-kind match required. Salaries and benefits for Emergency Programs staff, Fire, and Police.

Expenditure Budget

	FY16	FY17	FY18	FY19	FY20
Emergency Programs	\$ 18,018	\$ -	\$ -	\$ -	\$ -
Fire Dept.	1,000	-	-	-	-
		-	-	-	-
Total Expenditures	\$ 19,018	\$ -	\$ -	\$ -	\$ -

Funding Sources:

State LEPC Grant	19,018	-	-	-	-
Total Funding Sources	\$ 19,018	\$ -	\$ -	\$ -	\$ -

Personnel

Full-Time FTE's				
Part-Time FTE's				
Temporary FTE's				

CAPITAL IMPROVEMENT PROJECTS (CIP)

Project Budget

Direct Project Costs	\$ -
	-
Total Project Budget	\$ -

Amounts noted at left are 100% of the project total expenses

Project Totals Before Appropriation:

This Appropriation:

Total Project: \$ -

Funding Sources

Federal Grant	\$ -
State Grant	-
CBJ Sales Tax	-
JNU Operating Reserves	-
JNU Revolving Funds	
Total Funding Sources	\$ -

Comment:

Personnel

Full-Time FTE's	
Part-Time FTE's	
Temporary FTE's	

Prepared by: Michelle Brown

Affected Depts a) Admin, Fire, Police

(Dir/Dept): b) Tom Mattice

Finance Dir: Bob Bartholomew

City Manager: Kim Kiefer

Date: 8/12/2015

Date:

Date:

Date:


Date:

MEMORANDUM

CITY/BOROUGH OF JUNEAU

155 SOUTH SEWARD STREET, JUNEAU, ALASKA 99801

TO: Kimberly A. Kiefer
City and Borough Manager

FROM: Greg Smith 
Contract Administrator

SUBJ: BID RESULTS:
Salt and Sand Storage Facility
CBJ Contract No. E16-013

DATE: August 3, 2015

FILE: 1884

Bids were opened on the subject project on July 28, 2015. The bid protest period expired at 4:30 p.m. on July 29, 2015. Results of the bid opening are as follows:

BIDDERS	TOTAL BID
Dawson Construction, Inc.	\$1,139,200.00
Trucano Construction	\$1,161,179.00
North Pacific Erectors, Inc.	\$1,182,475.76
Alaska Commercial Contractors, Inc.	\$1,198,740.00
Miller Construction Co., Ltd.	\$1,287,750.00
Engineer's Estimate	\$1,191,164.00

Project Manager: Rich Ritter, AIA

Project Description: Construction of a salt and sand storage facility, which generally includes: site preparation including grading and drainage, installation of catch basins and underground utilities for power and lighting, construction of foundations, construction of pre-engineered fabric structure, installation of asphalt pavement within the footprint of the fabric structure Installation of ecology block retaining walls at three sides and interior divided between sand and salt storage, installation of power distribution and lighting system.

Funding Source: Area Wide and Temporary Sales Tax

Total Project Funds: \$357,514

CIP No.: D12-081

Construction Encumbrance: \$1,139,200

Construction Contingency: \$113,920

Consultant Design: \$49,267

Consultant Contract Administration/Inspection: \$91,136

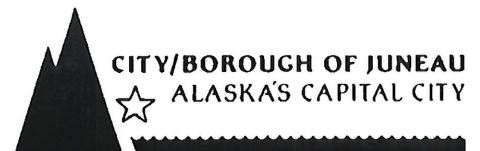
CBJ Administrative costs: \$34,176

Staff recommends award of this project to Dawson Construction, Inc. for the total amount bid of \$1,139,200.

Approved: _____
Kimberly A. Kiefer, City Manager

Date of Assembly Approval: _____

c: CBJ Purchasing



Presented by: The Manager
Introduced:
Drafted by: A. G. Mead

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2015-03(c)

An Ordinance Amending the Land Use Code.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the City and Borough of Juneau Municipal Code.

Section 2. Amendment of Section. CBJ 49.10.130, Meetings, is amended to read:

49.10.130 Meetings.

- (a) Regular meetings shall be held on the second and fourth Tuesday of each month.
- (b) Special meetings may be called by the chair or any three members of the commission. Public notice of special meetings shall be made 24 hours in advance and shall be supplied to the local news media and posted on the municipal bulletin board. Commission members will be notified by the department.
- (c) Public notice for all permits and other land use ordinance actions shall be according to the requirements established for such actions.
- (d) Meetings shall be conducted under Robert's Rules of Order ~~Mason's Manual~~, as modified by the commission.
- (e) The commission may, by motion, establish its own rules of procedure and committees, meeting times, dates and places, media for public notice, development application ~~and evidentiary~~ forms, referral and review agencies and procedures, and any other matter reasonably necessary or desirable for the full and complete conduct of its duties pursuant to this title and any other provision of law.

Section 3. Amendment of Section. CBJ 49.10.770, Meetings, is amended to read:

49.10.770 Meetings.

(a) *Regular meetings.* The wetlands review board shall hold one regular meeting each month as necessary to conduct board business. ~~and shall hold additional regular meetings as the board may prescribe by resolution.~~

(b) *Special meetings.* The wetlands review board may hold special meetings upon the call of the chair or any two members. At least 24 hours before the meeting, personal notice shall be given to each board member designating the time, place, and purpose of the special meeting, or written notice shall be left at each member's usual place of residence. At least 24 hours before the meeting, copies of the notice shall also be delivered to the newspapers of general circulation in the municipality and to the commercial radio and television stations operating in the municipality. ~~No business may be transacted at any special meeting except as stated in the notice of the meeting. All meetings of the wetlands review board shall be publicly noticed in the same manner as other City and Borough boards and commissions, and shall be conducted in accordance with the Alaska Open Meetings Act.~~

(c) *Public notice.* No business may be transacted at any special meeting except as stated in the notice of the meeting. All meetings of the wetlands review board shall be publicly noticed in the same manner as other City and Borough boards and commissions, and shall be conducted in accordance with the Alaska Open Meetings Act.

Section 4. Amendment of Section. CBJ 49.10.790, Rules of Procedure, is amended to read:

49.10.790 Rules of Procedure.

Meetings shall be conducted under Robert's Rules of Order ~~Mason's Manual~~ and such additions or amendments to the rules as may be adopted by the wetlands review board.

Section 5. Amendment of Article. Chapter 49.15, Article I In General, is amended by adding a new section to read:

49.15.150 Application cancellation and withdrawal.

(a) A permit application may be cancelled for inactivity if an applicant fails to respond to the department's written request for revisions, corrections, or additional information within 180 days of the date of the request. The director may extend the response period up to an

additional 180 days. If an application is cancelled due to inactivity, the application fee shall be forfeited.

(b) For an application filed prior to the effective date of this ordinance, the director shall assess the status of the application. If the director determines the application is incomplete, the applicant shall be informed in writing of the additional information needed and that the application will be cancelled for inactivity if the applicant fails to provide the requested information within 180 days from the date of notice. The director shall not extend the response period beyond the initial 180 days from the date of notice.

(c) A development permit shall become void, and the application fee forfeited, 18 months after its effective date if no associated building permit, right-of-way permit or similar permit for construction has been issued and substantial construction progress pursuant thereto made, or if no plat has been issued in accordance with the plans for which the development permit was authorized. A development permit shall become void if all building permits issued for the development expire or become void.

(d) An applicant or property owner may withdraw a permit application at any time. If an application is withdrawn less than seven days before the public hearing on the application, the application fee shall be forfeited.

Section 6. Amendment of Section. CBJ 49.15.230, Public notice, is amended to read:

49.15.230 Public notice.

The purpose of the following public notice requirements is to reasonably inform interested parties that an application or matter is scheduled to be considered by the planning commission at a specific date, time, and place. The public notice must generally describe the application or matter. Unless otherwise provided, public ~~Public~~ notice of planning commission consideration of development permits and rezonings shall be provided as follows:

(1) Permit consideration shall be included as an item in the posted agenda.

(2) Notice of the commission meeting, and the agenda item shall be published in a newspaper of general circulation in the City and Borough a minimum of ten days prior to the date of the meeting.

(3) The developer shall post a sign ~~at on~~ at the site or other location approved by the director at least 14 days prior to the meeting. ~~If the proposed development is on the road system, the~~ The sign shall be visible from a public right-of-way. ~~Signs~~ shall be between four square feet and 32 square feet in area, shall have a red background, and shall indicate in white lettering, 216-point font or larger, that a development

permit or rezoning, as applicable, has been sought for the site, the date of the hearing ~~thereon~~, and that further information is available from the director. The developer shall maintain the sign and shall remove it within 14 days after final action on the application.

(4) The director shall mail notice of the application and the public hearing ~~initial meeting thereon~~ to the owners of record of all property and all neighborhood associations listed with the municipal clerk in accordance with CBJ 11.35 located within 500 feet of the property subject to the permit or rezoning. The actual cost of mailing shall be paid by the applicant.

(5) The applicant shall deliver individual written notice by certified mail, return receipt requested of the application and the initial meeting thereon to each tenant of any multifamily residential development for which the application seeks a change in use.

(6) The director may require more than one sign and may mail notice to additional owners of record of properties beyond 500 feet of the property under section (4) upon a determination that such expanded notice is required in order to provide reasonable public notice.

(7) The director may conduct one or more neighborhood meetings prior to the commission meeting. The purpose of a neighborhood meeting is to make application materials available to interested parties, to solicit input regarding an application, and for the department to describe the application review process.

Section 7. Repeal of Section. CBJ 49.15.240 Development permit expiration, is repealed and reserved.

Section 8. Amendment of Section. CBJ 49.15.239, Effective date, is repealed and reenacted to read:

49.15.239 Effective date.

(a) Major development permits and other planning commission decisions are effective on the date the notice of decision is filed with the municipal clerk.

(b) Minor development permits and other director approvals are effective on the date the director signs the permit.

Section 9. Amendment of Section. CBJ 49.15.330, Conditional use permit, is amended to read:

49.15.330 Conditional use permit.

(a) *Purpose.* A conditional use is a use that may or may not be appropriate in a particular zoning district according to the character, intensity, or size of that or surrounding uses. The conditional use permit procedure is intended to afford the commission the flexibility necessary to make determinations appropriate to individual sites. The commission may attach to the permit those conditions listed in subsection (g) of this section as well as any further conditions necessary to mitigate external adverse impacts. If the commission determines that these impacts cannot be satisfactorily overcome, the permit shall be denied. ~~The procedures and standards established in this section shall also be applied to major subdivision preliminary plat approval pursuant to section 49.15.430.~~

...

(g) *Specific conditions.* The commission may alter the director's proposed permit conditions, impose its own, or both. Conditions may include one or more of the following:

...

(4) *Dedications.* Conveyance of title, easements, licenses, or other property interests to government entities, private or public utilities, owners' associations, or other common entities may be required.

Section 10. Repeal and Reenactment of Article. CBJ 49.15, Article IV Minor and Major Subdivisions, is repealed in its entirety and reenacted to read:

Article IV. Subdivisions

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Division 1. Permits

49.15.400 Purpose and applicability.

(a) The purpose of this article is to facilitate the subdivision of land to promote the public health, safety, and general welfare of the citizens of the CBJ in accordance with The Comprehensive Plan of the City and Borough of Juneau, Alaska. To meet this objective, this article is intended to:

- (1) Establish a process that facilitates the fair and predictable division of land;

- (2) Encourage the efficient and cost-effective provision of public services;
- (3) Address traffic and circulation to reduce congestion;
- (4) Provide for flexibility in the division and establishment of residential and commercial lots;
- (5) Establish procedures for subdividing land to accommodate a variety of housing types; and
- (6) Accomplish uniform monumentation for land subdivision and facilitate accurate legal descriptions for land conveyance.

(b) This article shall apply to any division or redivision of real property within the City and Borough. This article shall not apply to cemetery plots or land leases.

49.15.401 Minor subdivisions.

(a) A minor subdivision permit is required for the following:

(1) *Thirteen or fewer lots.* A minor subdivision permit is required for all subdivisions resulting in thirteen or fewer lots. No minor subdivision application may be filed or approved:

(A) If it is a part of or is made in connection with a present or projected major subdivision development as determined by the director;

(B) If the property is within a parcel any part of which has been subdivided by a minor subdivision within the preceding 24 months, unless the proposed subdivision creates no new lots; or

(C) For the subdivision of a parcel any part of which is within a landslide or avalanche area identified as such in the comprehensive plan, attachments thereto, other adopted maps, or in accordance with CBJ 49.70.300.

(2) *Accretion surveys.* The minor subdivision process shall be used for the review and recording of accretion surveys, regardless of the number of lots affected.

(3) *Conservation lot subdivisions.* The minor subdivision process shall be used for the review and recording of conservation lot subdivisions, regardless of the number of lots affected.

(4) *Lot line adjustments.* The minor subdivision process shall be used to review adjustments to any number of lot boundary lines if the subdivision does not result in an increase in the number of lots.

(5) *Right-of-way acquisition plats.* The minor subdivision process shall be used for the review and recording of right-of-way acquisition plats filed by an agency of government regardless of the number of lots affected, in accordance with CBJ 49.15.590 unless such acquisition creates any nonconforming lot, use, or structure.

(b) *Pre-application conference.* A pre-application conference is required prior to submitting an application for a minor subdivision. A sketch plat may be required at the director's discretion.

(c) *Preliminary plat.* The director shall be responsible for review and approval of the application for a preliminary plat.

(1) An applicant for a preliminary plat shall submit an application on a form provided by the department, accompanied by a draft preliminary plat and the appropriate fee. The draft plat shall meet the standards set forth in CBJ 49.15.411.

(2) *For subdivisions of four or fewer lots, the department shall mail ~~send~~ written notice of the application to the owners of abutting property following the director's determination that the application is complete. For subdivisions of five to thirteen lots, the department shall mail notice of the application to the owners of record of all property, and all neighborhood associations listed with the municipal clerk in accordance with CBJ 11.35, located within 500 feet of the property being subdivided, following the director's determination that the application is complete.* The actual cost of mailing shall be paid by the applicant.

(3) The director or applicant may request review by the subdivision review committee.

(4) *Review and approval.* The director shall approve the application if the following criteria are met:

(A) The preliminary plat complies with CBJ 49.15.411;

(B) The applicable subdivision development standards of this title are met, or can reasonably be met with conditions;

(C) The proposed subdivision will provide building sites suitable for the zoning district;

(D) The proposed street names are unique in the City and Borough or are continuations of existing streets and are otherwise acceptable; and

(E) The director of engineering and public works has reviewed the application and determined that:

(i) The subdivision can be constructed to conform to applicable drainage and water quality requirements;

(ii) The streets, pioneer paths, and pedestrian ways as proposed accommodate anticipated traffic, align, and, where appropriate, connect with streets and pedestrian ways serving adjacent properties;

(iii) Any proposed improvements conform to the requirements of this title and can feasibly be constructed in accordance with this title; and

(iv) Where public sewer is not required, the applicant has shown that soils are suitable for individual on-lot wastewater treatment and disposal or has shown the feasibility of alternative methods for wastewater treatment and disposal.

(5) The director will issue and sign a notice of decision listing any conditions or plat notes required for final plat approval. If the preliminary plat is denied, the applicant may submit a revised plat application, without paying additional application fees, within 180 days from the date of the notice of decision.

(d) *Construction plans.* Upon approval of the preliminary plat, the applicant shall submit complete sets of construction plans for all required improvements to the department for review by the director of engineering and public works for compliance with CBJ 49.35.140.

(e) *Survey and monumentation.* Once the construction plans are approved, the applicant shall complete required surveying and monumentation in accordance with CBJ 49.15, Article IV, Division 6.

(f) *Final plat.* An application for a final plat shall be on a form provided by the department, accompanied by a final plat and the appropriate fee. The director may place conditions upon the granting of final plat approval as are necessary to preserve the public welfare. The application shall be approved if the following criteria are met:

(1) The applicant has complied with any conditions or plat notes required by the director in the notice of decision approving the preliminary plat;

(2) The applicant has constructed all required improvements or provided a financial guarantee in accordance with CBJ 49.55.010; and

(3) The final plat meets the criteria set forth in CBJ 49.15.412.

(g) *Plat recording.*

(1) The director shall sign the plat upon a determination that the final plat meets all of the requirements of this title, that all plat certificates have been signed and

notarized, and that all required documents have been submitted for recording with the final plat in accordance with CBJ 49.15.412.

(2) The department shall file the original plat, at the applicant's expense, with the State Recorder's Office at Juneau.

49.15.402 Major subdivisions.

(a) A major subdivision permit is required for subdivisions resulting in fourteen or more lots.

(b) *Pre-application conference and sketch plat.* A pre-application conference and sketch plat (CBJ 49.15.410) is required prior to submitting an application for a major subdivision.

(c) *Preliminary plat.* The commission shall be responsible for approval of the preliminary plat.

(1) Application for a preliminary plat shall be on a form provided by the department, accompanied by a draft preliminary plat and the appropriate fee. The draft plat shall meet the standards set forth in CBJ 49.15.411.

(2) Public notice of the application shall be provided pursuant to CBJ 49.15.230.

(3) The director or applicant may request review by the subdivision review committee.

(4) The director shall prepare and submit a report to the commission noting any conditions of approval or plat notes recommended and addressing the following criteria:

(A) Whether the preliminary plat complies with CBJ 49.15.411;

(B) Whether the applicable subdivision development standards of this title are met, or can reasonably be met with conditions;

(C) Whether the proposed subdivision will provide building sites suitable for the zoning district;

(D) Whether the proposed street names are unique in the City and Borough or are continuations of existing streets and are otherwise acceptable;

(E) Whether the director of engineering and public works has reviewed the application and determined that:

(i) The subdivision can be constructed to conform to applicable drainage and water quality requirements;

(ii) The streets, pioneer paths, and pedestrian ways as proposed accommodate anticipated traffic, align, and, where appropriate, connect with streets and pedestrian ways serving adjacent properties;

(iii) Any proposed improvements conform to the requirements of this title and can feasibly be constructed in accordance with this title; and

(iv) Where public sewer is not required, the applicant has shown that soils are suitable for individual on-lot wastewater treatment and disposal or has shown the feasibility of alternative methods for wastewater treatment and disposal.

(5) In issuing its notice of decision on a preliminary plat, the commission may accept, amend, or reject the director's proposed recommendations. The decision of the commission approving or denying a preliminary plat application will be set forth in a notice of decision, and will specify any conditions or plat notes required for final plat approval. If the preliminary plat is denied, the applicant may submit a revised plat application, without paying additional application fees, within 180 days from the date of the notice of decision.

(d) *Construction plans.* Upon approval of the preliminary plat, the applicant shall submit complete sets of construction plans for all required improvements to the department for review by the director of engineering and public works for compliance with CBJ 49.35.140.

(e) *Survey and monumentation.* Once the construction plans are approved, the applicant shall complete required surveying and monumentation in accordance with CBJ 49.15, Article IV, Division 6.

(f) *Final plat.* An application for a final plat shall be on a form provided by the department, accompanied by a final plat and the appropriate fee. The final plat shall meet the standards set forth in CBJ 49.15.412.

(1) Once the application is deemed complete, the director shall schedule the final plat for commission action. If commission action on the final plat will occur more than 12 months after approval of the preliminary plat, public notice of impending commission action on the final plat may be required.

(2) The director shall prepare and submit a report to the commission that addresses compliance of the final plat with this title and the criteria for final plat approval, and that specifies any conditions of approval or plat notes recommended by the director.

(3) The commission may place conditions upon the granting of final plat commission as are necessary to preserve the public welfare. The commission shall

approve the application for a final plat if the following criteria are met:

- (A) The applicant has complied with any conditions or plat notes required in the notice of decision approving the preliminary plat;
- (B) The applicant has constructed all required improvements or provided a financial guarantee in accordance with CBJ 49.55.010; and
- (C) The final plat meets the standards set forth in CBJ 49.15.412.

(g) *Plat recording.*

- (1) The chair of the commission shall sign the plat upon a determination that the final plat meets all of the requirements of this title, that all plat certificates have been signed and notarized, and that all required documents have been submitted for recording with the final plat in accordance with CBJ 49.15.412.
- (2) The department shall file the original plat, at the applicant's expense, with the State Recorder's Office at Juneau.

49.15.403 Lot consolidations.

- (a) An application for the consolidation of two or more abutting lots shall be submitted on a form provided by the department along with the application fee. Unless waived by the director, an applicant must also submit a plat prepared by a professional land surveyor licensed to practice in Alaska. If the director determines that a plat is not required, the applicant shall submit a drawing, satisfactory to the director, indicating all existing and proposed lot lines. If a plat is required, the minor subdivision process shall apply.
- (b) An application shall be approved if the following criteria are met:
 - (1) All lots proposed for consolidation are under common ownership;
 - (2) CDD receives certification from the CBJ Treasurer that all real property taxes and special assessments levied against the property have been paid in full, or, if the certificate is sought between January 1 and the date of levy, that there is on deposit with the Treasurer an amount sufficient to pay estimated real property tax for the current year. Special assessments levied against a parcel to be subdivided must be paid in full prior to issuance of the certificate;
 - (3) The lots are located in the same zoning district;
 - (4) Consolidation of the lots will not create a zoning or building code violation; and

(5) The director of engineering and public works has reviewed and approved the lot consolidation proposal for conformity with the requirements of this title.

(c) The director will issue and sign a notice of decision. Upon director approval, the department shall prepare and provide to the applicant a letter of lot consolidation. The letter shall provide for acceptance of the consolidation by notarized signature thereon by the owner or owners of the new lot, and upon such execution, the department shall record the document at the applicant's expense.

49.15.404 Public way vacations.

(a) This section applies to petitions to vacate any portion of an existing public way, public easement, or any other area dedicated to the public. This section does not apply to property owned by the City and Borough in its proprietary capacity.

(b) *Pre-application conference.* A pre-application conference is required prior to submitting an application for a public way vacation.

(c) *Application.* Applications for public way vacations shall be submitted on a form provided by the department, and must be accompanied by the following:

(1) A petition by the City and Borough or a request signed by the owners of a majority of the land fronting the area sought to be vacated;

(2) A deed, or other sufficiently reliable legal instrument, describing the owners of the land fronting the area sought to be vacated;

(3) A sketch plat and all relevant submittals required by CBJ 49.15.410 showing the area proposed to be vacated and the proposed configuration of all adjoining parcels that would be modified if the vacation application were approved;

(4) A deed, or other sufficiently reliable legal instrument, describing how title to the vacated area will be allocated consistent with this section;

(5) The application fee;

(6) If required, an appraisal by a qualified appraiser; and

(7) If required by the director, a traffic impact analysis in accordance with CBJ 49.40, Article III.

(d) *Commission review process.*

(1) After determining the application is complete, the department shall provide public notice consistent with CBJ 49.15.230.

(2) The director may transmit copies to other public or private entities that may have an interest in the proposal for their comments.

(3) The director of engineering and public works shall review the application and present written comments, including any recommended conditions of approval, to the director of community development.

(4) The director or applicant may request review and comment by the subdivision review committee.

(5) The director shall submit a recommendation to the commission addressing the following:

(A) Whether the area proposed to be vacated is a right-of-way acquired under the former 43 U.S.C. 932 (RS 2477 right-of-way);

(B) Whether there is any current or anticipated future public purpose to retain the area proposed to be vacated;

(C) Whether the proposed vacation will have a detrimental effect on the adjacent property or on the neighborhood; and

(D) Whether the proposed vacation is in the best interest of the public.

(6) The commission shall consider requests to vacate public ways after public hearing. The commission shall presume that all public ways and similar public areas are of value and of benefit to the public. The petitioner has the burden to prove otherwise.

(7) After public hearing, the commission shall make a recommendation to the assembly to approve, approve with modifications, or deny the proposed vacation request. The commission shall prepare written findings in support of its recommendation, which shall be forwarded to the assembly for its consideration. If the commission recommends approval of the request or approval with modifications, the commission must also make the necessary findings to determine how title to the vacated area should be ordered as detailed below.

(A) The title to the public area vacated on a plat attaches to the lot or land bordering the area in equal proportions. If the public area was originally dedicated by different persons, original boundary lines shall be adhered to so that the portion of the public area that lies on each side of the boundary line shall attach to the abutting property on each respective side. The portion of a vacated public area that lies inside the limits of a platted addition attaches to the lots of the platted addition bordering on the area. If a public square is vacated, the title to it vests in the City and Borough. If the property vacated is a lot, title vests in the rightful owner.

(B) If the City and Borough acquired the vacated area for legal consideration, or by express dedication to and acceptance by the City and Borough other than as a subdivision platting requirement, then before final vacation the fair market value of the vacated area shall be deposited with the platting authority to be transferred to the City and Borough upon final vacation as required by CBJ 53.09.600.

(8) If the commission recommends approval of the request or approval with modifications, the director shall forward an ordinance along with the commission's written recommendation to the assembly for its consideration.

(e) *Assembly review.* A vacation is not valid without approval by the assembly in its legislative capacity and the recording of a plat. If the assembly approves the vacation, the assembly shall approve the vacation by ordinance. If the assembly does not approve the vacation, a subsequent vacation application cannot be filed until one year has elapsed from the date of the commission's recommendation.

(f) If the vacation of public way is approved, the property added to a parcel shall be platted per the subdivision requirements below.

(1) If the request involves a vacation that includes the resubdivision of thirteen or fewer lots, the submittal and platting requirements for a minor subdivision shall apply.

(2) If the request involves a vacation that includes the resubdivision of more than thirteen lots, the submittal and platting requirements for a major subdivision shall apply.

Division 2. Plat Requirements

49.15.410 Sketch plat.

(a) The sketch plat serves the following purposes:

(1) To inform the applicant of the City and Borough's subdivision requirements, public improvement requirements, and platting procedures before substantial costs are incurred by the developer in preparation of a subdivision application;

(2) To inform the department of the applicant's development plans; and

(3) To identify issues with the proposed subdivision, such as issues with the subdivision layout, the extent and nature of required improvements, the location and protection of sensitive areas, impacts to adjoining properties, and traffic, platting, drainage, and utilities requirements.

(b) A sketch plat is required for major subdivisions. A sketch plat may be required, at the director's discretion, for minor subdivisions.

(c) A sketch plat shall include the following:

- (1) A scaled drawing of the property, at a scale no smaller than 200 feet to an inch;
- (2) The size of the original tract or tracts being subdivided;
- (3) A north arrow. The plat shall be oriented with north toward the top of the sheet;
- (4) The name of the owner;
- (5) The approximate locations of existing lot layouts of adjoining properties;
- (6) Any existing rights-of-way, easements, or other encumbrances;
- (7) The approximate location of existing structures;
- (8) The approximate location and sizes of existing sewer lines, water lines, culverts, and other underground structures;
- (9) Proposed phasing, if applicable;
- (10) The number, dimensions, and approximate areas of all proposed lots;
- (11) The locations and names of all planned streets or other public ways within the subdivision;
- (12) If the sketch plat submitted covers only a part of the tract under the control of the applicant, the prospective street system of the unplatted part must also be shown;
- (13) The approximate location of any parcels proposed to be set aside for public use or for the use of all the property owners within the proposed subdivision, if applicable;
- (14) Proposed connections to sewer and water or a plan for any on-lot wastewater disposal; and
- (15) Proposed plans for collecting and discharging drainage water.

49.15.411 Preliminary plat requirements.

(a) The preliminary plat shall be prepared by a professional land surveyor, registered in the State of Alaska.

(b) The preliminary plat shall be submitted on 22 by 34 inch sheets. The director of engineering and public works may approve alternate sheet sizes.

(c) The preliminary plat shall be drawn with black ink to a scale of one-inch to 100 feet or less, or other suitable scale approved by the director of engineering and public works.

(d) The preliminary plat shall be oriented with north toward the top of the sheet. A vicinity map shall be located in the upper right-hand corner of the sheet. The vicinity map shall be oriented in the same direction as the plat. A suitable north arrow shall be shown for the plat and vicinity map.

(d) All line work and lettering must be of professional quality, and all line widths and lettering sizes must be of such size that all information can be clearly shown without overlap or confusion.

(e) A preliminary plat shall contain the following information:

(1) An enclosed title block in the lower right-hand corner containing the following information:

(A) The proposed name of the subdivision;

(B) The legal description of the parcel to be subdivided including U.S. Survey, U.S. Mineral Survey, A.T.S. number or section, township, and range number, as applicable;

(C) "City and Borough of Juneau, Alaska";

(D) "State Recorder's Office at Juneau";

(E) The date the preliminary plat was prepared and revised;

(F) The horizontal scale;

(G) The name and address of the owner of record;

(H) The case number for the preliminary plat;

(I) The parcel numbers of the property; and

(J) The name, address, and telephone number of the surveyor preparing

the preliminary plat.

(2) Lot, block, and street information:

- (A) The area of each lot;
- (B) The dimensions in feet and hundredths of a foot;
- (C) An identifying number and letter for lots and blocks;
- (D) Lots numbered consecutively, commencing with the number "1," with no omissions or duplications;
- (E) If the remainder of an original parcel being subdivided is relatively large, it shall be designated as a "tract" with an identifying number;
- (F) All parcels of land intended to be dedicated for public use or reserved for the use of all of the property owners in the proposed subdivision shall be shown as lots, and consecutively numbered. The purpose and any conditions or limitations on the use of the parcel shall be noted on the plat;
- (G) Abutting properties shall be shown with dashed lines, numbers, and/or letters;
- (H) For resubdivisions or public way vacations, the lines and legal description of the previous lots shall be shown with light dashed lines, numbers, and/or letters, or by a separate plat on the same sheet showing the previous lot lines;
- (I) The minimum data shown for each curve shall be as follows:
 - (i) Length;
 - (ii) Central angle;
 - (iii) Radius; and
 - (iv) Bearing and distance of long chord.
- (J) Setbacks shall be shown on all corner lots and any lots with multiple frontage. Setbacks shall be shown on typical lots.

(3) Boundary lines:

- (A) All boundary lines of the subdivision with bearings and distances described;

(B) All retraced boundary lines shall show record and measured bearings and distances where they differ. Record dimension information shall be shown within parentheses and include a record source identification;

(C) The exterior boundary lines of the subdivision shall be a solid black opaque line that is of a width that distinguishes it from all other property lines shown on the plat; and

(D) If phasing is proposed, then the boundaries and number of each phase, sequential lot numbering, and a subdivision name consistent with previous phases shall be shown.

(4) Monumentation:

(A) The monuments used to establish the basis of bearing;

(B) Each monument found or set shall be identified on the plat by a symbol;

(C) A complete description of the monument, including type and all information printed on the cap. A typical drawing shall be shown for each type of monument cap set;

(D) A legend showing the symbols for all the types of monuments; and

(E) The identification, description location, elevation, and datum of the benchmark used to establish vertical control.

(5) Site access, circulation, and utilities:

(A) The widths and names of existing rights-of-way within the subdivision and within 100 feet of the subdivision boundary;

(B) Proposed rights-of-way, including their widths and proposed names;

(C) The grades of existing and proposed streets within these rights-of-way;

(D) The width, ownership, use, and record reference of all proposed and existing easements within the subdivision and within 100 feet of the subdivision boundary;

(E) The width, ownership, and use of all proposed easements;

(F) All proposed and existing easements shall have sufficient dimensions shown to determine their location on the ground;

(G) Existing trails or pathways within the subdivision and within 100 feet of the subdivision boundary, including the width of any associated rights-of-way or easements;

(H) Proposed trails or pathways and widths of their rights-of-way; and

(I) If the plat submitted covers only a part of the tract under the control of the applicant, a sketch plat of the prospective street system of the unplatted part shall be submitted.

(6) Topographic information:

(A) For slopes of less than five percent, show one foot contour lines and include spot elevations at all breaks in grade, along all drainage channels or swales, and at selected points not more than 100 feet apart in all directions;

(B) For slopes between five percent and ten percent, show two foot contour lines;

(C) For slopes greater than ten percent, show five foot contour lines;

(D) Every fifth elevation contour shall be distinctive and clearly labeled;

(E) Dashed lines shall represent existing contours;

(F) Mapping shall include any significant features which can materially affect the design of the subdivision, including, but not limited to, structures, fences, walls, and utility poles;

(G) If irregular slopes or special features are present, additional contour information may be required by the director of engineering for planning or construction purposes. Additional required information may include projecting the topography of the site after grading has taken place, showing such items as:

(i) Pad elevations and drainage patterns for each lot;

(ii) Tops and toes of all manufactured slopes, including daylight lines; and

(iii) Existing and proposed retaining wall locations and heights.

(H) For subdivisions located in hillside areas with slopes greater than eighteen percent, additional requirements apply in accordance with CBJ 49.70, Article II.

(7) Sewer and water:

(A) Existing sewer and water mains within the tract with pipe sizes and grades; and

(B) A draft plan for proposed water and sewer lines showing the size, approximate slope, and connection points with elevations for the purpose of determining the feasibility of construction.

(f) *Multisheet plats.* When a plat requires more than one sheet, exclusive of a certificate sheet, an index sheet shall be included. When a plat requires more than three sheets, a cover sheet shall also be included, showing the subdivision title, a key map, and all certificates. Each additional sheet shall include the following data:

(1) North arrow;

(2) Legend;

(3) Surveyor's seal and signature;

(4) Title block;

(5) Sheet _____ of _____;

(6) Scale;

(7) All plat notes; and

(8) Vicinity map.

(g) The preliminary plat shall be submitted with the following required documents:

(1) A lot closure report; and

(2) Disclosure of all known environmental hazards and any proposed mitigation measures recommended in the applicable environmental document.

(h) *Additional mapping or reports.* If required by this title or by the director, the following additional mapping or reports shall be submitted with the preliminary plat:

(1) Any portion of a special flood hazard area, landslide or avalanche area, habitat area as defined by CBJ 49.70.310, or watersheds, either existing at the proposed subdivision site or shown on the overlay maps, adopted pursuant to this title, to exist at the proposed subdivision site, must be depicted on the preliminary plat;

(2) The boundaries of any wetland areas must be depicted on the preliminary plat. Boundaries must be determined by a person qualified to perform wetland delineations;

(3) *Soils report.* A soils report prepared by an engineer licensed by the State of Alaska shall be required if the proposed subdivision is located farther from the existing public sewer system than specified in CBJ 49.35, and the applicant chooses to provide on-lot waste disposal rather than to connect to the public system. A soils report shall include the following:

(A) Certification that the proposed lots are large enough and have soil of sufficient permeability to permit the construction of approved waste treatment systems for on-lot waste disposal;

(B) The location and size of drain fields for each lot;

(C) The locations and logs of test borings, percolation test results, and a hydrological evaluation of on-site sewage disposal;

(D) If the soils report indicates that the soils found on the site are not of sufficient permeability or the lots are not large enough to permit the construction of systems for on-lot waste disposal, the size of the proposed lots must be increased or alternate methods for waste disposal proposed; and

(E) The soils report shall describe the nature of the subsurface soils and any soil conditions that would affect the design of the proposed development. The soils report shall state whether the proposed subdivision plan is feasible and provide general solutions for all known geotechnical conditions or problems.

(4) *Drainage report.* A preliminary report specifying the method by which the applicant proposes to manage surface and subsurface drainage for the subdivision and the effect of such method on adjacent areas. Unlike the drainage plan required by CBJ 49.35.510, the preliminary drainage report does not need to be prepared by a licensed engineer. The report must address the following:

(A) A calculation of the increase in stormwater runoff resulting from the proposed development as well as the runoff from all drainage areas associated with the site. Runoff calculations shall be based on a fully-developed subdivision and a 25-year storm event;

(B) How drainage from the proposed subdivision will join an established drainage channel or channels, unless the director of engineering and public works approves use of an alternative drainage way;

(C) An evaluation of existing drainage ways and structures located

between the subdivision and the receiving water body, and verification that the existing drainage ways can accommodate the increased runoff. If the increased runoff cannot be handled, the plan must propose solutions to the problem; and

(D) All required improvements, on or off site, that are shown on the construction plans in accordance with CBJ 49.35, Article V, and that will be constructed as part of the subdivision.

(5) *Water.*

(A) For subdivisions of five or more lots, including major subdivisions, the following shall be included, where applicable, in accordance with CBJ 49.15.412:

(i) If a proposed subdivision is located at greater distance from the existing public water system than specified in CBJ 49.35, Article III, and the applicant chooses not to connect to the public system, a statement that the applicant will provide a community water system or that individual wells will be used;

(ii) A report by a registered engineer or geologist that clearly supports the legal and physical availability of adequate water. Methods for proof of water availability and the standards for quantity are listed in CBJ 49.35, Article III; and

(iii) A copy of the State application for a permit to appropriate water in the quantity required to meet the subdivisions demands.

(B) This section does not apply to remote subdivisions unless: the subdivider of the remote subdivision chooses to provide potable water, a public water system is available and the subdivision falls within the criteria outlined in CBJ 49.35.310(a), or the subdivision has four or fewer lots.

(C) The director for minor subdivisions, and the planning commission for major subdivisions, may, for good cause, temporarily waive the requirement to provide a water report and proof of water, and condition the approval of the preliminary plat upon the provision of both documents as part of the final plat application and approval process.

(6) *Erosion control.* A report explaining the method by which the applicant proposes to control erosion and manage runoff, and potential impacts to adjacent properties or water bodies. The report shall include a plan for preservation of ground cover in areas where runoff and resulting erosion need to be minimized.

(7) *Traffic study.* A traffic impact analysis may be required with the preliminary

plat in accordance with CBJ 49.40.300.

(8) *Shadow plats.* For subdivisions of five or more lots in transition areas, a shadow plat shall be submitted according to CBJ 49.70.710. The shadow plat shall consist of a sketch superimposed on the proposed subdivision layout. This sketch shall reflect any future resubdivision of the parcels into smaller lots consistent with the higher density and the lot size allowed under the transition zoning.

49.15.412 Final plat requirements.

(a) All final plats must meet the requirements set forth in CBJ 49.15.411.

(b) The director for minor subdivisions, and the commission for major subdivisions, may place such conditions upon the granting of final plat approval as are necessary to preserve the public welfare. When such a condition of approval entails a restriction upon the use of all or part of the property being subdivided, a note specifying such restrictions shall be placed on the face of the plat. The note shall constitute a restriction in favor of the municipality and the public, and shall run with the land, enforceable against all subsequent owners. Any such restriction may be enforced against the applicant or any subsequent owner by the municipality, by injunction or other appropriate action, in the same manner as a permit or permit condition, or by any specifically affected member of the public.

(c) Certifications.

(1) The following notarized certificates shall appear on all plats. The certificates shall be certified, dated, and signed before a notary public in accordance with A.S. 09.63, and must contain the relevant form of acknowledgment specified by A.S. 09.63.100.

(A) Ownership Certificate:

I (we)(corporate name) hereby certify that I am (we are)(the corporation is) the owner(s) of the property shown and described hereon and that I (we)(it) hereby adopt this plat of subdivision with my (our)(its) free consent, and dedicate all streets, alleys, walks, parks and other open spaces to public or private use as noted.

(B) Surveyor's certificate:

I, (name), in my capacity as a professional Land Surveyor registered in the State of Alaska, certify that this plat represents the survey made by me or under my direct supervision, that the accuracy of the survey is within the limits required by Title 04 of the Community Development Regulations and Title 49 of the Code of the City and Borough of Juneau, that all dimensional and relative bearings are correct, and that monuments are set in place and noted upon this plat as presented.

(2) The following director's certificate shall appear on minor subdivision plats, signed by the director and attested to by the municipal clerk:

I hereby certify that the plat hereon has been found to comply with Title 49 of the Code of the City and Borough of Juneau and is approved by the City and Borough of Juneau, Department of Community Development, for recording in the office of the Juneau Recording District, Juneau, Alaska.

(3) The following certificate shall appear on all major subdivision plats, signed by the chair of the planning commission and attested to by the municipal clerk.

I hereby certify that the subdivision plat shown hereon has been found to comply with the subdivision regulations of the City and Borough of Juneau, Alaska and that said plat has been approved by the Planning Commission by Plat Resolution No. _____, dated _____, 20____, and that the plat shown hereon has been approved for recording in the office of the District Recording Office, Juneau, Alaska.

(d) *Certificate sheet.* The director may require a certificate sheet to be included with the final plat for clarity. The certificate sheet will include a title block, sheet number, and all certificates, statements, and acknowledgements required by this chapter.

(e) *Other documents.* While not required to be placed on the plat, the following documents are required, except as noted below:

(1) Certification from the CBJ Treasurer that all real property taxes and special assessments levied against the property have been paid in full, or, if the certificate is sought between January 1 and the date of levy, that there is on deposit with the Treasurer an amount sufficient to pay estimated real property tax for the current year. Special assessments levied against a parcel to be subdivided must be paid in full prior to issuance of the certificate;

(2) Any certificates of approval required under CBJ 49.35.310 or 49.35.410;

(3) A statement from each private utility company that will be serving the subdivision, stating that the easements shown on the final plat are satisfactory for use by that utility company for service to the proposed subdivision and that arrangements have been made to convey such easements to the appropriate utility company that will use them;

(4) Proof that all conditions of preliminary plat approval have been satisfactorily completed;

(5) Proof of construction plan approval;

(6) A draft improvement guarantee in accordance with CBJ 49.55 if the applicant is proposing to record the plat prior to the completion of all required improvements.

(f) *Submittals for final plat recording.* After the director or commission has approved the final plat for recording, the following additional materials must be submitted for recording:

(1) One original reproducible plat on 22 by 34 inch sheets. The director may approve other suitable sheet sizes and will determine whether additional copies of the plat are required. The plat shall be drawn with black ink at a scale of one-inch equals 100 feet or less. The director may approve other suitable scales;

(2) Any improvement guarantee in accordance with CBJ 49.55;

(3) Deeds, easements, or rights-of-ways for land that the applicant is transferring to public agencies that are not dedicated or granted by the landowner's certificate on the final plat; and

(4) Written evidence of rights-of-entry or permanent easements on or across private property not within the proposed subdivision where it may be necessary to grant slope rights or allow access for maintenance and construction of subdivision improvements, or any other similar needs.

49.15.413 Plat expiration.

A preliminary plat shall expire five years from the effective date of the notice of decision unless substantial progress has been made in construction of required improvements or an application for the final plat has been accepted.

49.15.414 Plat effective date.

Once the plat has been approved in accordance with this article, the plat shall become effective upon recordation with the State Recorder's Office at Juneau.

49.15.415 Recorded plats legalized.

(a) *Generally.* All plats recorded before March 30, 1953, whether executed and acknowledged in accordance with AS 40.15.050 or not, are validated and all streets, alleys or public thoroughfares on these plats are considered to have been dedicated to public use. This section does not prohibit the abandonment of a plat recorded before March 30, 1953, if a subsequent plat is filed indicating abandonment. The streets, alleys, or thoroughfares shown on the last plat of the area are deemed to be dedicated to public use. The streets, alleys, or thoroughfares shown on an earlier plat of the same area, or any part of it which is in conflict with those shown on the official plat, are deemed to have been abandoned and vacated.

(b) *Missing plats.* Where a recorded plat is missing and no present record is available except by reference to the missing plat, a counterpart copy, approved by the planning commission, may be recorded. After recordation the counterpart copy will be considered effective as of the original date of the missing plat and will have the same legal effect and notice as the original missing plat.

Division 3. Design

49.15.420 Lots.

(a) *Generally.*

(1) Subdivision lots shall meet the minimum dimensional standards established by section 49.25.400, except as provided in CBJ 49.15.421 and CBJ 49.15.422.

(2) The shape, orientation, and setback lines of lots shall be appropriate for the development proposed. The director may require yard setbacks to be listed or labeled on the preliminary plat.

(3) Each lot must have at least one practical building site.

(4) Side lot lines should be at 90 degree angles to straight streets and radial to curved streets unless topographic conditions require otherwise.

(b) *Double frontage lots.* Except for corner lots, lots served by an alley, or where a frontage road or interior access road is required, double frontage lots should be avoided. When such lots are permitted by the commission or the director, the plat shall indicate which abutting street is not approved for access when access restrictions are deemed appropriate in order to:

(1) Prevent direct access to a collector or arterial street;

(2) Restrict access to prevent unsafe sight distances;

(3) Prevent the construction or maintenance of driveways near intersections; or

(4) Protect public health, safety and general welfare.

(c) *Shadow plats.* When the applicant is required to submit a shadow plat in accordance with CBJ 49.70.710, the director in the case of a minor subdivision, or the commission in the case of a major subdivision, shall review and approve the application based on how well the proposed lot layout will lend itself to future resubdivision as well as other requirements of this title.

49.15.421 Cul-de-sac lots.

If a proposed lot fronts on a cul-de-sac or a similar sharply curved right-of-way and the director for minor subdivisions, or the commission for major subdivisions makes a determination that meeting minimum lot width at the front building line in accordance with the Table of Dimensional Standards in CBJ 49.25.400 is impractical, the minimum width may be reduced as necessary to achieve a reasonable lot configuration.

49.15.422 Public use lots.

The director for minor subdivisions, or the commission for major subdivisions, may waive the dimensional standards of the public use lot for minimum lot size, lot width, and lot depth as set forth in CBJ 49.25.400, for lot frontage and access requirements as set forth in CBJ 49.15.420, and the provision of public improvements as set forth in CBJ 49.35, if the proposed use of the lot is for open space, natural area park, public or private utilities, conservation lot, or similar use, and if the following requirements are met:

- (1) The director or the commission finds that there is no public purpose or need that would be served by requiring the parcel to meet these code provisions and that the provisions are not applicable for the proposed public or quasi-public use of the lot;
- (2) Restriction of building development, further subdivision, and other limitations or restrictions shall be noted on the plat in accordance with CBJ 49.15.412;
- (3) For uses restricted from any building development, the land must be put into some form of permanent protected status through the use of conservation easements, deed restriction, or other instruments to assure building development will not occur where prohibited; and
- (4) Unless otherwise provided, the minimum yard setback requirements may not be waived with respect to lots abutting the public use lot.

49.15.423 Panhandle lots.

(a) The subdivision of a parcel creating a panhandle lot may be allowed in order to facilitate the subdivision of large parcels that are insufficiently wide but otherwise meet all other requirements for subdivision. Panhandle lots may be created by subdivision under this section if the new lots meet the requirements detailed below.

(1) *Dimensional requirements.*

- (A) The front and panhandle lots must meet all the dimensional and area requirements of this title.
- (B) No part of the panhandle portion of the lot shall be less than 30 feet wide.

(C) The panhandle portion of the lot shall not be longer than 300 feet in D-1 zones and 1-1/2 times the minimum lot depth in other residential zoning districts.

(D) No buildings are allowed to be built or placed in the panhandle portion of the lot.

(E) In a D-1 zoning district, 30 feet of the width of the panhandle of the rear lot may be used in determining the width of the front lot.

(F) The common property line between the two lots in any zoning district shall be limited to two changes in direction.

(G) The lot width for the panhandle lot shall be the distance between its side boundaries measured behind the back lot line of the front lot. Such lot line shall also be considered the front lot line of the panhandle lot for the purpose of determining the front yard setback.

(2) *Minimum lot size.* Each lot served by a public sewer system shall be 20,000 square feet. The minimum lot size for lots not served by a public sewer system shall be 36,000 square feet. Any marine outfall serving the lots shall extend to a point four feet below mean low water, and each lot using such disposal must abut the salt water to a minimum of 30 feet.

(3) *Access and parking.*

(A) Only one access to the public right-of-way shall be permitted for the two lots. Such access shall be designated on the plat, in the form of an easement or plat note.

(B) Off street parking shall be provided in an amount sufficient to meet the requirements of CBJ 49.40, Article II.

(C) A driveway and parking plan shall be submitted and approved by the director prior to recording the plat.

(D) Back out parking is prohibited.

(E) The applicant must submit a plan that shows the feasibility of off-street parking for the lots and a turnaround that will allow drivers to drive forward onto the road in front of their lot.

(F) The applicant must provide assurance in the form of an easement, plat note, and a maintenance agreement that is recorded with the subdivision, on forms acceptable to the director, ensuring the required access and parking

areas will be constructed and maintained by all future property owners.

(G) Any portion of a driveway not located in a public right-of-way shall have a maximum grade not exceeding 15 percent. A profile of the proposed driveway centerline shall be submitted as part of the plat application, and must meet Alaska Department of Transportation and Public Facilities or CBJ driveway standards, as appropriate based on ownership of the right-of-way.

(H) Existing driveways and access points not meeting the requirements of this section must be abandoned, and improvements thereto removed and relocated prior to plat recordation.

(b) Neither lot resulting from a panhandle subdivision may be further divided into another panhandle subdivision.

49.15.424 Access.

(a) *Principal access to the subdivision.* Except as provided below, the department shall designate one right-of-way as principal access to the entire subdivision. Such access, if not already accepted for public maintenance, shall be improved to the applicable standards for public acceptance and maintenance. It shall be the responsibility of the subdivider to pay the cost of the right-of-way improvements.

(1) *Principal access to remote subdivisions.* The department shall designate the principal access to the remote subdivision. Such access may be by right-of-way.

(b) *Publicly maintained access within a subdivision.* Unless otherwise provided, all lots must either have direct and practical access to, and a minimum of 30 feet of frontage on, the right-of-way, or the minimum lot width for the zoning district or use as provided in CBJ 49.25.400. These requirements for frontage and access can be accomplished by:

(1) Dedication of a new right-of-way with construction of the street to public standards. This street must connect to an existing publicly maintained street;

(2) Use of an existing publicly maintained street;

(3) Upgrading the roadway within an existing right-of-way to public street standards. This existing right-of-way must be connected to another publically maintained street; or

(4) A combination of the above.

(c) *Privately maintained access within a subdivision.* A subdivision may create new lots served by a privately maintained access road not maintained by an agency of government as provided by CBJ 49.15, Article IV, Division 4. All lots must have either a minimum of 30

feet of frontage to the right-of-way, or the minimum lot width for the zoning district or use as provided in CBJ 49.25.400.

(d) *Remote subdivisions accessible by navigable waterbodies.* All lots in a remote subdivision solely accessible by navigable waterbodies must have a minimum of 30 feet of frontage on, and direct and practical access to, either the navigable water or a right-of-way. The right of way must have direct and practical access to the navigable water.

(e) *Access within remote subdivisions accessible by pioneer paths.* All lots must either have direct and practical access with a minimum of 30 feet of frontage on the right-of-way, or the minimum lot width for the zoning district or use as provided in CBJ 49.25.400.

Division 4. Privately Maintained Access in Rights-of-Way

49.15.430 Purpose.

With a permit, a privately maintained access road serving thirteen or fewer lots located outside the urban service area may be constructed within a public right-of-way and constructed to less than full public street construction standards. Such permits may also allow subdivisions creating new lots accessed by a roadway not accepted for maintenance by an agency of government.

49.15.431 Application.

The applicant for a privately maintained access road permit must submit the following:

- (1) An application, on a form provided by the department;
- (2) A preliminary plan and profile of the proposed privately maintained access road and any proposed public or private utilities; and
- (3) An access agreement as required by CBJ 49.15.434.

49.15.432 Department action.

The director shall forward the complete application to the fire and engineering department and the public works department for review.

49.15.433 Design criteria.

(a) If a proposed access road would abut and provide access to thirteen or fewer lots each limited to a single-family residence by the CBJ 49.25.400 Table of Dimensional Standards, or could serve thirteen or fewer dwelling units, not including any properly permitted

accessory apartments based on the existing maximum allowable residential density of the lots accessed by the privately maintained road, the director may approve, with or without conditions, a permit in the right-of-way if the following criteria are met:

- (1) The proposed privately maintained access will be located in a public right-of-way that has not been accepted for public maintenance;
- (2) The proposed privately maintained access does not endanger public safety or welfare;
- (3) The proposed privately maintained access will be improved to provide for emergency service access;
- (4) A privately maintained access shall only serve property in which the proposed uses do not exceed 211 ~~250~~ average daily trips as determined by the director;
- (5) Property served by the privately maintained access shall include accessory apartment traffic, when allowed, without a conditional use permit, even if accessory apartments are not currently proposed; and
- (6) Privately maintained access is prohibited unless:
 - (A) The abutting parcels have alternative and practical frontage on a publicly maintained right-of-way;
 - (B) The property owners of all abutting parcels are signatories of the access agreement required by CBJ 49.15.434; or
- (7) Privately maintained access is prohibited if abutted by property held by a governmental body unless the abutting parcel has alternative and practical frontage on a publicly maintained right-of-way.

49.15.434 Access agreement.

(a) An access agreement must be executed between the City and Borough and all property owners proposed to be served by a privately maintained access road. The agreement must identify the parties and the property, all signatures must be notarized, and the agreement must include the following provisions:

- (1) In exchange for the Grantee not being required to construct a road that can be accepted for maintenance by the City and Borough, and for the City and Borough of Juneau not being responsible for maintaining the privately maintained access road, the parties execute this agreement with the intent for it to run with the land and bind all heirs, successors, and assigns consistent herein;

(2) The Grantee acknowledges that the City and Borough is not obligated to provide any maintenance or snow removal for the privately maintained access. The Grantee is required to arrange for year-round reasonable maintenance for the privately maintained access, including snow removal, sufficient to meet weather conditions and to allow for safe vehicular traffic;

(3) The Grantee and the Grantee's heirs, successors, and assigns will defend, indemnify, and hold harmless the City and Borough from any claim or action for any injury, loss, or damage suffered by any person arising from the design, maintenance, or use of the privately maintained access;

(4) The Grantee will ensure that use of the privately maintained access road will not block vehicular or pedestrian access by the public in the right-of-way;

(5) The City and Borough will have unimpeded access in the right-of-way. The Grantees are required to arrange for maintenance of the right-of-way;

(6) The Grantee and the Grantee's heirs, successors, and assigns will maintain the privately maintained access road and public right-of-way according to the conditions established in this agreement;

(7) The City and Borough will record a copy of the agreement, at the Grantee's expense, with the State Recorder's Office for each lot or parcel of land either, in the case of existing lots, those adjoining the segment of right-of-way in which the privately maintained access is to be located; or, in the case of lots created by subdivision and served by the privately maintained access, those lots so created;

(8) The owners of the lots subject to this agreement are required to pay for right-of-way upgrades when existing or proposed development served by the privately maintained access exceeds 211 ~~250~~ average daily trips as determined by the director;

(9) The owners of the lots subject to this agreement are prohibited from subdividing unless the privately maintained access is upgraded or all the property owners served by the privately maintained access execute a new access agreement;

(10) Any development that increases the estimated traffic above 211 ~~250~~ average daily trips, as determined by the director, shall pay a proportionate share of the costs of the right-of-way upgrades, which will offset the costs imposed on the existing owners served by the privately maintained access. The proportionate share shall be the percentage increase in average daily trips;

(11) The owners of the lots subject to this agreement authorize the City and Borough to amend this access agreement by adding a new owner only upon presentation of a written and fully executed maintenance agreement between all the existing property owners subject to the original access agreement and the new property owner proposing to be served by the existing privately maintained access.

Any amended access agreement supersedes an existing access agreement. After recording, the new access agreement shall be sent to all the owners subject to it; and

(12) The owners agree to maintain in full force and effect any insurance policy required by the City and Borough until and unless the roadway is accepted for maintenance by the City and Borough.

(b) Prior to the City and Borough executing the access agreement:

(1) The owners of the lots subject to the agreement shall create an owner's association for the purpose of continuing the duties contained in the agreement; and

(2) The association shall obtain liability insurance of a type and in the amount deemed necessary by the City and Borough to provide coverage for claims arising out of or related to the use, occupancy, and maintenance of the privately maintained access road. The City and Borough shall be named as an additional insured on any required policy.

49.15.435 Other requirements.

(a) If a permit for privately maintained access in the public right-of-way is approved, the applicant must apply to the engineering and public works department for a permit to construct the privately maintained access as required by CBJ 62.05, accompanied by final construction plans. Additional fees and bonding may be required for final plan review, inspection, and construction of the access road and utilities.

(b) The applicant shall install a street sign, to be provided by the City and Borough, which shall indicate that the privately maintained access road is not maintained by the City and Borough.

Division 5. Remote Subdivisions.

49.15.440 Remote subdivisions.

The purpose of this section is to provide for design and improvement requirements specific to privately-owned remote subdivisions.

49.15.441 Applicability and restrictions.

(a) A remote subdivision is a subdivision solely accessed by either a navigable waterbody or a pioneer path. The boundary of the remote subdivision accessed by pioneer path must be at least one half mile from the roaded service area.

(b) A remote subdivision may not be located within the roaded service area or the fire service area, or accessible by vehicular traffic weighing more than 1,000 pounds gross vehicle weight or having an overall width greater than 48 inches.

(c) The owners of lots or parcels within a remote subdivision accessible by pioneer path are prohibited from subdividing within two years from the creation of the remote subdivision.

(d) Remote subdivisions accessed by pioneer path shall be limited to thirteen or fewer lots and are reviewed by the Commission using the minor subdivision process. The Commission may impose any conditions and restrictions deemed necessary to protect public health, safety, and welfare.

49.15.442 Improvement standards.

The following improvement standards apply to remote subdivisions:

- (1) CBJ 49.15.424 Access.
- (2) CBJ 49.35.240 Improvement standards.
- (3) CBJ 49.35.310 Water systems.
- (4) CBJ 49.35.410 Sewer systems.

Division 6. Survey and Monumentation Standards

49.15.450 Licensed surveyor required.

All land subdivided in accordance with CBJ Title 49 shall be surveyed by a professional land surveyor licensed in the State of Alaska.

49.15.451 Boundary lines, basis of bearing.

(a) Each existing boundary line of the proposed subdivision shall be retraced to an existing monument of record. If a boundary consists of a U.S. Survey line, Mineral Survey line, or an Alaska Tidelands Survey line, the nearest recorded primary monument on each side of the proposed subdivision shall be located.

(b) A monumented centerline of a right-of-way must be considered in making the surveys and in preparing the plat. All monuments found shall be indicated and proper references made to field notes or maps of public record relating to the monuments. If the points were reset by ties, that fact shall be stated.

(c) The basis of bearing referred to on the plat shall be a line defined by two found

monuments shown on the same record bearing and shall be clearly delineated or identified on the plat and in the basis of bearing statement

(d) A basis of bearing statement is required. The statement shall include the monument description, corner description, record bearing and the record documentation source with recording date.

(e) A note listing all plats of record, with recording information, pertinent to the boundary and property resolution must be listed on the plat.

49.15.452 Accuracy of survey.

A survey and traverse of the boundaries of the subdivision and all lots and blocks shall close within a limit of error of one foot in ten thousand feet of perimeter for field closures and one foot in twenty thousand feet for calculated distances.

49.15.453 Monumentation.

(a) The following monumentation is required for subdivisions of six or more lots:

(1) *Primary monuments.* Primary monuments shall conform to the following requirements:

(A) All exterior corners, points of curvature and points of tangency shall be monumented with a minimum two-inch diameter metal pipe, at least 30 inches long, with a minimum four-inch flange at the bottom. A minimum two and one half inch diameter metal cap shall be permanently attached at the top. If both the cap and the pipe are of nonferrous metal, then additives with magnetic qualities shall be permanently attached at both the top and bottom of the monument. Every primary monument cap shall be permanently stamped with the year set, the surveyor's registration number, year which the monument was set, initials of subdivision, and the corner identification. This data shall be orientated so that the data may be read when the reader is facing north. Monuments and accessories found in a disturbed condition shall be returned to the original position and condition as nearly as possible or replaced so as to perpetuate the position.

(B) No portion of a survey or subdivision may be more than 1,320 feet from a primary monument.

(C) If an exterior boundary line is less than 2,640 feet, but more than 1,320 feet long, then the intermediate primary monument shall be set as close to the midpoint as practical.

- (2) *Witness corners.* If the point for a primary monument is in a place that would be impractical to monument because of natural obstacles, a witness corner shall be set. The witness distance must be shown on the plat of survey, from the existing monument, as set, to the true corner position. Witness corners shall be set on a survey property line and at a distance considered reasonable and practical from the true corner point. Witness corners shall comply with the standards for primary monuments.
- (3) *Alternate monuments.* If conditions make it impractical to set a primary monument, one of the following methods may be substituted:

 - (A) A two and one-half inch brass or aluminum cap may be grouted firmly into a boulder; or
 - (B) A five-eighths inch minimum drive rod may be driven to a depth necessary to provide a stable base for an aluminum cap. The depth of all drive rods shall be noted on the plat.
- (4) *Secondary monuments.* All lot corners, interior angle points and interior curvature control points shall be monumented with at least a five-eighths inch metal rod three feet in length with a one and one-quarter inch cap.
- (5) *Monumentation installation.*

 - (A) Monuments shall be installed by the applicant's land surveyor at points designated on the final plat.
 - (B) The applicant's surveyor must install monuments before the final plat is filed with the State of Alaska recorder's office. The director of engineering may require that monumentation be certified prior to final acceptance of the subdivision improvements to ensure that any monuments disturbed or destroyed during construction are reset.
 - (C) If construction begins prior to submittal of the final plat, all lot corners adjacent to any proposed improvements must be staked throughout construction.
- (b) The following monumentation is required for subdivisions of five or fewer lots:

 - (1) All exterior corners of the plat and all corners of each lot shall be monumented with a five-eighths inch by 30 inch pipe or bar capped and marked as required by the director of engineering; provided, if a plat or lot corner is identical with a United States Survey, a United States Mineral Survey, or an Alaskan Tideland Survey, the primary monument shall be shown on the plat or reestablished and shown if not found.

(2) Monumentation must meet all the requirements listed in subsection (a), above, with the exception that the type of monument set may be a secondary monument.

Section 11. Amendment of Article. CBJ 49.15, Article V Design Review

Permits, is amended to read:

Article V. CBJ and State Project Review ~~Design Review Permits~~

Section 12. Amendment of Section. CBJ 49.15.580 State project review, is

amended to read:

49.15.580 State and City and Borough project review.

(a) CBJ project review: The commission shall review all proposed City and Borough capital improvement projects estimated to cost \$500,000 or more for consistency with this title. The commission may review, at the director's discretion, all proposed City and Borough capital projects estimated to cost more than \$250,000 but less than \$500,000. The commission may recommend conditions on and modifications to any project reviewed by the commission through a notice of recommendation. The notice of recommendation shall be forwarded to the assembly for further action.

(b) State project review: The commission shall review proposed Alaska State capital improvement projects for consistency with this title pursuant to AS 35.30.010 and may impose conditions on and modifications to such projects. If the commission approves or approves with conditions or modifications, a notice of decision shall be issued. A notice of decision becomes final 90 days from the date the project was submitted unless modified or disapproved by the assembly. If the commission disapproves, a notice of recommendation and draft resolution shall be forwarded to the assembly for further action.

~~The commission shall review proposed Alaska State Capital Improvement Projects for consistency with this title pursuant to AS 35.30.010, and may impose conditions on and modifications to such projects.~~

Section 13. Amendment of Article. CBJ 49.15, Article V Design Review Permits,

is amended by adding a new section to read:

49.15.590 Right-of-way acquisitions.

(a) The minor subdivision permit process shall govern right-of-way acquisition plats,

except commission review through the major subdivision process shall be required if the acquisition of property for a right-of-way would create a nonconforming lot, use, or structure. The commission may approve creation of nonconforming lots, uses, or structures if each lot has at least one practical building site that may be reasonably developed. The commission may condition its approval.

(b) *Application requirements.*

(1) Signatures of the owners or lessees of the subject parcels are not required.

(2) The owner of land subject to a right-of-way acquisition may offer to sell or enter into a contract to sell land to the State or City and Borough before a final plat of the subdivision has been prepared, approved, filed, and recorded in accordance with this chapter.

(3) Applications for preliminary right-of-way acquisition plat approval shall comply with the requirements of CBJ 49.15.411, provided, however, that the following subsections are not applicable:

(A) CBJ 49.15.411(b)(2), unless the director determines that the proposed reduction in lot area of an existing parcel without public sewer access causes it to become unsuitable for on-lot waste disposal.

(B) CBJ 49.15.411(b)(2)(B), *Subdivision design*.

(C) CBJ 49.15.411(b)(4), *Water*.

(E) CBJ 49.15.411(b)(6), *Traffic study*.

(F) CBJ 49.15.411(b)(7), *Shadow plats*.

(c) *Final plat submittal.*

(1) All applications for right-of-way acquisition plats must comply with the requirements of CBJ 49.15.412, provided, however, that the following sections are not applicable:

(A) CBJ 49.15.412(a)(4)(B), *Proof of construction plan approval*.

(B) CBJ 49.15.412(a)(4)(D), *Utility statements*.

(C) CBJ 49.15.412(a)(4)(E), *Improvement guarantee draft*.

(D) CBJ 49.15.412(b)(4), *Improvement guarantee final*.

(E) CBJ 49.15.412(b)(5), *Deeds, easements, or rights-of-way*.

(d) *Design.* Right-of-way acquisition plats must comply with the design requirements of this title, provided, however, that the following sections are not applicable:

(2) CBJ 49.15.420 *Lots.*

(3) CBJ 49.35.220 *Streets.*

(e) *Improvements.* The requirement to construct public improvements according to CBJ 49.35 is waived except where the acquisition of right-of-way and subsequent change to property boundaries results in the loss of access to public utilities or street frontage for an existing lot necessitating replacement of these public improvements.

(f) *Survey and monumentation standards.* All applications for right-of-way acquisition plats must comply with the requirements of CBJ 49.15, Article IV, Division 6, except CBJ 49.15.453 is modified to require that only corners located along the new right-of-way line be monumented.

(g) *Right-of-way maps.* After completion of a right-of-way project, a final right-of-way map that identifies all required survey and monumentation information shall be submitted. The final right-of-way map will be reviewed by the director of the engineering and public works department for completeness and then recorded at the State Recorder's Office at Juneau at the applicant's expense.

Section 14. Amendment of Article. CBJ 49.70, Article XI, Remote Subdivision Areas is repealed and reserved.

Section 15. Amendment of Section. CBJ 49.15.670 Planned unit development design standards, is amended to read:

49.15.670 Planned unit development design standards.

...

(j) *Stormwater management.* Facilities for the control and disposal of stormwater must be adequate to serve the development site and areas draining through the site. Management shall be in accordance with the Stormwater Best Management Practices manual. Where appropriate, natural drainage channels, swales, or other similar areas within the common open space may be used for stormwater management at the development. The homeowners' association shall provide the engineering department with an evaluation of offsite drainage outfalls for the additional runoff contributed by the planned unit development. The

commission may require construction of offsite drainage improvements necessary to accommodate additional runoff from the development.

Section 16. Amendment of Section. CBJ 49.15.680 Definitions, is repealed and reserved.

Section 17. Amendment of Section. CBJ 49.25.110 Zoning maps, is amended to read:

49.25.110 Zoning maps.

...

(g) *Public way* ~~*Street*~~ *vacations.* Whenever any street, alley or other public way is vacated as provided by CBJ 49.15.404 ~~section 49.15.450~~, the zoning districts adjoining the side of such public way shall automatically be extended to follow property lines legally created by such vacation. ~~Such extension following vacation shall have the same force and effect as boundary changes accomplished by explicit amendment.~~

(h) ~~*Stability.* In addition to designation as a particular zone, areas on the map shall be designated as stable areas not subject to bonus regulations. Reserved.~~

Section 18. Amendment of Section. CBJ 49.25.300 Determining uses, is amended to read:

49.25.300 Determining uses.

...

(c) A combination of digits such as "1, 3" or "2, 3" indicates that the approval procedure for the identified use in the identified zone will vary depending on whether the project is a major or minor development.

(1) If the project is a minor development the first number of the combination shall indicate the applicable procedure.

(2) If the project is a major development the second number shall indicate the applicable procedure.

(3) Minor development means development which is classified by zoning district as follows: ~~The following are the distinctions between minor and major development:~~

(A) *Rural Reserve District:* A residential development containing two or fewer dwelling units, two or fewer bedrooms leased on a daily or weekly basis, or a nonresidential building totaling ~~of~~ less than 10,000 square feet or using less than one acre of land in total.

(B) *Single Family Residential Districts:* A residential development containing two or fewer dwelling units, two or fewer bedrooms leased on a daily or weekly basis, or a nonresidential building totaling ~~of~~ less than 5,000 square feet or using less than 10,000 square feet of land in total.

(C) *Multifamily ~~Family~~ Residential Districts:* A residential development containing eight or fewer dwelling units, eight or fewer bedrooms leased on a daily or weekly basis, or a nonresidential building totaling ~~of~~ less than 5,000 square feet or using less than 10,000 square feet of land in total.

(D) *Commercial and Mixed Use Districts:* A residential development containing 12 or fewer dwelling units, 12 or fewer bedrooms leased on a daily or weekly basis, or a nonresidential building totaling ~~of~~ less than 10,000 square feet or using less than one-half acre of land in total.

(E) *Industrial Districts:* Non-residential buildings totaling ~~of~~ 15,000 square feet or using less than one acre of land in total.

~~Minor development means development which is classified by zoning district as follows:~~

(4) Major development means all development activity that is not a minor development.

(5) *Exceptions.* Exceptions to the use of minor and major development classifications as a method of determining the applicable approval procedure shall be as noted in the table of permissible uses.

Section 19. Amendment of Section. CBJ 49.25.300 Table of Permissible Uses, is amended by deleting the following sections:

17.310 Access driveways on public rights-of-way adjoining one to four existing lots.

17.320 Access driveways on public rights-of-way adjoining five or more existing lots.

Section 20. Amendment of Section. CBJ 49.25.430 Yard setbacks, is amended to read:

49.25.430 Yard setbacks.

(4) *Projections into required yards.*

...

(K) *Existing substandard setbacks.* A new building may have a front yard setback equal to the average front yard setback of the three closest adjacent buildings, or a street side yard setback equal to the average street side yard setback of the three closest adjacent buildings. The average calculation shall be made using one building per lot. If any of the three buildings used in the averaging calculation is located a greater distance from the required setback, then the required front yard setback or street side yard setback shall be used to calculate the average.

An existing building located on the subject lot may be used as one of the three buildings to calculate the setback determination.

For purposes of this section, the buildings used in averaging must be either conforming or legally nonconforming enclosed buildings or carports and have a wall or column height of at least seven feet measured from the finished grade. Porches, bay windows and temporary buildings allowed to project into setbacks cannot be used for averaging. In no instance shall the required setback be less than half that required by this chapter or ten feet, whichever is greater.

If there are fewer than three buildings within 500 feet of the subject property, then the required setback shall be the average of front yard setbacks, or street side yard setbacks, of such fewer buildings, using a maximum of one building per lot.

Section 21. Repeal and Reenactment of Section. CBJ 49.35.120 Extent and nature of improvements, is repealed and reenacted to read:

49.35.120 Public improvements; generally.

(a) The developer must install all of the required improvements within the boundaries of the development, and may be required to make improvements beyond the development boundary in order for all of the improvements to function properly. In addition, improvements must be designed and constructed to provide for future extension to adjoining lands.

(b) If a publicly-maintained street serves an area outside the roaded service area boundary as a result of a subdivision, the roaded service area boundary, and if appropriate, the fire service area, shall be extended to include the roaded area and newly-created subdivision.

Section 22. Amendment of Section. CBJ 49.35.130 Standard specifications, is amended to read:

49.35.130 Standard specifications.

(a) *Compliance with specifications.* Except as otherwise provided ~~provided in this chapter~~, all subdivision improvements shall be in accordance with the latest revision of the city and Borough subdivision standard specifications and details on file in the engineering and public works department.

(b) The director of engineering and public works may prescribe different or additional standards if unusual or unforeseen conditions exist in a particular development, and the alternative meets or exceeds the intent of the original standard. ~~Unusual or unanticipated conditions. If unusual or unanticipated conditions exist in a particular plat, the director of engineering may prescribe different or additional standards to ensure equal or better performance under the special conditions.~~

(c) *Change of standards.* Prior to a substantial change in the standards generally applicable to required subdivision improvements, the director of engineering or the director of engineering's designee shall hold a public hearing on the proposed change. The hearing shall be preceded by ten days' published notice. The standards may be changed in response to comments received at the hearing or received at any other time prior to the effective date. The standards shall become effective 30 days after the first notice of the hearing is published. The manager may shorten the notice period or waive the requirement for a hearing and may specify an earlier effective date if the manager finds an emergency exists or that other conditions warrant such action. If the hearing is held with less than three days' published notice, a second hearing preceded by ten days' published notice shall be held.

Section 23. Repeal and Reenactment of Section. CBJ 49.35.140 Construction plans, is repealed and reenacted to read:

49.35.140 Construction plans.

(a) *Generally.* The developer must submit construction plans for all proposed public improvements and associated private improvements and utilities within and outside the proposed development's boundary.

(b) *Construction plan submittal.*

(1) *Plan sets.* Prior to submittal of the final plat, and before the start of any construction, the developer must furnish to the City and Borough Permit Center

complete sets of construction plans, profiles, details, and special construction provisions for all existing and proposed improvements. The director of engineering and public works shall determine the number of plan sets to be submitted. Plan sets will be forwarded to the appropriate City and Borough departments and agencies.

(2) *Engineer's stamp.* Construction plans must be stamped by the professional engineer licensed in the State of Alaska who is responsible for the improvement designs. Multiple engineer stamps are required for plans with multiple discipline designs, e.g., civil, electrical, structural engineering.

(c) *Construction plan – Details.*

(1) *Size.* All construction plans shall be submitted on 22 by 34 inch sheets. The director of engineering and public works may approve alternative sheet sizes.

(2) *Information.* The drawings must contain the following information:

- (A) Name of subdivision.
- (B) Type of work.
- (C) Date.
- (D) Name of engineer preparing the drawings and the engineer's stamp.
- (E) Space for approval signature by the director of engineering.
- (F) A north arrow and scale.

(3) *Scale.* Horizontal scale must be one inch equals 50 feet or greater. Vertical scale must be one inch equals five feet or less with a minimum scale of one inch equals ten feet. The director of engineering and public works may approve alternative scales.

(4) *Benchmarks.* The locations, elevations and description of datum of permanent benchmarks must be shown.

(5) *Street profiles.* Profiles of streets shall indicate finished and existing grades for centerline of the street and shall extend a minimum of 200 feet beyond the limits of the proposed project or, if intersecting an existing street, extend to the far side of the existing street.

(6) Plans and profiles, where applicable, shall include location, elevation, size, materials, and all other details of the proposed improvements.

(7) Complete survey data must be shown for all horizontal and vertical curves.

(8) Construction plans shall include the location of all existing and proposed utilities.

(d) *As-built drawings.* The developer, upon completion of required improvements, must submit a reproducible and digital format copy of as-built plans unless otherwise required by the director of engineering and public works.

Section 24. Repeal and Reenactment of Section. CBJ 49.35.210 Street system, is repealed and reenacted to read:

49.35.210 Street system.

(a) Subdivision street systems shall be designed for the most advantageous development of the entire neighborhood area and shall meet the following criteria:

(1) The street system shall provide for connecting streets into adjoining unsubdivided lands.

(2) Subdivision street systems shall be designed to maximize the number of connecting streets in a given area in order to reduce the volume of traffic and traffic delays on major streets (arterials and major collectors), to minimize bypass and through trips on residential streets, and to increase the number of local street connections facilitating safer bicycle and pedestrian travel.

(3) Traffic calming should be taken into account in street layout and design.

(b) *Major and minor arterials.* Except as provided in subsection (3) of this section, if a new subdivision involves frontage along an arterial street:

(1) The plat shall note that no lots shall access directly onto the arterial;

(2) Access shall be provided onto an interior access street or a separate frontage road.

(3) A parcel of land with less than 500 feet of frontage on a street, or with less than 350 feet in depth may be subdivided so as to allow access directly onto a minor arterial street if all of the following conditions are met:

(A) All of the resulting lots must meet the minimum lot area standard for a single family dwelling in the D-1 zoning district (36,000 sq. ft.).

(B) All of the lots must share a common access point and further subdivision of the newly created lots is not allowed.

(C) Common access to all lots is required and back out parking is prohibited. The applicant must submit a plan that shows the feasibility of off street parking for all lots and an adequate area for a turnaround to prevent back out parking.

(D) The applicant must provide assurance in the form of an easement, plat note, and a maintenance agreement that is recorded with the subdivision, all of which must be acceptable to the director, that ensures the required common access will be constructed and maintained by the property owners.

(E) The proposed subdivision must meet all other applicable subdivision standards and requirements.

(c) *Collector streets.* Collector streets in adjoining subdivisions shall be continued in the new subdivision as needed.

(1) *Major collectors.* Except as provided in subsection (C) of this section, if a new subdivision involves frontage along a major collector street:

(A) The plat shall note that no lots shall access directly onto the major collector.

(B) Access shall be provided onto an interior access street or a separate frontage road.

(C) Exception a parcel of land with less than 500 feet of frontage or less than 350 feet of depth may be subdivided so as to allow access directly onto a major collector street.

(2) *Minor collectors.* Access for lots is allowed directly onto minor collector streets if no other restrictions apply.

Section 25. Repeal and Reenactment of Section. CBJ 49.35.220 Street names,

is repealed and reenacted to read:

49.35.220 Street names.

(a) *New streets.* Street names must be unique in order to avoid confusion. When streets are extended, the name must remain the same for the new segment. Proposed street names shall be shown on preliminary plats. The names of streets fronting thirteen or fewer lots shall be approved by the director through the minor subdivision processes. The names of streets fronting more than thirteen lots shall be approved by the commission at the time of preliminary plat approval for major subdivisions.

(b) *Existing streets.* The commission shall approve applications to change the name of any existing public street or right-of-way.

(1) *Application.* The application must be on a form provided by the department and accompanied by:

(A) The application fee.

(B) Signed letters of approval from a majority of property owners whose properties have access to the public street proposed for the name change.

(2) *Procedure.* After public hearing, the commission shall review the proposed street name change for consistency with this section, and, upon a finding that the change is consistent with this section and that the majority of property owners whose properties have access to the public street proposed for the name change approve of the change, shall approve the application.

(3) *Sign replacement.* If the name change is approved, the applicant shall be responsible for replacing all existing street name signs as specified by the department.

Section 26. Repeal and Reenactment of Section. CBJ 49.35.230 Design

criteria, is repealed and reenacted to read:

49.35.230 Roadway classification map.

There are adopted roadway classification maps A - D, dated June 5, 2006, as the same may be amended from time to time by ordinance. These maps set forth the classification of streets and roadways within the CBJ. The roadway classification maps will govern references to streets in this title.

Section 27. Repeal and Reenactment of Section. CBJ 49.35.240 Construction

standards, is repealed and reenacted to read:

49.35.240 Improvement standards.

(a) *Right-of-way widths.* The minimum right-of-way width of proposed streets is as follows:

(1) *Arterials:* 100 feet; minor, 80 feet.

(2) *Collectors:* 60 feet.

- (3) *Streets other than arterials and collectors*: 60 feet.
 - (4) *Cul-de-sacs*: temporary or permanent turnaround: a diameter of 120 feet.
 - (5) *Alleys*: 20 feet.
 - (6) *Stairways and other non-motorized access routes*: 15 feet.
 - (7) *Half streets*. Whenever there exists a dedicated or platted half street or alley adjacent to the tract of land to be developed, the other half of the street or alley must be platted, dedicated, and the entire street or alley constructed to current improvement standards.
 - (8) *Substandard width*. Any previously platted right-of-way with less than the minimum standards identified for the traffic generated shall be improved to meet the minimum requirements established by this title.
- (b) *Right-of-way minimum width reductions*. The director may reduce minimum right-of-way width requirements:
- (1) For a collector, the right-of-way width may be reduced by up to 10 feet.
 - (2) For streets with less than 500 average daily trips, or a privately maintained access road in a right-of-way, the width may be reduced by up to 25 feet.
 - (3) Where the dedicated right-of-way abuts and runs parallel to an exterior property line, will serve as a half-street, and will be developed as a low volume street or a driveway in a right-of-way, the width may be reduced by up to 30 feet.
 - (5) Alleys and stairway right-of-ways may be reduced by up to 5 feet.
 - (6) The director shall make written findings supporting right-of-way minimum width reductions granted under this section. The director's findings shall state that:
 - (A) The applicant has provided room for electric utility features and demonstrates that if the road is upgraded in the future to include additional sidewalks that there is sufficient right-of-way for construction of the sidewalks without need for retaining walls over two feet in height.
 - (B) There is sufficient right-of-way or easements to allow for drainage improvements required by construction of the sidewalks.
 - (C) That any driveways shall be constructed to accommodate the elevations of future sidewalks.
 - (D) No additional right-of-way width will be required in order to provide for sufficient access to abutting lands.

(E) There is sufficient room for snow storage.

(c) *Sight distance.* Sight distances for intersection, passing and stopping must be in accordance with the specifications set forth in A Policy on Geometric Design of Highways and Streets.

(d) *Street grades.* Street grades are as follows:

(1) *Maximum.* Grades on arterial streets must not exceed six percent. Grades on other streets must not exceed 12 percent.

(2) *Minimum.* The minimum grade for all streets is one half percent.

(3) *Cross slope.* The minimum cross slope on all streets is 3 percent.

(4) *Exception.* Grades for all streets in hillside areas may be increased under certain circumstances according to Chapter 49.70, Article II, Hillside Development.

(e) *Intersections.*

(1) *Corner sight distance.* Corner sight distance must be in accordance with CBJ 49.35.240, however, in no case shall the sight distance be less than 200 feet.

(2) *Intersection angle.* Intersections of right-of-way lines must not be less than 60 degrees. The intersection of the centerline of the constructed roadway must not be less than 80 degrees.

(3) *Grade.* The grade for the approach leg of a new roadway at an intersection must not exceed 2 percent for the first 30 feet, measured from the edge of the existing roadway. The grade for the next 70 feet of the new roadway must not exceed 6 percent (See Figure 1).

(4) *Adjustment to grade.* In certain circumstances, the director of engineering may require the centerline grade to be adjusted to ensure the grades along the edge of the intersecting street do not exceed the maximum grades listed above.

(5) *Alignment.* A proposed street that will intersect with an existing cross street shall, whenever practicable, align with an existing street intersection on the opposite side of the cross street. Street jogs that have center line offsets of less than one hundred feet, shall not be permitted (See Figure 2).

(f) *Curves.*

(1) *Design.* Curves shall be designed in accordance with A Policy on Geometric Design of Highways and Streets.

(2) *Vertical curve.* The minimum length of vertical curves is 200 feet unless otherwise approved by the director of engineering and public works.

(g) *Cul-de-sacs.*

(1) *Length.* Streets designed to have one end permanently closed shall be no more than 600 feet and not less than 150 feet in length measured from the center of the intersection to the radius point of the turnaround. The director for minor subdivisions, and the commission for major subdivisions, may authorize a longer or shorter cul-de-sac if it is found that the unique characteristics of the site warrant modification to the length.

(2) *Temporary cul-de-sacs.* Temporary cul-de-sacs will be allowed where a street can logically be extended in the near future, and if the following are met:

(A) The temporary portions of the cul-de-sac turnaround must be shown on easements on the plat rather than as dedicated right-of-way.

(B) All of the cul-de-sac must be constructed to permanent street construction standards except as noted in (vii) below.

(C) The CBJ will record a release of the easements for the temporary portions of the turnaround at the State Recorder's Office at Juneau at the time the turnaround is removed and the street improvements have been extended.

(D) Easement lines for the temporary turnaround will be considered front property lines for determining building setbacks.

(E) All improvements, including utilities, must be designed to accommodate the eventual extension of the street and reversion of the temporary turnaround to adjoining properties.

(F) Temporary cul-de-sacs must be extended to as close to the adjoining property boundary as practical. If it is not practical to construct the turnaround portion of the cul-de-sac at this location, then the right-of-way must be extended beyond the temporary turnaround to the adjoining property line, and the street extension constructed to standard (See Figure 3).

(G) If the temporary turnaround is constructed on property outside of the subdivision boundary, curb, gutter, and sidewalks are not required for the temporary turnaround.

(H) Before final acceptance of all improvements by the CBJ, the developer must provide a financial guarantee to cover the cost of removal of the temporary turnaround and reconstruction of the street. The guarantee must

be for a period of five years from the date the plat is recorded. If it is necessary to construct the street to the adjoining property within that five-year period, the developer can complete the reconstruction and extension, or the guarantee may be used by the CBJ for that purpose. If a right-of-way has not been dedicated on the adjoining property for the purpose of connection to the temporary cul-de-sac within this five-year period, the financial guarantee will be released.

(I) When the developer of adjoining property is required to connect to the temporary cul-de-sac, and the temporary cul-de-sac has not been extended as authorized by this section, then the developer must remove the temporary portions of the turnaround and reconstruct and extend the street to CBJ standards.

(3) *Hammerhead turnarounds.* Hammerhead turnarounds may be built in lieu of a temporary cul-de-sac, upon approval by the director of engineering and public works.

(h) *Streets construction standards.*

(1) *Arterials.* The subdivider is not responsible for the construction of arterial streets, but may be required to dedicate the necessary right-of-way during the platting process.

(2) *Other streets.* Other than arterials, street shall comply with the following:

Table 49.35.240 Table of roadway construction standards

Avg. Daily Trips (ADT)	Adopted traffic impact analysis required	Sidewalks	Travel way width	Street lights	ROW Width ⁱⁱ	Paved Roadway Required	Publicly maintained
≥ 500	Yes	Both sides	26 ft.	Continuous	60 ft	Yes	Yes
251 216 to 499	Maybe	One side	24 ft.	At all intersections	60 ft.	Yes	Yes
0 to 211 250	No	Not required	22 ft.	At intersection of subdivision streets and external street system	60 ft.	Yes	Yes
0 to 211 250	No	Not required	20 ft. ⁱ	At intersection of subdivision streets and external street system	60 ft.	No, if outside the urban service area ⁱⁱⁱ	No

ⁱ Or as required by the Fire Code at CBJ 19.10.

ⁱⁱ ROW width may be reduced as prescribed at CBJ 49.35.240.

ⁱⁱⁱ Paving of roadway is required for any street type located within the urban service area or within the Juneau PM-10 Non-Attainment Area – Maintenance Area Boundary map.

(3) *Signs and markings.* The subdivider must install street name signs, traffic control signs, and traffic control pavement markings in accordance with approved plans and the requirements of the current issue of the Manual on Uniform Traffic Control Devices, including the current Alaska Traffic Manual Supplement, published by the Alaska Department of Transportation and Public Facilities.

(i) *Street waivers.* The director, after considering the recommendations of the director of the engineering and public works department and of the fire marshal, may waive the following and no other street improvement requirements:

(1) *Right-of-way relocation.* If a plat is submitted for the purpose of relocating a right-of-way, the director may waive all or some of the construction requirements under the following conditions:

(A) The proposed relocation will improve access to abutting or neighboring property not otherwise adequately served.

(B) The subdivider has provided sufficient engineering information to demonstrate to the director of engineering the feasibility of constructing a public street at the location of the relocated right-of-way.

(C) The relocated right-of-way and the resulting subdivision layout will conform to all the other standards of this chapter.

(D) The improvements required in the new right-of-way will not be less than those in the existing right-of-way.

(E) No additional lots are being platted.

(2) *Stub streets.*

(A) The director for minor subdivisions and the commission for major subdivisions may waive the full construction of a roadway within a right-of-way that is required to provide access to a bordering property, and does not provide required access to any lot within the subdivision. The commission or director may require provision of a roadbed, utility line extensions, or other appropriate improvements (See Figure 4).

(B) In addition, before final acceptance of subdivision improvements, the subdivider must provide a financial guarantee to cover the costs of constructing that part of the roadway improvements waived by the commission or director in subsection (A) of this section. The guarantee must

be for a period of five years from the date the plat is recorded. If it is necessary to connect the roadway to adjoining property within that five-year period, the subdivider may complete the construction, or the guarantee may be used by the City and Borough for that purpose. If a right-of-way has not been dedicated on the adjoining property that accomplishes the connection to the stub street within this five-year period, the financial guarantee will be released.

(C) When the subdivider of adjoining property is required to connect to the stub street, and the stub street will not be constructed through subsection (B) of this section, then the subdivider of the adjoining property will be required to construct the stub street to City and Borough standards at the time.

(3) *Remote subdivisions accessible by navigable water.* The commission and the director may waive roadway improvements and other street construction requirements for remote subdivisions accessed solely by navigable water.

(j) *Pioneer path standards.* The following standards shall apply to remote subdivisions accessed by pioneer paths.

(1) Interior access shall be provided solely by pioneer path in a right-of-way. The right-of-way width of a pioneer path within a remote subdivision shall be 60 feet.

(2) Grades for pioneer paths must not exceed eighteen percent. The maximum cross slope grade must not exceed five percent.

(3) The width of a pioneer path shall not exceed 54 inches of tread, and must be located within a six foot corridor.

(4) Pioneer paths shall be designed and constructed to prohibit vehicular traffic wider than 48 inches from using the path, which may include the use of boulders, bollards, or any other similar structure.

(k) *Responsibility for improvements.* Unless otherwise provided, it shall be the responsibility of the subdivider to pay the cost of all right-of-way and street improvements caused by any development, as determined by the director.

Section 28. Repeal and Reenactment of Section. CBJ 49.35.310 Systems

required, is repealed and reenacted to read:

49.35.310 Water systems.

(a) For new development, the developer must construct a public water system that provides for daily water supply and fire protection needs if the following criteria are met:

(1) If development of five or more lots is proposed within 500 feet of an existing public water system; or

(2) If development of four or fewer is proposed within 200 feet of an existing public water system.

(b) *Nonresidential development.* The developer must provide an evaluation by an Alaska licensed engineer and submit the written evaluation to the director of engineering and public works for review and approval to determine the specific quantity and distribution requirements.

(c) *Distance.* For the purpose of this section, distance is measured as the radial distance from the closest water main to the nearest point of the subdivision boundary.

(d) *Fire protection.* Fire protection requirements are based on whether the development is located within or outside the fire protection service area. All public water distribution systems constructed according to subsections (a) or (b) of this section must be sized and constructed to meet fire flow and hydrant requirements, and provide the necessary fire flows for fire protection. All improvements must be constructed according to the International Fire Code (IFC). The director of engineering and public works and the City and Borough fire marshal must approve all plans.

(e) *Private water systems required.* If a proposed development is located at greater distances from the existing public water system than specified in subsection (a), and the developer chooses to not connect to the public system, the developer must construct a water system that provides for daily water supply and fire protection needs according to the following:

(1) *Development of five or more lots.*

(A) For development of five more lots, the developer must construct a water system adequate to supply water for daily use. There are two types of systems the developer may construct:

(i) *Community water system.* A developer can choose to construct a community water system if the following requirements are met:

(a) The community system meets the quantity standards specified by this section.

(b) Any proposed water system must be approved by the Alaska Department of Environmental Conservation and any other agency having jurisdiction. The developer must submit proof of approval to the department.

(c) All improvements must meet the city and borough standards for construction of public water systems. The community system must provide a separate service to the boundary of each proposed lot.

(d) The developer must submit the appropriate documents that show the continued maintenance of the community water system is guaranteed. The city and borough may review and comment on the documents, but is not responsible for their content or enforcement of any provisions.

(ii) *Individual wells.* A developer can also choose the option of individual wells to supply daily water needs, if the following requirements are met:

(a) The developer must clearly demonstrate to the satisfaction of the director of engineering and public works, through test wells, draw down tests, and other suitable methods, that the quantity standards specified in this section can be met for all proposed lots.

(b) The proposed source and supply system must be approved by the Department of Natural Resources and other agencies having jurisdiction. Proof of the approval must be submitted to the department.

(B) Quantity requirements for development of five or more lots are as follows:

(i) *Residential use.* The proposed source and system for residential use must be capable of producing and delivering not less than 75 gallons per capita per day and a peak hour factor of 150 percent.

(ii) *Nonresidential development.* To determine quantity and distribution requirements for nonresidential development, the developer must provide an evaluation by an engineer licensed in the State of Alaska and submit the written evaluation to the director of engineering and public works for review and approval.

(iii) *Water rights.* The developer must show proof that the appropriate permit to appropriate water has been obtained from the State of Alaska for water rights for the source of water being proposed for use in the development.

(C) *Fire protection.* For a development of five or more lots proposed within the fire service area and not connecting to the public water system, the

developer must construct a water supply system that will provide adequate fire protection. This distribution system must meet all the requirements of CBJ 49.15.__ above and may be separated or combined with the domestic water supply system.

(2) Development of four or fewer lots.

(A) Neither a community water system, nor individual wells are required if the development is of four or fewer lots.

(B) Fire protection requirements will be determined at the time the individual lots are developed.

(3) *Exception for remote subdivisions.* This section does not apply to remote subdivisions, unless the subdivider of the remote subdivision chooses to provide potable water or a public water system is available and the subdivision falls within the criteria outlined in subsection (a).

Section 29. Repeal of Section. CBJ 49.35.320 Fire flow, is repealed and reserved.

Section 30. Repeal and Reenactment of Section. CBJ 49.35.340 Oversizing

lines, is repealed and reenacted to read:

49.35.340 Oversizing lines.

When the subdivider is required to install connecting lines, to increase the size of existing public lines, or to install a distribution system as part of a subdivision proposal, the director for minor subdivisions and the commission for major subdivisions, after reviewing a recommendation from the director of engineering, may require any or all parts of such installation to be oversized if the director of engineering and public works finds it likely that within the expected life of the new construction an increase in capacity will be required to serve other areas.

Section 31. Repeal and Reenactment of Section. CBJ 49.35.410 Systems

required, is repealed and reenacted to read:

49.35.410 Sewer systems.

(a) For new development, the developer must construct a public sewer system connecting to the existing public sewer system if the following criteria are met:

(1) If development of five more lots is proposed within 500 feet of an existing public sewer system.

(2) If development of four or fewer lots is proposed within 200 feet of an existing public sewer system.

(3) For the purpose of this section, distance is measured as the radial distance from the closest sewer main to the nearest point of the boundary of the proposed subdivision.

(b) If a proposed development is located at greater distances from the existing public sewer system than specified above, unless the developer chooses to connect to the public system, then a private system is required. Either of the following acceptable private systems may be installed.

(1) *Community and cluster wastewater systems.* Community wastewater systems, which have shared collection, treatment, and disposal and cluster wastewater systems, which have individual on-site treatment with a shared collection and disposal system are acceptable if the following requirements are met:

(A) The developer must provide a report and certification by a registered, qualified engineer licensed by the State of Alaska, which clearly shows that the proposed community or cluster wastewater system will operate satisfactorily, and how it will meet all other state and federal standards, to the satisfaction of the director of engineering.

(B) The director of engineering and public works must review the report and make a recommendation to the commission. The director of engineering will not make independent findings, but will make a recommendation as to the adequacy of the methodology and data provided in the report.

(C) All improvements must meet the City and Borough standards of construction for public sewer systems.

(D) The proposed wastewater systems must be approved by the Alaska Department of Environmental Conservation and any other agencies having jurisdiction. Proof of approval must be submitted to the department.

(2) *On-site wastewater systems.* Wastewater systems, which have individual on-site treatment and individual on-site disposal shall be acceptable if all the following requirements are met:

(A) The developer must provide a report and certification by a registered, qualified engineer or geologist licensed by the State of Alaska, which clearly shows that the proposed lots are large enough and have existing soils of sufficient permeability to permit the construction of on-site wastewater

treatment and disposal systems.

(B) The director of engineering and public works shall review the report and make a recommendation to the director for minor subdivisions and to the commission for major subdivisions. The director of engineering and public works will not make independent findings but will make a recommendation as to the adequacy of the data provided and of the methodology proposed in the report for wastewater treatment and disposal.

(C) If adequate soils are not available onsite, the applicant can propose alternative methods for individual on-site wastewater systems. Alternative methods may include mound systems, marine outfalls, or other suitable wastewater systems. Review and approval of a proposal under this section must meet the applicable requirements of subsections (i) and (ii) of this section.

(c) *Residential wastewater systems – property owner responsibility.* The responsibilities of individual property owners for their individual wastewater systems are as follows:

(1) *Permitting.* All the owners of lots in new minor and major residential subdivisions using cluster or on-site wastewater systems must obtain a City and Borough on-site wastewater treatment and disposal system (OWTDS) permit from the engineering and public works department, and have completed construction and inspection of the system prior to issuance of any certificate of occupancy. The requirements for obtaining a wastewater treatment and disposal system permit, and the permit fees, shall be established by regulations issued by the manager pursuant to CBJ 01.60.

(2) *Limited maintenance contract required.* In addition, the property owners in new residential minor and major subdivisions shall be required to enter into a contract with the department of public works or its designee for inspection, monitoring, and treatment plant pumping of the private wastewater facility. All other maintenance of the wastewater system is the responsibility of the property owner.

(3) Violation of this section is an infraction.

(d) Compliance with (b) of this section does not exempt the developer or individual property owners from meeting all requirements of the Alaska State Department of Environmental Conservation regarding approval of wastewater systems.

Section 32. Repeal and Reenactment of Section. CBJ 49.35.420 Oversizing

lines, is repealed and reenacted to read:

49.35.420 Oversizing lines.

When the subdivider is required to install connecting lines, to increase the size of existing public lines, or to install a distribution system as part of a subdivision proposal, the director for minor subdivisions and the commission for major subdivisions, after reviewing a recommendation from the director of engineering, may require any or all parts of such installation to be oversized if the director of engineering finds it likely that within the expected life of the new construction an increase in capacity will be required to serve other areas.

Section 33. Repeal of Section. CBJ 49.35.430 Private treatment systems, is repealed and reserved.

Section 34. Repeal and Reenactment of Section. CBJ 49.35.510 Drainage plans, is repealed and reenacted to read:

49.35.510 Drainage plans.

(a) The developer must provide a total surface drainage plan, prepared by a civil engineer licensed to practice in the State of Alaska, for approval by the director of engineering. The plan must show all drainage facilities, and must include:

(1) The calculated increase in stormwater runoff resulting from the proposed development as well as the runoff from the total drainage area(s) associated with the site. Runoff calculation shall be based on a fully developed subdivision and a 25-year storm event.

(2) An evaluation of existing drainage ways and structures located between the development and the receiving water body shall verify that the existing drainage ways can accommodate the increased runoff.

(3) All public and any required private drainage facilities.

(4) A demonstration of how drainage from the proposed subdivision will outlet into an established drainage channel, unless an alternative drainage way is approved by the director of engineering and public works.

(b) *Easements.* All development must be provided with necessary drainage easements, and drainage facilities adequate to prevent increased surface or subsurface runoff to abutting properties.

(c) *Drainage systems required.* The developer must install all on and off-site

improvements necessary to deal with increases in or changes to existing flows as shown on the approved drainage plan.

(d) *Construction timing.* Any drainage improvements required by this section must be constructed and approved prior to or at the same time as the completion of any street construction.

Section 35. Repeal of Section. CBJ 49.35.530 Municipal planned area drainage system, is repealed and reserved.

Section 36. Repeal of Section. CBJ 49.35.540 Easements, is repealed and reserved.

Section 37. Repeal and Reenactment of Article. CBJ 49.35, Article VI Pedestrian Access, is repealed and reenacted to read:

ARTICLE VI. PUBLIC ACCESS

- 49.35.610 Pedestrian and bicycle access in the roaded service area.
- 49.35.620 Streams and bodies of water.
- 49.35.630 Trailhead dedications or easements.
- 49.35.640 Acceleration and deceleration lanes.

49.35.610 Pedestrian and bicycle access in the roaded service area.

(a) *Shared use pathways.* Shared-use pathways for pedestrian and bicycle use within the roaded service area may be required through blocks longer than 600 feet, or where deemed necessary to provide reasonable circulation within and between residential areas, or to provide access to schools, playgrounds, shopping centers, transportation or other community facilities according to the following:

- (1) *Shared-use pathway width.* The width of a shared use path must not be less than 10 feet.
- (2) *Construction standards.* Shared-use pathways, where required, must be constructed according to the Alaska Department of Transportation and Public

Facilities preconstruction manual on “Bicycle Ways.” The director of engineering and public works may approve alternative construction when deemed appropriate to the conditions of the site.

(3) *Right-of-way width.* A shared-use pathway must be located in dedicated right-of-way with a minimum width of 15 feet. The width of the right-of-way may be modified by the director for minor subdivisions and by the commission for major subdivisions, to accommodate the width of the fully constructed pathway and/or topographic features of the site.

(4) *Construction timing.* Shared-use pathways must be constructed prior to occupancy of any dwellings on lots located adjacent to the pathway, or at the time of all subdivision improvements are accepted by the City and Borough, whichever comes first.

(b) *Sidewalks.* The subdivider shall construct sidewalks according to table 49.17.525 in any residential subdivision, in all streets furnished with curbs and gutters, and in any commercial subdivision within the Urban Service Area.

(1) *Minimum width.* The minimum width of sidewalks is five feet.

(2) *Waiver.* The director, after consulting with the director of engineering and public works, may waive the requirement for sidewalks and allow alternative pedestrian improvements to be constructed upon a written finding that the alternative will:

(A) Take advantage of natural features of the site or implement the Juneau Non-Motorized Transportation Plan; and

(B) Provide a safety, quality, and functional equivalent to the requirement being waived.

49.35.620 Streams and bodies of water.

The developer shall convey such easements or make such dedications as may be made necessary in order to provide public access to all streams and public bodies of water.

49.35.630 Trailhead dedications or easements.

The developer shall convey such easements or make such dedications as may be made necessary in order to provide public access to existing trails.

49.35.640 Acceleration and deceleration lanes.

(a) If a driveway serves right-turning traffic from a parking area providing 200 or more parking spaces, and the road has a peak-hour traffic volume exceeding 750 vehicles per hour, an acceleration lane at least 200 feet long and at least ten feet wide measured from the driveway to the acceleration lane shall be provided.

(b) If a driveway serves as an entrance to a land development providing 100 or more parking spaces, a deceleration lane shall be provided for traffic turning right into the driveway from the road. The deceleration lane shall be at least 200 feet long and at least 13 feet wide measured from the road curb radius. A minimum 35-foot curb return radius shall be used from the deceleration lane in the driveway.

Section 38. Amendment of Section. CBJ 49.35.720, Provision of utilities (Reserved), is amended by adding a new section to read:

49.35.720 Utility access.

(a) Public rights-of-way or easements, together with the right of ingress and egress, shall be provided where necessary for public utilities. Where easements are required, and approved, for public water systems, sanitary sewers, storm drainage facilities, or other similar public uses, the following requirements apply:

(1) *Width.* All easements must be accessible for maintenance and must have adequate space within the easement to accomplish maintenance, excavation, and stockpiling of material. The minimum width for a public easement that does not abut a public right-of-way is 20 feet, unless otherwise required by the director of engineering and public works.

(2) *Surface.* Easements shall be graded and compacted to provide a suitable surface for access and maintenance.

(3) *Restricted access.* Where easements adjoin a public street, the director of engineering and public works may require improvements to prevent access by the public.

(b) The director or planning commission shall require easements to be shown on a plat that grants access or other rights in the favor of certain properties. These private easements are not dedicated to or maintained by the public and must be noted as such on the plat.

(c) A note must be added to the plat stating the purpose of the easement, the grantee of the easement, restrictions on the easement use, and whether the easement is permanent or temporary, or private or public.

Section 39. Amendment of Chapter. CBJ 49.40 Access, Parking and Traffic, is amended to read:

CHAPTER 49.40

ACCESS, PARKING AND TRAFFIC

Section 40. Repeal of Article. CBJ 49.40, Article I Access, is repealed and reserved.

Section 41. Amendment of Section. CBJ 49.65.610 Bungalow lot subdivisions, is amended to read:

49.65.610 Bungalow lot subdivisions.

- (a) Subdivisions creating bungalow lots must meet the following requirements:
 - (1) Lots must be served by municipal water and sewer and publicly maintained roads.
 - (2) In zoning districts D1, D3, D5, D10-SF, and D10, subdivisions shall not exceed two bungalow lots for each standard lot.
 - (3) In zoning districts D15 and D18, bungalow lots may be platted without creating standard lots.
 - (4) A note shall be included on all plats which create bungalow lots, providing: "At the time of plat recording, structures on (lot and block number for all bungalow lots) were limited to one 1,000 square foot detached single-family residence per lot; other restrictions apply as well. See the City and Borough of Juneau Land Use Code for current regulations."
 - (5) Lots created through the Planned Unit Development process shall not be further subdivided into bungalow lots.

Section 42. Amendment of Section. CBJ 49.65.620 Review procedure, is amended to read:

49.65.620 Review procedure.

- (a) The review procedure for bungalow lot subdivisions shall be:

(1) In zoning districts D1, D3, D5, D10-SF, and D10:

(A) A minor subdivision procedure may be used for subdivision of a parcel into not more than four lots, provided that no fewer than one standard lot for each bungalow lot shall be created through this process.

(B) Subdivisions containing one standard lot and two bungalow lots shall be processed as major subdivisions.

(2) In zoning districts D15 and D18, bungalow lots may be platted through the subdivision process set forth in Chapter 49.15, Article IV, ~~Minor and Major Subdivisions~~.

Section 43. Amendment of Section. CBJ 49.65.700 Purpose, is amended to read:

49.65.700 Purpose.

The purpose of this article is to allow, in certain residential districts, the development of common wall residential structures where each dwelling and underlying property is held under separate ownership ~~that are~~.

Section 44. Repeal and Reenactment. CBJ 49.65.705 Procedure, is repealed and

reenacted to read:

49.65.705 Procedure.

The development of a common wall subdivision involves a two-step approval process: the approval of a development permit and the approval of a common wall subdivision permit.

Section 45. Repeal and Reenactment of Section. CBJ 49.65.710 Four dwellings

or less, is repealed and reenacted to read:

49.65.710 Development permits.

(a) The development permits required for construction of common wall development are either department review, or planning commission review under the conditional use permit process. The particular permit is determined by which zoning district within which the project is located, and the proposed number of units, in accordance with the CBJ Table of Permissible Uses.

(1) *Department review.*

(A) *Application submittals.* The following submittals are required with an

application for department approval:

(i) Building plans that meet the requirements of this chapter and Title 19.

(ii) A sketch plat in accordance with CBJ 49.15.410. The sketch plat must include information necessary to demonstrate that the proposed common wall development will be able to comply with all the dimensional standards of this article after the parcel and structure have been divided.

(iii) A draft set of common wall agreements and homeowner agreements which set forth the rights and obligations of the owners for all common elements of the development.

(B) *Application review.* The application shall be reviewed by the director in accordance with CBJ 49.15.310.

(2) *Planning commission review.*

(A) *Application submittals.* The following submittals shall be required with the conditional use permit application:

(i) Building plans that include a detailed site plan and elevations of the proposed structures. Plans suitable for a building permit application are not required at this time.

(ii) A draft set of common wall agreements and homeowner's agreements which set forth the rights and obligations of the owners for all common elements of the development.

(iii) A sketch plat in accordance with CBJ 49.15.410. The sketch plat must include that information necessary to demonstrate that the proposed common wall development will comply with all the dimensional standards of this article after the parcel and structure have been divided.

(B) *Application review.* The commission will review and approve the application in accordance with CBJ 49.15.330.

Section 46. Repeal and Reenactment of Section. CBJ 49.65.720 Five dwellings

or more, is repealed and reenacted to read:

49.65.720 Common wall subdivision.

(a) The applicant shall submit an application to subdivide the common wall development into individual dwellings and lots in accordance with 49.15.401, 49.15.402, CBJ 49.65 Article VII, and the following additional requirements:

(1) *Preliminary plat.* The following additional items will be submitted with the preliminary plat:

(A) An as-built survey that includes all structures and the location of the common walls in relation to the proposed common property lines.

(B) Framing inspections that document substantial construction of all units in accordance with the preliminary plans approved by the director or the commission through the department approval, or the conditional use process, respectively.

(C) Final common wall agreements and/or homeowners' agreements suitable for recording.

(b) *Final Plat.* After review and approval of the final plat, in accordance with CBJ 49.15.412, the plat and the common wall agreement documents may be recorded by the department at the State Recorder's Office at Juneau at the applicant's expense, after issuance of final occupancy permits.

Section 47. Amendment of Section. CBJ 49.65.730 Utilities, is amended to read:

49.65.730 Separate utilities Utilities .

All common wall dwellings must be served by individual public water and sewer services unless otherwise authorized by CBJ Title 75 ~~suitable easements and maintenance agreements are provided.~~

Section 48. Repeal and Reenactment of Section. CBJ 49.65.735 Parking and access, is repealed and reenacted to read:

49.65.735 Parking and access

(a) Common wall development shall meet the parking requirements for single-family dwellings in accordance with CBJ 49.40.

(b) For common wall structures of three or more dwellings, access to public rights-of-way may be restricted to common driveways for each pair of dwellings.

(c) The commission can consider alternative parking and access proposals, such as common parking areas, under the conditional use permitting process.

(d) All common parking and access arrangements shall include appropriate easements and homeowners' agreements.

Section 49. Amendment of Section. CBJ 49.65.740 Density, is amended to read:

49.65.740 Density.

The density allowed for common wall dwellings in any zoning district is the density specified for dwellings other than duplexes in that district and in accordance with CBJ 49.25, Article V.

Section 50. Amendment of Section. CBJ 49.65.750 Dimensional standards, is amended to read:

49.65.750 Dimensional standards.

...

(3) *Minimum side yard setback.* The minimum side yard setback from the common property line is reduced to zero feet. The remaining side yard setbacks shall be ten feet in a D5 zone, three feet in a D10-SF zone, and five feet in a D10, D15, D18 or MU2 zone. ~~The minimum side yard setback from the common property line is reduced to zero feet for the common wall only. The remaining side yard setbacks shall be ten feet in a D-5 zone, three feet in a D-10-SF zone, and five feet in a D-10, D-15, D-18 or MU2 zone. For any significant part of the structure opposite the common property line but not connected to the structure on the other lot, a five foot minimum setback from the common property line shall be maintained or a minimum five foot maintenance easement and adequate homeowners agreement provided.~~

Section 51. Amendment of Section. CBJ 49.70.210 Scope, is amended to read:

49.70.210 Applicability and Scope.

(a) This article applies to all development on hillsides in the City and Borough that involves the following: ~~except:~~

~~(1) Development on hillside lots which does not involve:~~

(1) (A) Removal of vegetative cover;

(2) ~~(B)~~ Excavation of any slope in excess of 18 percent;

(3) ~~(C)~~ Creation of a new slope in excess of 18 percent for a vertical distance of at least five feet; or

(4) ~~(D)~~ Any hazard area identified on the landslide and avalanche area maps dated September 9, 1987, consisting of sheets 1—8, as the same may be amended from time to time by the assembly by ordinance or any other areas determined to be susceptible to geophysical hazards.

(b) All hillside development endorsement applications shall be reviewed by the planning commission, except the following may be reviewed by the director:

(1)~~(2)~~ An excavation below finished grade for basements and footings of a building, a retaining wall or other structure authorized by a building permit, provided that this shall not exempt any fill made with the material from such excavation nor any excavation having an unsupported height greater than two feet after the completion of the associated structure ~~This article does not apply to an~~ ;

(2)~~(3)~~ Graves ;

~~(4) Refuse disposal sites controlled by other regulations;~~

(3)~~(5)~~ Mining, quarrying, excavating, processing, or stockpiling of rock, sand, gravel, aggregate or clay provided such operations do not affect the location or peak volume of runoff, the location or amount of standing water, or the lateral support for, the stresses in, or the pressure upon, any adjacent or contiguous property ;

(4)~~(6)~~ Exploratory excavations less than 200 square feet in area and under the direction of a civil engineer with knowledge and experience in the application of geology in the design of civil work ;

(5)~~(7)~~ An excavation which:

(A) Is less than two feet in depth and covers less than 200 square feet; or

(B) Does not create a cut slope greater than five feet in height or steeper than 1½ horizontal to one vertical.

(6)~~(8)~~ A fill less than one foot in depth and intended to support structures which fill is placed on natural terrain with a slope flatter than five horizontal to one vertical, which does not exceed 20 cubic yards on any one lot and which does not obstruct a drainage course ;

(7)~~(9)~~ A fill less than three feet in depth and not intended to support structures which fill is placed on natural terrain on a slope flatter than five horizontal to one

vertical, which does not exceed 50 cubic yards on any one lot and which does not obstruct a drainage course;

(8)(40) Minor development.

Section 52. Amendment of Section. CBJ 49.70.220 Hillside development
endorsement application, is amended to read:

49.70.220 Hillside development endorsement application.

(a) ~~Endorsement required. All~~ Except as set forth in section 49.70.210, all development on hillsides shall be pursuant to a hillside development endorsement to the allowable or conditional use permit otherwise required.

(b) ~~Compliance.~~ The developer shall apply for and obtain a hillside development endorsement prior to any site work other than land and engineering surveys and soils exploration. ~~If soils exploration requires construction of a drilling pad, platform, or other structure not exempt under section 49.70.210, then a hillside development endorsement for the pad, platform or structure shall be obtained.~~

(c) ~~Application.~~ Contemporaneous with an application for an allowable or conditional use permit, the developer shall submit one copy of a hillside development application, supporting materials, and fee to the department. ~~The department shall forward the application to the municipal engineer. Applications shall be submitted prior to application for any associated building permit. The engineer shall return an incomplete application to the applicant within three working days of submission.~~

Section 53. Repeal and Reenactment of Section. CBJ 49.70.240 Submission
requirements; application, is repealed and reenacted to read:

49.70.240 Application.

The application shall be accompanied by the following materials, which shall be signed and stamped by a civil engineer, architect, geologist or land surveyor licensed in the State of Alaska:

(1) A vicinity map, at a clear and legible scale, showing roads, place and street names and natural waterbodies.

(2) Site maps, showing the present condition of the site at a clear and legible scale compatible with the size of the development and including:

(A) Two-foot contours for flat terrain or five-foot contours for steep terrain and extending 50 feet in all directions beyond the development site; 12 percent line, 30 percent line;

(B) Water bodies, tidelands and drainage ways from the development site to accepting natural waterbody;

(C) Lot boundaries and easements for the site and adjacent lots; and

(D) Existing improvements on the site and adjacent lots, including structures, roads, driveways and utility lines.

(3) The application shall include a finished proposed site plan at a clear and legible scale that includes the following information:

(A) Finished grade at two-foot contours for flat terrain or five-foot contours for steep terrain and extending 50 feet in all directions beyond the development site; 12 percent line, 30 percent line.

(B) Water bodies, tidelands and drainage ways, and temporary and permanent drainage systems from the development site to the accepting natural waterbody.

(C) Lot boundaries, easements and setback lines.

(D) The location of improvements including structures, roads, driveways, utility lines, culverts, walls and cribbing.

(E) Clearing limits of existing vegetative cover.

(F) A cross section of the development site.

(4) The application shall include detailed engineering drawings of roads, driveways, parking areas, structural improvements for foundations, off-site stormwater runoff systems; cross sections and road elevations.

(5) A description of the source and type of any off-site fill, and the site for depositing excess fill.

(6) A landscaping plan, including all trees to be retained in excavation areas, all plant species and locations; temporary slope protection measures; erosion and siltation control measures; seeding or sodding materials, a planting and maintenance program; and methods of stabilization and protection of bare slopes.

(7) An engineering geologic report, including a summary of the relevant surface and bedrock geology of the site, a discussion of active geologic processes with conclusions and recommendations regarding the effect of geologic factors on the proposed development; data regarding the nature, distribution and relevant parameters of existing soils, recommendations for grading procedures; design criteria for corrective measures as necessary, and recommendations covering the suitability of the site for the proposed development.

(8) A work schedule, by phase.

(9) Such other different or more detailed submissions as may be required.

Section 54. Amendment of Section. CBJ 49.70.260 Criteria, is amended to read:

49.70.260 Criteria.

The commission or director shall consider the extent to which the development meets the following criteria:

(1) *Soil erosion.* Soil disturbance and soil erosion shall be minimized and the effects thereof mitigated.

(2) *Existing vegetation.* Depletion of existing vegetation shall be minimized.

(3) *Contours.* The developer shall recontour the finished grade to natural-appearing contours which are at or below 30 percent or the natural angle of repose for the soil type, whichever is lower, and which will hold vegetation.

(4) *Time of exposure and soil retention.* The developer shall minimize the period of time that soil is exposed and shall employ mats, silt blocks or other retention features to maximize soil retention.

(5) *Replanting.* The developer shall mat, where necessary, and plant all exposed soil in grass or other soil-retaining vegetation and shall maintain the vegetation for one full growing season after planting.

(6) *Drainage.* The developer shall minimize disturbance to the natural course of streams and drainage ways. Where disturbance is unavoidable, the developer shall provide a drainage system or structures which will minimize the possibility of sedimentation and soil erosion on-site and downstream and which will maintain or enhance the general stream characteristics, spawning quality, and other habitat features of the stream and its receiving waters. Where possible, development shall be designed so lot lines follow natural drainage ways.

(7) *Foundations.* The developer shall ensure that buildings will be constructed on geologically safe terrain.

(8) *Very steep slopes.* The developer shall minimize excavation on slopes over 30 percent.

(9) *Soil retention features.* The developer shall minimize the use of constructed retention features. Where used, their visual impact shall be minimized through the use of natural aggregate or wood, variation of facade, replanted terraces, and the like.

(10) *Wet weather periods.* The developer shall minimize exposure of soil during the periods of September 1—November 30 and March 1—May 1.

Section 55. Amendment of Section. CBJ 49.70.270 Conditions on approval, is amended to read:

49.70.270 Conditions on approval.

The commission or director may place conditions upon a hillside development endorsement as necessary or desirable to ensure that the spirit of this chapter will be implemented in the manner indicated in the application. Fulfillment of conditions shall be certified by the engineer. The conditions may consist of one or more of the following:

(1) *Development schedule.* The commission or director may place a reasonable time limit on or require phasing of construction activity associated with the development or any portion thereof, in order to minimize construction-related disruption to traffic and neighbors or to ensure that the development is not used or occupied prior to substantial completion of required improvements.

(2) *Dedications.* The commission or director may require conveyances of title or other legal or equitable interests to public entities, public utilities, a homeowner's association, or other common entities. The developer may be required to construct any public facilities, such as drainage retention areas, to City and Borough standards prior to dedication.

(3) *Construction guarantees.* The commission or director may require the posting of a bond or other surety or collateral providing for whole or partial releases, in order to ensure that all required improvements are constructed as specified in the approved plans.

(4) *Lot size.* If justified by site topography, the commission or director may require larger lot areas than prescribed by zoning requirements.

Section 56. Amendment of Section. CBJ 49.70.710 Subdivisions in transition zones shadow platting, is amended to read:

49.70.710 Subdivisions in transition zones shadow platting.

(a) *Contents of application.* When a plat is submitted under chapter 49.15, article IV for a ~~major~~ subdivision of five or more lots in a transition zone, the application shall include a shadow plat of the property. The shadow plat shall be a sketch plat overlay of the actual lot layout proposed. This overlay shall reflect as nearly as possible the future resubdivision of the parcels into smaller lots, based upon the density and lot size allowed after public sewer and water are provided.

(b) *Decision* ~~Commission decision.~~ The director for minor subdivisions and the ~~The~~ commission for major subdivisions shall review and approve the application ~~for a major subdivision~~ based on how well the proposed lot layout will lend itself to future resubdivision as well as other requirements of this title.

Section 57. Amendment of Section. CBJ 49.75.130 Procedure, is amended to read:

49.75.130 Procedure.

A rezoning shall follow the procedure for a major development permit except for the following:

(a) The commission shall make a recommendation to the assembly to approve, approve with modifications, or deny a rezoning request. The commission shall prepare written findings in support of its recommendation. The commission's notice of recommendation shall be posted on the department's website within ten ~~10~~ days of the public hearing on the proposed rezone. If the commission recommends approval of the rezoning request or approval with modifications, the director shall forward the commission's written recommendation to the assembly with an ordinance to amend the official zoning map in accordance with the recommendation. If the commission recommends denial, the amendment shall be deemed disapproved unless the applicant files a notice of protest in accordance with CBJ 49.75.130(b).

(b) Protests.

(1) An applicant may protest the commission's recommendation to deny the rezoning by filing a written statement with the municipal clerk within 20 days of the commission's written notice of recommendation for denial, requesting that an ordinance amending the zoning map as set out in the application be submitted for action by the assembly. The director shall, within 30 days of the filing of the protest

with the municipal clerk, prepare a draft ordinance to be appended to the notice of recommendation for consideration by the assembly.

(2) Any person may protest the commission's recommendation to approve a rezoning request or approve a rezoning request with modification by filing a written protest with the municipal clerk within 20 days of the commission's written notice of recommendation.

(3) In the case of a timely filed protest and after introduction of the proposed ordinance at a regularly scheduled assembly meeting, the assembly shall hold a public hearing on the proposed rezoning. At the close of the hearing, the assembly shall approve the zoning map amendment as recommended by the commission, approve the zoning map amendment with modifications, or deny the zoning map amendment. ~~If approved with modifications, the ordinance shall become effective only with the written consent of the owner(s) of the property to be rezoned.~~

(c) All rezonings shall be adopted by ordinance, and any conditions thereon shall be contained in the ordinance. Upon adoption of any such ordinance, the director shall cause the official zoning map to be amended in accordance with the adopted ordinance.

Section 58. Amendment of Section. CBJ 49.80.120 Definitions, is amended to read:

49.80.120 Definitions.

...

Development permit means department approvals, subdivision permits and approvals, allowable use permits, special use permits and conditional use permits.

...

~~*Minor development* means a subdivision of four or fewer lots in any zoning district; minor development is also classified by zoning district as follows:~~

~~*Rural Reserve District:* A residential development containing two or fewer dwelling units, two or fewer bedrooms leased on a daily or weekly basis, or a nonresidential building of less than 10,000 square feet or using less than one acre of land.~~

~~*Single Family Residential Districts:* A residential development containing two or fewer dwelling units, two or fewer bedrooms leased on a daily or weekly basis, or a nonresidential building of less than 5,000 square feet or using less than 10,000 square feet of land.~~

~~*Multifamily Family Residential Districts:* A residential development containing eight or fewer dwelling units, eight or fewer bedrooms leased on a daily or weekly basis, or a nonresidential building of less than 5,000 square feet or using less than 10,000 square feet of land.~~

~~*Commercial and Mixed Use Districts:* A residential development containing 12 or fewer dwelling units, 12 or fewer bedrooms leased on a daily or weekly basis, or a nonresidential building of less than 10,000 square feet or using less than one-half acre of land.~~

~~*Industrial Districts:* Non-residential buildings of 15,000 square feet or using less than one acre of land.~~

...

Public sewer and water system means any system that is operated by a municipality, governmental agency, or a public utility licensed as such by the state for the collection, treatment and disposal of wastes, ~~and the~~ furnishing of potable water and fire protection.

Public way means pedestrian ways, rights-of-way, and streets and any other way held for or held open by a public entity ~~the municipality~~ for purposes of public access.

...

Right-of-way means a defined area a strip of land, including surface, overhead and underground space, reserved or granted by deed, easement or dedication for a street, alley, utility, walkway, sidewalk, condemned and occupied or intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer and or other similar uses public ways.

...

Roadway means the portion of a street intended for vehicular traffic; where curbs are laid, the portion of the street between the back of the curbs.

...

Street means a thoroughfare improved or intended to be improved for travel, permanently open to general public use that affords the principal means of access, frontage and address to individual buildings, lots and blocks. Streets include a pioneer path, road, avenue, place, drive, boulevard, highway or other similar means of public thoroughfares except an alley. Unless otherwise indicated, the term street shall refer to both public and private streets the entire right-of-way of a public way which affords the principal means of access to properties abutting the right-of-way.

...

Street, major arterial, means a street with access control, channelized intersections, restricted parking, and which collects and distributes traffic to and from minor arterials and collectors.

...

Subdivider means the developer or owner of a subdivision.

...

Subdivision means the division or redivision of a tract or parcel of land into two or more lots, sites or other divisions and the act of developing, constructing or improving property with a subdivision as required by CBJ Title 49 ~~the division, redivision, or development of land into two or more lots, or land leases of 55 or more years.~~

...

Urban service area boundary means the boundary ~~of~~ the urban service area established in the comprehensive plan.

Section 59. Amendment of Section. CBJ 49.80.120 Definitions, is amended by the addition of the following definitions to be incorporated in alphabetical order:

Cluster wastewater system means a system with individual on-site wastewater treatment and a shared wastewater collection system under some form of common ownership, other than public ownership, that collects wastewater from two or more dwellings and conveys it for disposal to a suitable site near the dwellings.

Common facilities means streets, sidewalks, parking areas, community buildings, refuse disposal systems, sewer systems, and water systems, held in common ownership by planned unit development homeowners.

Common open space means open space held in common ownership by planned unit development homeowners. Buildings, parking areas, and similar improvements may be located in and included in the calculation of common open space if related and necessary to the function of the open space. Stormwater drainage and flood storage may be located in and included in the calculation of the common open space. Common on-site sewage disposal systems, but not individual septic systems, may be located in and included in the calculation of common open space. Streets may be located in but shall not be included in the calculation of common open space.

Community wastewater and disposal system means a system with a shared wastewater treatment and collection system under some form of common ownership, other than public ownership, that collects wastewater from two or more dwellings and conveys it to a treatment plant and disposal system located on a suitable site near the dwellings.

Conservation lot means an undeveloped or remediated parcel where building development is permanently prohibited. A conservation lot is intended to preserve open space, environmentally sensitive areas, scenic views, wetlands, and buffers.

Density bonus means an increase in allowable density above that otherwise allowed in the zoning district in which the planned unit development is located.

1
2
3 *Improved common open space* means common open space containing common
4 facilities, recreational equipment, parks, gardens, picnic areas, landscaping, or other
5 outdoor improvements.

6 *Natural area park* means a lot owned by a government and characterized by areas of
7 natural quality designed to serve the entire community by providing fish and wildlife
8 habitat, open space/natural areas, access to water, and opportunities for passive and
9 dispersed recreation activities. Development is prohibited except for structures, roads, and
10 trails necessary for public use, education, maintenance, and protection of the resource.

11 *Panhandle lot* means a lot where the only owned access to the right of way is a
12 narrow strip of land, the width of which is less than the minimum required by code.

13 *Pioneer path* means an access path for pedestrian, equestrian, human powered
14 vehicles, all-terrain vehicles, snow machines, and similar off-road recreational vehicles
15 weighing less than 1,000 pounds gross vehicle weight and having a maximum overall width
16 of 48 inches. Except as identified above, a pioneer path shall be designed and constructed to
17 prevent a vehicle registered or required to be registered under AS 28.10 from traveling on
18 the pioneer path.

19 *Planned unit development* means a tract of land at least two acres in area, under
20 single, corporation, firm, partnership, or association ownership, planned and developed as
21 an integral unit in a single development operation or a definitely programmed series of
22 development operations and according to approved preliminary and final development
23 plans. Planned unit developments shall comply with all requirements of the land use code,
24 except to the extent that such requirements are superseded by a permit issued pursuant to
25 this article.

Private improvements means those improvements required as part of a subdivision or
other land use permit that will not be maintained by the City and Borough or other agency
of government.

Privately maintained access road means a road that the department or the
commission has permitted to be constructed at less than full public street standards in an
existing right-of-way. Privately maintained access roads can be used by the public and can
provide access to more than one parcel, but will not be publicly maintained. A privately
maintained access road is distinguished from an ordinary driveway in that an ordinary
driveway provides access between a parcel of land and the public portion of the street, and is
not for public access (See Figure 5).

Public improvements means any construction incidental to servicing or furnishing
facilities to a development, including but not limited to: streets; retaining walls; street signs
and markings; curbs and gutters; street lights and associated power conduits; sidewalks;
shared use pathways; sewer mains, pump stations, service laterals, manholes, cleanouts and
all associated parts; storm sewer mains, manholes, catch basins, pump stations, service
laterals, and all associated parts; water mains, fire hydrants, service laterals, valves, pump

stations, reservoirs, and all associated parts.

Public square means an area dedicated for public use for temporary leisure, assembly, markets, and similar uses.

Quasi-public means property or infrastructure that is normally owned by the public sector, but owned by the private sector serving in the public interest.

Radial distance means the shortest distance measured along a radius extending from a point of the object being measured from to a point on the object being measured to.

Roadway Width is measured as the paved section of a paved street or from shoulder to shoulder on a gravel street.

Sight distance means the distance that a driver needs to react appropriately to a situation, including stopping sight distance, passing sight distance, and intersection sight distance.

Undisturbed common open space means common open space left in its natural condition.

Section 60. Amendment of Section. CBJ 49.85.100 Generally, is amended to read:

49.85.100 Generally.

Processing fees are established for each development, platting and other land use action in accordance with the following schedule:

- (1) Minor development.
 - (A) Reserved;
 - (B) Staff review, no charge if a building permit is required;
 - (C) Sign permit, \$50.00 for the first two signs, and \$20.00 for each additional sign.
- (2) Minor subdivision or consolidation.
 - (A) Subdivision creating additional lots, \$400.00 plus \$25.00 for each resulting lot;
 - (B) Subdivision creating no additional lots, \$110.00 plus \$25.00 for each lot changed; ;
 - ~~(C) Minor lot consolidation, \$135.00.~~

...

- (4) Major subdivisions, including mobile home subdivisions.
 - (A) Preliminary plat, \$110.00 per lot ~~or \$650.00, whichever is greater;~~
 - (B) Final plat, \$70.00 per lot ~~or \$400.00, whichever is greater;~~
 - (C) Reserved;
 - (D) Plat amendment, \$110.00 plus, \$25.00 per lot.

...

Section 61. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this _____ day of _____, 2015.

Merrill Sanford, Mayor

Attest:

Laurie J. Sica, Municipal Clerk

Presented by: The Manager
Introduced: August 10, 2015
Drafted by: Finance

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2015-20(F)

An Ordinance Appropriating to the Manager the Sum of \$72,500 as a Transfer to the Parks and Recreation Department, Recreation Division in the Roaded Service Area as Partial Funding for the After School Program and Young Parents Healthy Teen Program; Funding Provided by a Portion of the Social Services Advisory Board and Mayor and Assembly Grants in the General Fund.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is a non-code ordinance.

Section 2. Appropriation. There is appropriated to the Manager the sum of \$47,500 for the After School program and \$25,000 for the Young Parents Healthy Teen program.

Section 3. Source of Funds

General Fund	\$72,500
--------------	----------

Effective Date. This ordinance shall become effective upon adoption.

Adopted this _____ day of _____, 2015.

Merrill Sanford, Mayor

Attest:

Laurie J. Sica, Municipal Clerk

"ECONOMIC IMPACT" NOTE**ORDINANCE #:** 2015-20(F)**OPERATIONAL IMPACT**Check No/Yes ☒ No ☐ Yes, explain in detail**Explanation of Impact:**

This will increase the Parks and Recreation, Recreation Division, Zach Gordon Youth Center operating budget to administer two new programs: After School and Young Parents Healthy Teen. The funding will come from the General Fund. These programs were budgeted as grants to other agencies. As of July 1, 2015, these agencies will no longer administer the programs.

(Attach Additional Pages as Necessary)

FINANCIAL IMPACTCheck No/Yes ☐ No ☒ Yes (if Yes, complete the following)

Roaded Service Area, Parks and Recreation

Expenditure Budget

	FY16	FY17	FY18	FY19	FY20
Personnel Services	\$ 72,500	\$ -	\$ -	\$ -	\$ -
	-	-	-	-	-
	-	-	-	-	-
Total Expenditures	\$ 72,500	\$ -	\$ -	\$ -	\$ -

Funding Sources:

General Fund	72,500	-	-	-	-
Total Funding Sources	\$ 72,500	\$ -	\$ -	\$ -	\$ -

Personnel

Full-Time FTE's

Part-Time FTE's

Temporary FTE's

CAPITAL IMPROVEMENT PROJECTS (CIP)**Project Budget**

Direct Project Costs

	\$ -
	-
Total Project Budget	\$ -

Amounts noted at left are 100% of the project total expenses

Project Totals Before Appropriation: \$ -

This Appropriation: -

Total Project: \$ -**Funding Sources**

Federal Grant

State Grant

CBJ Sales Tax

JNU Operating Reserves

JNU Revolving Funds

\$ -	\$ -
-	-
-	-
-	-
-	-
Total Funding Sources	\$ -

Comment:**Personnel**

Full-Time FTE's

Part-Time FTE's

Temporary FTE's

Prepared by: Sonia DelGado

Affected Depts a) Parks and Recreation, Recreation Division

(Dir/Dept): b) Kirk Duncan

Finance Dir: Bob Bartholomew

City Manager: Kim Kiefer

Date: 7/2/2015

Date:

Date:

Date:

Date:

Presented by: The Manager
Introduced: August 10, 2015
Drafted by: Finance

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2015-20(I)

An Ordinance Appropriating to the Manager the Sum of \$669,055 as Funding for the Juneau International Airport Aircraft Rescue & Fire Fighting (ARFF) Truck Capital Improvement Project; Funding Provided by the Federal Aviation Administration and Alaska Department of Transportation.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. Appropriation. There is appropriated to the Manager the sum of \$669,055 for the Juneau International Airport Aircraft Rescue & Fire Fighting (ARFF) Truck capital improvement project.

Section 3. Source of Funds

Federal Aviation Administration grant	\$647,473
Alaska Department of Transportation grant	\$ 21,582

Section 4. Effective Date. This ordinance shall become effective upon adoption.

Adopted this _____ day of _____, 2015.

Merrill Sanford, Mayor

Attest:

Laurie J. Sica, Municipal Clerk

"ECONOMIC IMPACT" NOTE**ORDINANCE #: 2015-20(I)****OPERATIONAL IMPACT**Check No/Yes ☒ No ☐ Yes, explain in detail

Explanation of Impact: There is no operational impact with this ordinance.

(Attach Additional Pages as Necessary)

FINANCIAL IMPACTCheck No/Yes ☒ No ☐ Yes (if Yes, complete the following)**Expenditure Budget**

	FY16	FY17	FY18	FY19	FY20
		\$ -	\$ -	\$ -	\$ -
	-	-	-	-	-
	-	-	-	-	-
Total Expenditures	\$ -	\$ -	\$ -	\$ -	\$ -

Funding Sources:

		-	-	-	-
Total Funding Sources	\$ -	\$ -	\$ -	\$ -	\$ -

Personnel

Full-Time FTE's

Part-Time FTE's

Temporary FTE's

CAPITAL IMPROVEMENT PROJECTS (CIP)**Project Budget**

Direct Project Costs

\$ 690,638	\$ -
	-
Total Project Budget	\$ 690,638

Amounts noted at left are 100% of the project total expenses

Project Totals Before Appropriation: \$ 21,583

This Appropriation: 669,055

Total Project: \$ 690,638**Funding Sources**

Federal Grant

State Grant

CBJ Sales Tax

JNU Operating Reserves

JNU Revolving Funds

\$ 647,473	\$ -
21,582	-
21,583	-
Total Funding Sources	\$ 690,638

Comment: This airport capital project will purchase a 3,000 gallon ARFF Truck. The FAA funds 93.75% of the project with the remainder being split between Alaska DOT and Juneau International Airport (Res 2713d Area Wide Sales Tax).

Personnel

Full-Time FTE's

Part-Time FTE's

Temporary FTE's

Prepared by: John Coleman

Affected Depts a) Airport

(Dir/Dept): b) Patricia deLaBruere

Finance Dir: Bob Bartholomew

City Manager: Kim Kiefer

Date: 7/29/2015

Date:

Date:

Date:

Date:

Presented by: The Manager
Introduced: August 10, 2015
Drafted by: Finance

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2015-20(J)

An Ordinance Appropriating to the Manager the Sum of \$413,333 as Funding for the Juneau International Airport Aircraft Rescue & Fire Fighting (ARFF) Building Modification Design & Environmental Capital Improvement Project; Funding Provided by the Federal Aviation Administration and Alaska Department of Transportation.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. Appropriation. There is appropriated to the Manager the sum of \$413,333 for the Juneau International Airport Aircraft Rescue & Fire Fighting (ARFF) Building Modification Design & Environmental capital improvement project.

Section 3. Source of Funds

Federal Aviation Administration grant	\$400,000
Alaska Department of Transportation grant	\$ 13,333

Section 4. Effective Date. This ordinance shall become effective upon adoption.

Adopted this _____ day of _____, 2015.

Merrill Sanford, Mayor

Attest:

Laurie J. Sica, Municipal Clerk

"ECONOMIC IMPACT" NOTE**ORDINANCE #: 2015-20(J)****OPERATIONAL IMPACT**Check No/Yes ☒ No ☐ Yes, explain in detail

Explanation of Impact: There is no operational impact with this ordinance.

(Attach Additional Pages as Necessary)

FINANCIAL IMPACTCheck No/Yes ☒ No ☐ Yes (if Yes, complete the following)**Expenditure Budget**

	FY16	FY17	FY18	FY19	FY20
		\$ -	\$ -	\$ -	\$ -
	-	-	-	-	-
	-	-	-	-	-
Total Expenditures	\$ -	\$ -	\$ -	\$ -	\$ -

Funding Sources:

		-	-	-	-
Total Funding Sources	\$ -	\$ -	\$ -	\$ -	\$ -

Personnel

Full-Time FTE's

Part-Time FTE's

Temporary FTE's

CAPITAL IMPROVEMENT PROJECTS (CIP)**Project Budget**

Direct Project Costs

\$ 426,667	\$ -
	-
Total Project Budget	\$ 426,667

Amounts noted at left are 100% of the project total expenses

Project Totals Before Appropriation: \$ 13,334

This Appropriation: 413,333

Total Project: \$ 426,667**Funding Sources**

Federal Grant

State Grant

CBJ Sales Tax

JNU Operating Reserves

JNU Revolving Funds

\$ 400,000	\$ -
13,333	-
13,334	-
Total Funding Sources	\$ 426,667

Comment: This airport capital project will design the modification of the ARFF station to accommodate a new larger truck, and satisfy environmental requirements. The FAA funds 93.75% of the project with the remainder being split between Alaska DOT and Juneau International Airport (Res 2713d Area Wide Sales Tax).

Personnel

Full-Time FTE's

Part-Time FTE's

Temporary FTE's

Prepared by: John Coleman

Affected Depts a) Airport

(Dir/Dept): b) Patricia deLaBruere

Finance Dir: Bob Bartholomew

City Manager: Kim Kiefer

Date: 7/29/2015

Date:

Date:

Date:

Date:

Presented by: The Manager
 Introduced: August 10, 2015
 Drafted by: Finance

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2015-20(K)

An Ordinance Appropriating to the Manager the Sum of \$868,025 as Funding for the Juneau International Airport Runway Safety Area (RSA) Phase IIB Design Northeast (NE)/Northwest (NW) Apron and Continued Perimeter Fencing Capital Improvement Project; Funding Provided by the Federal Aviation Administration, Alaska Department of Transportation, and Juneau International Airport Fund's Fund Balance.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. Appropriation. There is appropriated to the Manager the sum of \$868,025 for the Juneau International Airport Runway Safety Area (RSA) Phase IIB Design Northeast (NE)/Northwest (NW) Apron and Continued Perimeter Fencing capital improvement project.

Section 3. Source of Funds

Federal Aviation Administration grant	\$824,624
Alaska Department of Transportation grant	\$ 21,700
Juneau International Airport Fund's Fund Balance	\$ 21,701

Section 4. Effective Date. This ordinance shall become effective upon adoption.

Adopted this _____ day of _____, 2015.

 Merrill Sanford, Mayor

Attest:

Laurie J. Sica, Municipal Clerk

"ECONOMIC IMPACT" NOTE**ORDINANCE #: 2015-20(K)****OPERATIONAL IMPACT**Check No/Yes ☒ No ☐ Yes, explain in detail

Explanation of Impact: There is no operational impact with this ordinance.

(Attach Additional Pages as Necessary)

FINANCIAL IMPACTCheck No/Yes ☐ No ☒ Yes (if Yes, complete the following)Juneau International Airport Fund's Fund
Balance**Expenditure Budget**CBJ Match Design,
Construction

FY16	FY17	FY18	FY19	FY20
\$ 21,701	\$ -	\$ -	\$ -	\$ -
-	-	-	-	-
-	-	-	-	-
\$ 21,701	\$ -	\$ -	\$ -	\$ -

Total Expenditures**Funding Sources:**Juneau International
Airport Fund's Fund
Balance

21,701	-	-	-	-
\$ 21,701	\$ -	\$ -	\$ -	\$ -

Total Funding Sources**Personnel**

Full-Time FTE's

Part-Time FTE's

Temporary FTE's

CAPITAL IMPROVEMENT PROJECTS (CIP)**Project Budget**

Direct Project Costs

\$ 868,025	\$ -
-	-
\$ 868,025	\$ -

Total Project Budget**Funding Sources**Federal Grant
State Grant
JIA Fund's Fund Balance
JNU Operating Reserves
JNU Revolving Funds

\$ 824,624	\$ -
21,700	-
21,701	-
\$ 868,025	\$ -

Total Funding Sources**Personnel**

Full-Time FTE's

Part-Time FTE's

Temporary FTE's

Amounts noted at left are 100% of the project total expenses

Project Totals Before Appropriation: \$ -

This Appropriation: 868,025

Total Project: \$ 868,025

Comment: This airport capital project will design apron areas in the NE & NW Quads, and continue perimeter fencing. The FAA funds 95% of the project with the remainder being split between Alaska DOT and Juneau International Airport (JIA) (fund balance).

Prepared by: John Coleman

Affected Depts a) Airport

(Dir/Dept): b) Patricia deLaBruere

Finance Dir: Bob Bartholomew

City Manager: Kim Kiefer

Date: 7/29/2015

Date:

Date:

Date:

Date:

Presented by: The Manager
 Introduced: August 10, 2015
 Drafted by: Finance

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2015-20(K)(b)

An Ordinance Appropriating to the Manager the Sum of \$868,025 as Funding for the Juneau International Airport Runway Safety Area (RSA) Phase IIB Design Northeast (NE)/Northwest (NW) Apron and Continued Perimeter Fencing Capital Improvement Project; Funding Provided by the Federal Aviation Administration, Alaska Department of Transportation, and Juneau International Airport Fund's Fund Balance.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. Appropriation. There is appropriated to the Manager the sum of \$868,025 for the Juneau International Airport Runway Safety Area (RSA) Phase IIB Design Northeast (NE)/Northwest (NW) Apron and Continued Perimeter Fencing capital improvement project.

Section 3. Source of Funds

Federal Aviation Administration grant	\$ 824,624 813,773
Alaska Department of Transportation grant	\$ 21,700 27,126
Juneau International Airport Fund's Fund Balance	\$ 21,701 27,126

Section 4. Effective Date. This ordinance shall become effective upon adoption.

Adopted this _____ day of _____, 2015.

 Merrill Sanford, Mayor

Attest:

Laurie J. Sica, Municipal Clerk

"ECONOMIC IMPACT" NOTE**ORDINANCE #: 2015-20(K)(b)****OPERATIONAL IMPACT**Check No/Yes ☒ No ☐ Yes, explain in detail

Explanation of Impact: There is no operational impact with this ordinance.

(Attach Additional Pages as Necessary)

FINANCIAL IMPACTCheck No/Yes ☐ No ☒ Yes (if Yes, complete the following)Juneau International Airport Fund's Fund
Balance**Expenditure Budget**CBJ Match Design,
Construction

FY16	FY17	FY18	FY19	FY20
\$ 27,126	\$ -	\$ -	\$ -	\$ -
-	-	-	-	-
-	-	-	-	-
\$ 27,126	\$ -	\$ -	\$ -	\$ -

Total Expenditures**Funding Sources:**Juneau International
Airport Fund's Fund
Balance

27,126	-	-	-	-
\$ 27,126	\$ -	\$ -	\$ -	\$ -

Total Funding Sources**Personnel**

Full-Time FTE's

Part-Time FTE's

Temporary FTE's

CAPITAL IMPROVEMENT PROJECTS (CIP)**Project Budget**

Direct Project Costs

\$ 868,025	\$ -
-	-
\$ 868,025	\$ -

Total Project Budget**Funding Sources**Federal Grant
State Grant
JIA Fund's Fund Balance
JNU Operating Reserves
JNU Revolving Funds

\$ 813,773	\$ -
27,126	-
27,126	-
\$ 868,025	\$ -

Total Funding Sources**Personnel**

Full-Time FTE's

Part-Time FTE's

Temporary FTE's

Amounts noted at left are 100% of the project total expenses

Project Totals Before Appropriation: \$ -

This Appropriation: 868,025

Total Project: \$ 868,025

Comment: This airport capital project will design apron areas in the NE & NW Quads, and continue perimeter fencing. The FAA funds 95% of the project with the remainder being split between Alaska DOT and Juneau International Airport (JIA) (fund balance).

Prepared by: John Coleman

Affected Depts a) Airport

(Dir/Dept): b) Patricia deLaBruere

Finance Dir: Bob Bartholomew

City Manager: Kim Kiefer

Date: 7/29/2015

Date:

Date:

Date:

Date:

FROM THE DESK OF
JOHN CORSO

August 20, 2015

Re: *Bicknell v. Planning Commission and Territorial Sportsmen*; proposed decision

Dear Mayor Sanford and Assemblymembers:

Here is my proposed decision in the Bicknell appeal together with the Planning Commission's objection to the proposed decision, and my response; all placed before the Assembly at a regular or special meeting as required by the appellate code. At the meeting, the Assembly has three options:

- ***Take no action at this meeting.*** The proposed decision will be deemed adopted and shall be the Assembly's decision in this case. The result will be as specified in the findings on page 22: the Planning Commission's decision will be set aside and the question of whether to grant or deny a rezone will be forwarded as a legislative proposal to the Assembly. The findings expressly disavow any recommendation regarding the introduction or adoption of the legislation.
- ***Reject the proposed decision by an affirmative vote.*** The form of motion would be "I move to reject the proposed decision." If the motion passes, the matter shall be immediately referred to me for a rehearing of the appeal after notice to the parties; provided, the Assembly may refer the appeal to a different hearing officer, may limit the scope of the rehearing to specified issues, may place similar or different limits or conditions on the rehearing or reconsideration by the hearing officer, may remand the matter back to the Planning Commission, or may rehear the matter itself after notice to the parties.
- ***Modify the proposed decision by affirmative vote.*** The form of motion would be "I move to modify the proposed decision by [additions, deletions, or corrections to the text of the proposed decision]"

Whichever of these options the Assembly selects, it should do so without receiving testimony or evidence of any nature. All documents in the case and a recording of the hearing are available at bicknellappeal.com.

Thank you for the opportunity to work on this interesting case. If I may be of further assistance, please advise the City Attorney and I will be happy to work with her to again serve the Assembly.


John Corso

copies: Parties
City Attorney

BEFORE THE ASSEMBLY OF THE CITY & BOROUGH OF JUNEAU

ON APPEAL FROM THE PLANNING COMMISSION

BICKNELL, INC.

APPELLANT

v.

CBJ PLANNING COMMISSION

APPELLEE

AND

TERRITORIAL SPORTSMEN, INC.

APPELLEE-INTERVENOR

CCD FILE

AMD 2013 0015

- The Planning Commission decision is set aside because it is not supported by adequate written findings. The Commission diligently examined facts and opinions over a fair and lengthy hearing process, then adopted wholly inadequate findings. In effect, the Commission ran for 95 yards, then dropped the ball.
- It is not necessary to remand this case to the Planning Commission to address differences between the 2008 and 2013 comprehensive plans because for purposes of this appeal there is no difference.
- Denial of the requested rezone does not constitute an unlawful taking without just compensation because Bicknell does not have a right to a rezone.
- Whether by remand back to the Planning Commission, by referral from this appeal, or by a third rezone application and a protest under the new rezone procedures, only the Assembly can resolve this matter by adopting or rejecting an ordinance. Justice is served by referring the case now.

This summary is for the convenience of the reader and is not part of the Proposed Decision. The official proposed findings are on page 22.

Proposed Decision

I. Factual and Procedural Background

This appeal concerns the use of 82 acres of land located near the east end of the Juneau International Airport runway (“the Property”).¹ The Property is currently zoned Rural Reserve (RR) under a Comprehensive Plan Future Land Use Designation of Resource Development.² The owner, Bicknell Inc., seeks to have the Property rezoned to a mixture of Industrial, Light Commercial, and Rural Reserve.

¹ The legal description is USS 1568 TR B. The CBJ Parcel Code Number is 5-B14-o-102-007-o.

² (Record, page 30)

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The Property has been in use as a gravel dredge pond since being granted its original CBJ permit by the Assembly in 1965. The pit and access road were opened in 1966. The CBJ permit was renewed as a gravel extraction permit in 1997, then again as a conditional use permit in 2007.³ The CDD staff report for the 2007 permit—approved by the Planning Commission on its consent agenda—noted that the applicable 1995 Comprehensive Plan “categorizes this site as ‘*Identified for Future Park*’”, but that “The site is private property and the applicant has the right to use the property in conformance with current zoning.”⁴

The 1995 Comprehensive Plan was updated⁵ in 2008. The sequence of relevant procedural events thereafter is:

July, 2012	Bicknell submits, then withdraws an application to rezone the Property to a mixture of Industrial and Light Commercial.
August 27, 2012	The Assembly amends the rezoning standards at CBJ 49.75.120 to allow a rezone which is in “substantial conformance” with land use maps of the Comprehensive Plan. Previously, the ordinance had prohibited uses which “violate” the maps.
February 2, 2013	Bicknell applies for an amendment to Comprehensive Plan Map G from Resource Development to a mix of Industrial, General Commercial, and Resource Development in the area of Honsinger Pond. Staff recommends approval.
April 9, 2013	The Commission denies the requested map amendment but does not adopt findings.
May 10, 2013	At the request of the Law Department, CDD staff makes “an attempt to draft the attached proposed findings based on the recorded deliberations of the Commission at the April 9, 2013 hearing, for the Commission’s review and consideration.” ⁶
May 14, 2013	The Commission approves the 2013 Comprehensive Plan update.
May 17, 2013	The Commission issues a Notice of Decision denying the map amendment. The NOD incorporates staff’s proposed findings without change.

³ Toner-Nordling & Associates, Inc. application for CBJ use permit 07-13, April 11, 2007. Staff report, April 18, 2007. I take official notice of CDD records pursuant to CBJ 01.50.130, Chapter 8, Paragraph G(7) of the Alaska Hearing Officer’s Manual, and Rule 201(b) of the Alaska Rules of Evidence. The parties are free to object to noticed evidence in their comments to this Proposed Decision. All officially noticed records were accessed via public CBJ websites.

⁴ Staff Report, USE2007-00013, page 4. (Emphasis in original, citation omitted.)

⁵ “Updated”, like “review” and “amendment” is a term of art in CBJ comp plan procedure. As the current Plan notes, at page 229, “It is important to highlight the distinction between the Planning Commission’s ‘review’ of the *Plan*, their entertaining a specific ‘amendment’ to the *Plan*, and ‘updating’ the *Plan*.” Basically, review means to look at, amendment means limited review and changes, and update means extensive review and changes.

⁶ Memo, CDD staff to Planning Commission re AME2013 0007, May 10, 2013.

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September 18, 2013	Bicknell submits the current rezone application. CDD staff recommends approval of Industrial and denial of Light Commercial rezoning.
November 4, 2013	The Assembly adopts Ordinance 2013-26, amending CBJ 49.05.200 to incorporate the 2013 Comprehensive Plan update in the CBJ code.
November 26, 2013	The Commission takes up Bicknell's rezone request.
December 4, 2013	The 2013 Comprehensive Plan update becomes effective.
December 10, 2013	The Commission denies the rezone. For findings, it slightly amends then adopts findings from its denial of Bicknell's map amendment request. Notice of reconsideration is given.
January 14, 2014	A motion for the Commission to take up reconsideration fails. A motion to rescind is ruled out of order.
January 15, 2014	The Commission issues a Notice of Decision incorporating the findings .
February 3, 2014	Bicknell files this appeal.
September 29, 2014	The Assembly adopts Ordinance 2014-14(c)(am) amending CBJ 49.75.130 to provide a legislative protest rather than an adjudicatory appeal procedure for rezone denials. The effective date of the amendment is "30 days after current, outstanding appeals are resolved."
April 6, 2015	The Assembly amends Ordinance 2014-14(c)(am) to make it effective "30 days after April 16, 2015".

II. Changed Laws; which version rules?

A. Changes to the Rezone Procedures Ordinance

The history summarized above shows how the substantive and procedural law applicable to this case has changed since Bicknell applied for a rezone. These changes are important issues in the case.

Rezoning is governed by Article I of CBJ 49.75, the substantive section of which has not changed during this case and provides:

49.75.120 Restrictions on Rezoning. Rezoning requests covering less than two acres shall not be considered unless the rezoning constitutes an expansion of an existing zone. Rezoning requests which are substantially the same as a rezoning request rejected within the previous 12 months shall not be considered. A rezoning shall only be approved upon a finding that the proposed zoning district and the uses allowed therein are in substantial conformance with the land use maps of the comprehensive plan.

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Rezoning procedures are governed by CBJ 49.75.130. This ordinance has a tortured history that reflects an essential but problematic characteristic of rezones: they are accomplished by changing zoning and, if necessary, comprehensive plan maps⁷ that were adopted by ordinance. Only the Assembly can change an ordinance, and must do so in accordance with Charter requirements. It has long been the case that a rezone follows the procedure for a major development permit, with the proviso that a Commission decision for approval is only a recommendation to the Assembly, which must act on it by adopting or rejecting an ordinance. However, until 2012, a Commission decision to *deny* a rezone was a procedural orphan, unmentioned in the code but handled the same way—as a recommendation— by a code interpretation.⁸ On April 2, 2012, the Assembly addressed this situation by adopting Ordinance 2012-11, which amended CBJ 49.75.130 by the addition of a new subsection (3), providing that a rezone denial could be appealed to the Assembly with the usual procedures under the general CBJ appellate code.

49.75.130 - Procedure. A rezoning shall follow the procedure for a major development permit except for the following:

(1) The commission decision for approval shall constitute only a recommendation to the assembly.

(2) As soon as possible after the commission's recommendation, the assembly shall provide public notice and hold a public hearing on the proposed rezoning. A rezoning shall be adopted by ordinance, and any conditions thereon shall be contained in the ordinance. Upon adoption of any such ordinance, the director shall cause the official zoning map to be changed in accordance therewith.

(3) The commission decision for denial shall constitute a final agency decision on the matter which will not be presented to the Assembly unless it is appealed to the Assembly in accordance with CBJ 49.20.120.⁹

The use of legal appeal procedures for a rezone denial but not for an approval was described by the City Attorney as a “middle course” that would “provide due process for the applicant and a check against error in the Commission's decision, without putting the decision on an equal footing with

⁷ Zoning maps are adopted by reference in ordinances codified at CBJ 49.25.110. The Comprehensive Plan and its included maps are likewise adopted and codified at CBJ 49.05.200. The CBJ charter at §5.2(f), in what may be its most awkwardly worded section requires that “In addition to other actions required by this Charter, those actions of the assembly shall be by ordinance which: ... (f) Adopt or modify the official map, platting or subdivision controls or regulations, or zoning controls.”

⁸ Memo, City Attorney to Assembly, March 28, 2012, at ¶3.

⁹ CBJ 49.20.120 is a part of the land use code, but adopts CBJ 01.50, the appellate code, by reference with modifications not relevant here.

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[an approval].”¹⁰ The Assembly adopted the ordinance by unanimous consent without discussion.¹¹

The rezone-denial appeal procedure established by Ordinance 2012-11 has been used twice: in *Harris v. Planning Commission*¹² and in this case. In *Harris*, a property owner requested a Comprehensive Plan map amendment from MDR, medium density residential, and a rezone from D-10 to Light Commercial for his property at 9150 Atlin Drive. He requested that the Comprehensive Plan amendment be put on hold while he pursued the zoning map amendment. The Commission denied the rezone on the grounds suggested by CDD staff in its report, “LC Zoning does not substantially conform with the Land Use Maps of the Comprehensive Plan.”¹³ On appeal, the Assembly reversed and directed the City Attorney to draft an ordinance providing for the requested rezone and forward it to the Assembly for introduction.

The procedure described above lasted until May 6, 2015, the effective date of Ordinance 2014-14(c)(am), the current law. The ordinance amended rezone procedures to create a “protest” procedure for people dissatisfied with a Commission rezone decisions. The procedure following Commission approval is much the same as before: staff prepares an ordinance amending the zoning map¹⁴ and presents it to the Assembly. Interested parties then attack and defend it politically as with any ordinance. The big change was to procedures following a denial. Under Ordinance 2014-14, the disappointed applicant files a legislative protest, not a legal appeal. The net effect of the two procedures is much the same as the informal interpretation-based procedure employed before Ordinance 2012-11: the protest of a Commission decision—whether approval or denial—is handled by the Assembly legislatively. Ordinance 2014-14 adds one entirely new feature: if the Assembly “approves the zoning map amendment with modifications” the ordinance “shall become effective only with the written consent of the owner(s) of the property to be rezoned.”¹⁵

¹⁰ March 28 memo, *supra*, at ¶5. The Manager’s Report accompanying Ordinance 2012-11 said that the appeal procedure was suggested by a landowner in the Atlin Drive area affected by a 2011 rezone denial.

¹¹ Minutes, Assembly Meeting of April 2, 2012, page 4.

¹² *Harris v. CBJ Planning Commission*, CDD File No. AME2013 0006 (March 19, 2014)

¹³ Minutes of Planning Commission Meeting of September, 24, 2013, page 14, and attached Staff Report, September 19, 2013, page 12.

¹⁴ The ordinance does not address a rezone that requires amendment of the Comprehensive Plan maps.

¹⁵ This provision was added at the request of Assemblymember Kiehl at the September 22, 2014 meeting of the Assembly Committee of the Whole (Minutes, p. 3) Mr. Kiehl cited the Anchorage Municipal Code as the source of this idea, an apparent reference to AMC 21.03.160(D)(8)(b), which requires owner consent, but only to the modifications rather than the entire ordinance. A consent provision such as this, which allows owners to withhold consent for any reason or no reason, is subject not only to being gamed among property owners in a multi-owner rezone, but to attack as an unconstitutional standardless delegation of legislative power to private citizens. *Eubank v. City of Richmond*, 226 U.S. 137, 141 (1912)

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Which procedure to apply in this case; the legal appeal system of Ordinance 2012-11 or the protest system of Ordinance 2014-14(c)(am)? The new ordinance was first adopted by the Assembly at its regular meeting of September 29, 2014 with an effective date of “30 days after current outstanding appeals are resolved”. This language was suggested by Assemblymember Troll who said she did not want to change any rules mid-stream on any appeals underway. The City Attorney noted that an unidentified pending appeal would otherwise be directly effected by the ordinance.¹⁶ At the time, this case was “the only relevant outstanding appeal” and was “understood at the time to be close to resolution” according to the Manager’s Report accompanying the ordinance when it was revisited by the Assembly at its regular meeting of April 6, 2015.¹⁷ The purpose of the revisit was to deal with the reality that this case was not, in fact, “close to resolution”, that the Commission had a new round of rezone applications coming up, and the new procedures were needed right away. Accordingly, the effective date of the April 6 ordinance was amended to the usual “30 days after its adoption.”

The Commission argues that “Although the Assembly specifically described that ordinance 2014-14 does not apply to this appeal, the protest provisions of Ordinance 2014-14 provide the proper means for the legislative body to resolve the matter.”¹⁸ Bicknell opposes this view, arguing that its appeal was filed on February 3, 2014, well before the amended effective date of May 6, 2015.¹⁹ The Commission’s argument conflates two different versions of the ordinance—one with a *Bicknell* trigger and one without—then dismisses without analysis the Assembly’s intent in the first version to protect Bicknell from a mid-stream procedural alteration. The Commission would instead apply what it regards as the more proper second version of the ordinance and thereby compel Bicknell to start all over again.

(lack of discretion in the streets committee to determine whether a building line should be established when neighbors along the street could make such determination held unconstitutional delegation of legislative authority); *Thomas Cusack Company v. City of Chicago*, et al., 242 U.S. 526 (1916) (Property owners could waive an existing prohibition on billboards); *Washington ex rel. Seattle Title Trust Company, Trustee, etc. v. Roberge, Superintendent of Building of Seattle*, 278 U.S. 116 (1928) (standardless delegation allowing neighbors to withhold consent for any or no reason is repugnant to the due process clause of the Fourteenth Amendment because it subjects one property owner to the whim and caprice of another). Under this line of cases, the distinction between “waiver” and “consent” is crucial.

¹⁶ Minutes, September 29 2014 Assembly Meeting, page 5

¹⁷ Minutes, April 6 2015 Assembly meeting, page 18

¹⁸ Planning Commission Answering Brief, page 11

¹⁹ Bicknell also resists application of the amended effective date, arguing, as did Assemblymember Kiehl at the April 6 hearing, that the amending ordinance was adopted with insufficient public notice. Bicknell Reply Brief, page 3 and footnote 9. Given my disposition of the retroactivity issue, it is not necessary to reach the notice issue, which probably turns on whether the change in effective date is a “matter of major substance” under CBJ Charter §5.3(a).

Bicknell has the better argument here, and it turns on the concept of a “retroactive”²⁰ law, a concept described by the Alaska Supreme Court:

A statute will be considered retroactive insofar as it gives to pre-enactment conduct a different legal effect from that which it would have had without passage of the statute. A statute creates this different legal effect if it would impair rights a party had when he acted, increase a party’s liability for past conduct, or impose new duties with respect to transactions already completed.²¹

In this case, Bicknell acted—applied for a rezone—well before Ordinance 2014-14(c)(am) was adopted. The ordinance would impair the appeal rights Bicknell had when it acted. Therefore, Ordinance 2014-14(c)(am) would be retroactive if applied to the current permit application.

CBJ law is silent on the subject of retroactive ordinances.²² Charter Section 5.3(b) specifies with some exceptions not relevant here that an ordinance becomes effective “at the expiration of 30 days after adoption unless a later date is specified in the ordinance”, but does not specify whether this applies to an amendment making an ordinance retroactive.

At the state level, AS 01.10.090 provides “No statute is retrospective unless expressly declared therein”, a reflection of the “undisputed proposition that all statutes are presumptively non-retroactive.”²³ CBJ lacks a similar recognition of retroactivity, but that does not mean retroactive ordinances are disallowed. Retroactive legislation is not in and of itself unconstitutional²⁴, although it can be as applied.²⁵ Some cities address the problem of retroactive land use laws and the related issues of “vested rights” by specifying in ordinance that a developer is entitled to rely on the law as it existed at the time the developer applied for a permit, the time the permit was granted, or some other point in the permitting process.²⁶ CBJ has no such provision in its land use code, but the effective date of the first version of Ordinance 2014-14 made clear that the Assembly wanted to avoid making it retroactively applicable to this case. When the amended version was before the Assembly on April 6,

²⁰ The Alaska Supreme Court uses the terms “retroactive” and “retrospective” interchangeably in this context. *Pfeiffer v. State Dept. of Health and Social Services*, 260 P.3d 1072, footnote 31 (Alaska, 2011).

²¹ *Rush v. State, Dep’t of Natural Res.*, 98 P.3d 551, 555 (Alaska 2004)

²² The CBJ land use code does address the related concept of nonconforming uses, CBJ 49.30, but that is not in issue here.

²³ *Eastwind, Inc. v. State*, 951 P.2d 844, 846 (Alaska 1997)

²⁴ *Norton v. Alcoholic Beverage Control Bd.*, 695 P.2d 1090, 1093 (Alaska 1985)

²⁵ *Pfeifer, supra.*, at footnote 19, in which the court considered whether retroactive application of a statute constituted a taking, an ex post facto law, or a denial of substantive due process.

²⁶ See the discussion at footnote 34 herein, relating to comprehensive plan retroactivity.

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there was no such express reservation, but in response to a question by Assemblymember Jones, the City Attorney responded that the change was “to make clear that the new process was in place and there were several rezoning issues before the Planning Commission, and that this ordinance would apply.”²⁷

Given the general presumption against retroactive application of laws, the Assembly’s initial effort at its September 29, 2014 meeting to preserve Bicknell’s procedural rights, and its focus at its April 6 meeting on providing new procedures for post-*Bicknell* cases, I believe the better course is to preserve Bicknell’s right to the appeal process of Ordinance 2012-11 and not send it back to the Planning Commission for proceedings under Ordinance 2014-14.²⁸

B. Changes to the Comprehensive Plan

As noted above, the CBJ adopted the 2013 “update”—document-wide review and changes—to the 2008 Comprehensive Plan while Bicknell’s rezone request was pending. The Commission approved the update on May 14, 2013. Bicknell filed for this rezone on September 18, the Assembly adopted the update as an ordinance on November 4, and it became effective on December 4.

At my request, The Statement of Issues on Appeal²⁹ includes this inquiry: “Which version of the CBJ Comprehensive Plan—2008 or 2013—applies to which issues in this case?” In its opening brief Bicknell responded that it doesn’t matter because the 2008 and 2013 versions are the same with respect to the issues in this case.³⁰

The Commission responded³¹ that the two versions are different in their description of Resource Development (the land designation applicable to the Property) but the 2008 version cannot be applied because the requested rezone has not yet been granted and therefore Bicknell has no vested right to the 2008 version. Further, says the Commission, the 2013 version cannot now be applied to

²⁷ Minutes, April 6 Assembly Meeting, page 19.

²⁸ This approach also avoids the problematic “consent” provision of Ordinance 2014-14 and preserves the Assembly’s sole authority to modify the requested rezone by, for example, disallowing Light Commercial, as the CDD staff report recommended. (Record at page 23) See footnote 15, above.

²⁹ This May 6, 2014 document is styled “Preliminary Statement of Issues on Appeal” in order to preserve the parties’ right to add or object to its contents, but they did not do so and thus it became the final Statement of Issues on Appeal.

³⁰ Bicknell Opening Brief at page 10, footnote 4.

³¹ Commission Reply Brief at page 2.

1 this legal proceeding because in its decision, the Commission applied the 2008 standards, not the
2 2013 standards and only it or the Assembly in its legislative capacity can correct this error. The Com-
3 mission concludes that Bicknell must start over.

4 TSI responded that the 2013 version should apply because “all of the issues, dates, and actions
5 in this appeal are either coincident with, or subsequent to the adoption of the 2013 Comprehensive
6 Plan...”³² TSI also argues that the 2013 version should apply because by its own terms it must be kept
7 current, because there is nothing in the record that refers to the 2008 plan, and because the 2013
8 version is the later-adopted plan.

9 Bicknell in its reply brief acknowledged the Commission’s discovery of a difference between the
10 2008 and 2013 descriptions of the RD designation and argued that the 2013 language supports rever-
11 sal of the Commission’s decision, but to the extent the 2008 version is more favorable to Bicknell, it
12 should be applied.³³

13 These arguments are variously persuasive³⁴, but not dispositive. Bicknell’s opening argument is
14 simply incorrect. As pointed out by the Commission, there is indeed a difference in language be-
15 tween the two plans. However, in my judgment there is no difference in meaning.

16 As shown below (legislative-style emphasis added) the differing language appears in Chapter 11,
17 “Comprehensive Plan Land Use Maps” in the subsection titled “Description of Land Use Categories”.
18 The 2008 version describes the Resource Development category as:

19
20
21
22 ³² TSI Answering Brief

³³ Reply Brief at page 7, footnote 9

23 ³⁴ The Commission’s reference to “vested rights” is particularly interesting. The cited authority, *Municipal-*
24 *ity of Anchorage v. Schneider*, 685 P.2d 94 (Alaska 1984), concerned an attempt by Anchorage to revoke
25 a building permit that had been issued in violation of a zoning restriction imposed by a rezone that the
26 parties were unaware of when the permit was issued. The court found that the developer had reasonably
27 relied on the permit and so Anchorage was estopped from revoking it. The instant case does not involve
28 a developer’s reliance on a mistaken permit the government has revoked, but it does involve a develop-
er’s reliance on a law that the government has changed. *Schneider* does not mention vested rights, but
the concept is commonly used by legislatures and courts for resolving these kinds of issues. The major-
ity rule is that the developer’s right to rely on a zoning standard vest only when a building permit is is-
sued. The minority rule is that rights vest when the government issues any site-specific approval such as
a preliminary plan. An emerging minority rule grants vesting as of the date the developer applies for a
permit. CBJ could adopt one of these rules by ordinance and define “vesting” along the way, saving itself
and developers much guessing. See Karen L. Crocker, *Vested Rights and Zoning: Avoiding All-or-Nothing*
Results, 43 B.C.L. Rev. 935 (2002), <http://lawdigitalcommons.bc.edu/bclr/vol43/iss4/4>

Land to be managed primarily to identify and conserve natural resources until specific land uses are identified and developed. ~~Such specific uses may include, where appropriate, resource extraction and development, recreational and visitor-oriented facilities, and residential uses.~~ The area outside the study area of this Comprehensive Plan is considered to be designated Resource Development.

The 2013 version describes the Resource Development category as:

Land to be managed primarily to identify and conserve natural resources until specific land uses are identified and developed. The area outside the study area of this Comprehensive Plan is considered to be designated Resource Development. *As resources are identified or extracted from these lands, they should be re-designated and rezoned appropriately.*

The emphasized sentences use different words but say the same thing: Resource Development land should be put to other uses when appropriate. The 2008 plan mentions several specific uses and may thereby appear to be more restrictive than the 2013 plan, but these uses are merely examples, they are not limitations. The key is the predicate phrase “may include”. This idea is often phrased as “may include but is not limited to” but the additional language is superfluous. The code, at CBJ 01.15.010, provides that “Include and including mean ‘by way of illustration only’ and shall not be interpreted as a limitation, except where expressly so provided.” The 2008 plan does not so provide, and thus its mention of recreational and visitor-oriented facilities and residential uses are by way of illustration only and other appropriate uses can be allowed, just as they can in the 2013 plan.

The 2013 plan mentions that “as resources are identified or extracted from RD lands they should be re-designated and rezoned appropriately”—a phrase not found in the 2008 version— but this language does little more than restate the first sentence and adds nothing of substance to the RD description generally, and especially as applied in this case. The first clause is in the disjunctive— identified *or* extracted—and in this case there is no doubt that this land has been identified as a gravel resource and little doubt that the gravel has been extracted.³⁵

The second clause says that lands should be appropriately re-designated and rezoned by the Assembly when appropriate, but this is true under either version of the plan: the Assembly needs no authorization to do so, certainly not from the same plan it adopted in the first place. The clause serves no better as a standard, at least in rezone cases, where the very question being presented is

³⁵ Record at page 97.

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whether it is appropriate to grant a rezone.

The new language in the 2013 version might be a useful bit of commentary, but viewing it as a requirement in need of a finding would, in this case, put the Commission in the position of saying “The applicant says that it is appropriate to rezone this gravel pit. In order to resolve this issue, we must first determine whether this gravel pit is a gravel pit and whether it is appropriate to rezone it.” This circular question does not need to be asked or answered.³⁶

The essential part of the RD description in both the 2008 and 2013 versions is the unchanged first sentence: RD land is “to be managed primarily to identify and conserve natural resources until specific land uses are identified and developed.” The changed language is just commentary; it establishes no new policies, standards, or guidelines for the Planning Commission to consider.

I conclude that for purposes of this appeal, the 2008 and 2013 comprehensive plans are the same.

III. The Planning Commission Decision

The Planning Commission has devoted a lot of time and hard work to this and the preceding case regarding the Property. At the November 26, 2013 hearing on the rezone request it heard 22 witnesses and reviewed 170 pages of material. It ran out of time to deliberate and continued the matter to December 10, when it engaged in another discussion that extends through 8 pages of the official minutes. Testimony was at times impassioned.

Unfortunately, when it came time to make a decision at the December 10 meeting, the matter suffered from a disadvantage that has plagued Planning Commission decisions through the ages: because the commissioners disagreed with the recommendation of the CDD director, they could not use his proposed findings. The director recommended granting the Industrial but not the Commercial rezone, and the Commission decided to deny both. The director had prepared a set of findings to support his recommended decision, but not any other decision. Mr. Satre, Chair of the Commission, announced that in preparation for this eventuality, he had asked a member of the staff to make available the findings of fact from the last time the issue was before the Commission as a compre-

³⁶ The logical fallacy here is *petitio principii*, (“asking for the starting point”) in which the Planning Commission would attempt to prove a proposition based on a premise that itself requires proof. The fallacy is more often known as “begging the question”.

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hensive plan map amendment and he now proposed that the Commission adopt those findings “with some wordsmithing to reflect the existing application”. Commissioner Lawfer moved “That the Commission adopt the findings as previously stated with the following changes with number four that ‘General’ be changed to ‘Light’ and that on number 10 the ‘map amendment’ is changed to say ‘there has been a significant amount of public opposition to this rezoning proposal’. It would remove ‘map amendment’ and [her] prior [form of the motion] withdrawn.” after a further amendment was defeated, the motion carried without objection.³⁷

There are two problems here. One is that a Comprehensive Plan map amendment is not the same thing as a rezone. A rezone must be “in substantial conformance with the land use maps of the comprehensive plan” CBJ 49.75.120. Although a map amendment should be in conformance with the Plan as a whole³⁸ it must necessarily be out of conformance with whatever map it is amending. Thus, findings sufficient to support a map amendment, while similar to those supporting a rezone or a rezone denial, cannot be just copied and pasted into a rezoning decision, which is what the Planning Commission did.

The second problem is that the findings in this case—copied and pasted from a hearing at which the Commission likewise rejected the staff recommendation and findings—are completely inadequate to support a map amendment, a rezone, or any other land use decision. They are not really Commission findings at all,³⁹ they are just a loose confederation of warring thoughts from individual commissioners:

1. The parcel, as it is zoned today, has development opportunities. The current zoning does not prohibit it from being used or developed. Current uses can include resource extraction, recreation, visitor-oriented, and residential uses.
2. The City has missed an opportunity by not purchasing the property to maintain the scenic and habitat values.
3. Industrial uses so close to a sensitive habitat area is a concern.
4. Light commercial is not appropriate for the area.
5. Working with the situation, we can maintain the view shed.

³⁷ Record at page 217.

³⁸ If an amendment does not conform to the plan as a whole, it could be illegal “spot zoning”. “Faced with an allegation of spot zoning, courts determine first whether the rezoning is compatible with the comprehensive plan or, where no plan exists, with surrounding uses.” *Griswold v. City of Homer*, 925 P.2d 1015, 1020 (Alaska 1996)

³⁹ They barely qualify as “written”: they are transcribed oral remarks.

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6. The Comprehensive Plan shows a need for industrial land and also shows intent to acquire the land for public purposes, for a park and viewshed protection.
7. This parcel of land is an important scenic corridor and iconic viewshed that defines the community.
8. The wetlands and the parcel have value to the community of Juneau. We can't allow further degradation of the wetlands. The loss of 39 percent of the wetlands over time, per public comment, is credible and concerning.
9. This parcel of land, as it is currently zoned has social, environmental, and financial value to future generations.
10. There has been a significant amount of public comment in opposition to this rezoning proposal. There hasn't been any public support shown for this development concept.
11. Large water fowl create safety concerns for the airport, but there is a float plane pond adjacent to the airport. And, there is a water canal system that has been developed between the airport and the airport dike trail. These water systems also attract birds and are very close to the airport.
12. The Wetlands Review Board recommended the best use of this parcel would be to restore the developed portions to their natural state and to not disturb the undeveloped area. The benefits of this approach would be to increase the safety of the airport by removing the pond that attracts large birds and also to provide additional buffer for the Mendenhall State Game Refuge.⁴⁰

CBJ 01.50.070(a)(2) provides that the hearing officer may set aside the decision being appealed if it is not supported by adequate written findings or the findings fail to inform the appeal agency of the basis upon which the decisions were made. Findings are so important that courts require them even if ordinances do not.

Although no ordinance requires the Commission to make specific findings of fact to support its conditional use decisions, we have held that zoning boards and other agencies making adjudicative decisions must articulate the reasons for their decisions. Such findings facilitate judicial review, insure careful administrative deliberation, assist the parties in preparing for review, and restrain agencies within the bounds of their jurisdiction. The test of sufficiency is thus a functional one: do the Commission's findings facilitate this court's review, assist the parties and restrain the agency within proper bounds?⁴¹

The "proper bounds" for a rezoning decision are established by CBJ 49.75.120, which is nowhere

⁴⁰ Record at pages at 225-226 (1/15/14 PC decision).

⁴¹ *South Anchorage Concerned Coalition, Inc. v. Coffey*, 862 P.2d 168, 175 (Alaska 1993)(Citations omitted)

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mentioned in the findings. The Comprehensive plan is mentioned once, in paragraph 6, where it is cited in support of industrial development. The findings are internally inconsistent, with paragraph 1 saying the Property has development opportunities as currently zoned, paragraph 6 citing a need for industrial land, and paragraph 12 promoting restoration to its natural state. Individual findings lack any clear relationship to the Property, such as paragraph 11 discussing large water fowl and airport water systems, or outside the Commission's jurisdiction, such as paragraph 2, lamenting a missed opportunity for CBJ to purchase the property, paragraph 10, citing a lack of public support for the rezone and paragraph 9, claiming that the parcel as currently zoned has financial value to future generations.

These criticisms of the findings are essentially the same as those raised by Bicknell in its opening brief. Neither the Commission nor TSI responded to this issue in their answering briefs⁴² and therefore waived any argument in defense of the findings.⁴³

I conclude that the Planning Commission findings in this case do not satisfy the requirements of CBJ 01.50.070(a)(2) and the decision is set aside. Accordingly, it is not necessary to address the other issues raised by Bicknell, with the exception of its claim that a denial of its rezone request constitutes a unconstitutional taking without just compensation. This issue may have consequences for further proceedings.

IV. Further Proceedings

The Commission's main argument is that only the Assembly can resolve this issue, and must do so in its legislative capacity by consideration of an ordinance, not in its quasi-judicial capacity by deciding this appeal. This is not a formalistic issue of which hat the Assembly should wear: there are significant differences in the procedures and criteria for an appeal and those for an ordinance. Most notably, in an appeal the Assembly is required to defer to the body below if it can. The appellate code

⁴² TSI in its answering brief was under the misapprehension that it was permitted to brief only the three questions that I asked in the February 26 Amended Pre-Hearing Order. However, that Order amended only paragraphs 5 and 8 of the May 29 Pre-Hearing Order, which referred in paragraph 2 to the Preliminary Statement of Issues on Appeal, which lists ten issues. In its brief, TSI entertained the possibility that I might consider more than the three questions and, if so, reserved the right to address them in supplemental briefing. At the hearing, after considering many more issues than three, I offered counsel for TSI the opportunity for supplemental briefing. He declined.

⁴³ *Fernandes v. Portwine*, 56 P.3d 1 at n.9 (Alaska 2002)

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at CBJ 01.50.070(a) provides that the appeal agency or the hearing officer may set aside the decision being appealed *only* if evidence, findings, or due process are inadequate. But when the Assembly considers legislation, its members are free to adopt or reject an ordinance because it is wise, because it is the least unwise alternative, because they want to be re-elected, or for any other reason that does not offend the constitution.

This primacy of the CBJ Assembly’s legislative function was affirmed by the Alaska Supreme Court in a case⁴⁴ involving Chuck Keen and his plan to acquire city land in order to build a tram. Mr. Keen claimed that CBJ was obligated by contract to convey land to him, an action that would require adoption of an ordinance.

Not only does the contract place an obligation on the city which may create conflicts of interest, but it also creates an obligation to legislate in the future. The area of zone changes, changes in street entrances, flood control, etc., are all legislative in nature. A contract which binds a legislative body, present or future, to a course of legislative action is void against public policy. The conveyance of City land can only be authorized by the Assembly. See CBJ Ordinance 53.09.200. Thus, even if Ordinance No. 85-53am constituted a contract providing that the City would both treat Keen’s tunnel claim as valuable in the future and transfer land to Keen in exchange for an agreement to abandon it, such a contract would likely be unenforceable because it requires future legislative action. That is, it would require the Assembly to agree in advance to authorize the exchange of unspecified parcels of land in the future.⁴⁵

Mount Juneau Enterprises addresses the distinction between the Assembly’s legislative function and its proprietary, not its quasi-judicial function. However, the case does make clear that zone changes are legislative, and a later case from Kenai⁴⁶ establishes that this is true for small-scale rezonings—even spot zoning— that affect the rights and liabilities of particular persons and for that reason are regarded as quasi-judicial in some other states.

Bicknell does not directly challenge the legislative status of rezones or claim that this appellate case can accomplish the rezone it seeks. It agrees that “At a minimum, the Assembly can direct the

⁴⁴ *Mount Juneau Enterprises, Inc. v. City and Borough of Juneau*, 923 P.2d 768, 776 (Alaska 1996)

⁴⁵ CBJ 01.01.020 provides that the “Code sections in history notes and cross references shall be cited by giving the title, chapter and section numbers preceded by CBJ.” The Supreme Court has never been comfortable with this form of citation and has taken to using the form “CBJ Ordinance xx.xx.xxx” This at least is better than the unfortunate “CC & BJ” it used in the otherwise judicious *Thane Neighborhood Ass’n v. City and Borough of Juneau*, 922 P.2d 901 (Alaska 1996). I suggest “CBJC”, which provides acronymical accuracy but avoids confusing code sections with ordinances, many of which are noncode or amend multiple code sections.

⁴⁶ *Cabana v. Kenai Peninsula Borough*, 21 P.3d 833 (Alaska 2001)

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Municipal Attorney to “draft an ordinance providing for the requested rezone and forward it to the Assembly for introduction” as it did in *Harris*.⁴⁷

In its briefing on this case, the Commission took the position that there is no legal remedy for a rezone denial and the current appeal is futile. Further, says the Commission, because the new language in the 2013 Comprehensive Plan imposes new standards that only the Commission can analyze, I cannot recommend reversal⁴⁸ and Bicknell’s only option is to start all over again with a new rezone request.

At the hearing, counsel for the Commission refined its position, proposing a second option: that this appeal be rejected, that the Assembly, on its own, order that the rezone be submitted to it in its legislative capacity, consistent with Ordinance 2014-14. The Assembly would then likely need the Community Development Department to draft an accompanying staff report analyzing whether the rezone is consistent with the 2013 Comprehensive Plan. In its brief and in the hearing the Commission offered to waive the limitation of CBJ 49.75.110 that rezone requests be submitted only in January and June, and the limitation of CBJ 49.75.120 that rezoning requests which are substantially the same as a rezoning request rejected within the previous 12 months shall not be considered.⁴⁹

Procedural disagreements in this case are becoming less significant. The parties agree that only way to address the merits of this rezone is to present legislation to the Assembly. The Commission acknowledges that the equities of this case warrant relief from the usual scheduling requirements. The Commission argues that the Assembly must analyze the rezone under the 2013 Comprehensive Plan, and while it cannot do so within the procedural framework of this legal appeal, it could in the legislative process, with the availability of advice from CDD.

As noted above, I think the comprehensive plan changes are more form than substance and require no revisiting of facts or analysis by CDD or the Planning Commission, especially given that the

⁴⁷ Bicknell Reply Brief at page 6. At the hearing, counsel for Bicknell explicitly confirmed that only the Assembly in its legislative capacity can accomplish a rezone.

⁴⁸ Commission Brief at page 19. At the hearing, counsel for the Commission made it clear that he was not picking on the hearing officer: the argument is that neither the HO nor the Assembly in its quasi-judicial capacity can conduct the analysis and arrive at findings under the new standard. Also, I assume that by “reversal”, the Commission means “grant the rezone request” and not “set aside for failure to provide findings.”

⁴⁹ At the hearing, neither Bicknell nor TSI responded to this second option. TSI—consistent with the terms of the order granting intervention—confined most of its argument to the importance of considering the cumulative environmental impact of development in the Mendenhall Wetlands.

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rezone requires only “substantial conformance” with the plan. But even if the 2013 plan did impose new standards, the Assembly could analyze them in its quasi-judicial role. The Commission has cited *Bolieu v. Our Lady of Compassion Care Center*⁵⁰ for the proposition that a quasi-judicial body cannot make its own factual findings.⁵¹ However, *Bolieu* was an appeal from the Alaska Workers Compensation Board to Superior Court. Unlike a court, the CBJ Assembly in its quasi-judicial role is largely unrestricted by separation of powers notions and enjoys considerable fact-finding authority courtesy of its organic legislation. The CBJ appellate code allows the Assembly to supplement the record⁵², issue subpoenas⁵³, consider depositions⁵⁴, affidavits⁵⁵ and exhibits⁵⁶, allow the cross-examination and impeachment of witnesses⁵⁷, take official notice⁵⁸, modify the decision below⁵⁹ and request a hearing officer to reconsider the proposed decision in light of new evidence raised in objections to it.⁶⁰ The Assembly’s situation is more like that in *Anchorage Board of Adjustment v. LBJ, LLC* in which the Anchorage Platting Board required a developer to improve a road, but on appeal, the Board of Adjustment reversed for lack of substantial evidence, and substituted its own judgment. On appeal to superior court, the appellant argued that the court should view the BOA decision just as the supreme court views a decision of the superior court sitting as an intermediate court: with no deference. The court disagreed, saying it owed deference to both municipal bodies and this would be true even if the two bodies came down on opposite sides of an important issue: “Given the deferential standard, it is conceivable that both decisions could be supported by substantial evidence. While courts try to be consistent in applying the standard of review, it is not always a completely straight-

⁵⁰ 983 P.2d 1270 (Alaska 1999)

⁵¹ Commission Brief at footnote 6 and again at page 19, the former citing the case as a limitation on the judiciary, the second stating that it applies to a hearing officer. At oral argument, counsel applied it to quasi-judicial bodies.

⁵² CBJ 01.50.030(f)

⁵³ CBJ 01.50.080

⁵⁴ CBJ 01.50.090

⁵⁵ CBJ 01.50.120

⁵⁶ CBJ 01.50.110(b)(2)

⁵⁷ CBJ 01.50.110(3) and (4)

⁵⁸ CBJ 01.50.130

⁵⁹ CBJ 01.50.140(a). In theory, issues and evidence not presented to the agency below cannot be raised on appeal unless it is “Newly discovered evidence which by due diligence could not have been discovered previously and disclosed during the prehearing process, and further could not have been submitted to the agency whose decision is being appealed” CBJ 01.50.110(e)(1). This somewhat porous due diligence standard is nonetheless well-suited to this case, where the new evidence in issue—the 2013 plan—became effective at the very end of the Planning Commission process.

⁶⁰ CBJ 01.50.140(c)(3)

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forward exercise.”⁶¹

Although the Assembly in its quasi-judicial capacity could consider the possible impact of the 2013 language, the disposition of this appeal as ordered by this decision does not require it to do so. The case could be returned to the Commission for better findings, including a finding about the new 2013 RD language. Whether that procedure would be subject to the old rezone-appeal procedures or the new rezone-protest procedures is unclear, but given the dubious relevance of the 2013 language there is little to gain by finding out. As stated above, the 2013 language creates no new standard implicating Planning Commission expertise. The better solution is much the same as that used by the Assembly in the *Harris* case and proposed by the Commission as its second option here: to simply set aside the Planning Commission decision and refer the matter to the Assembly in the form of an ordinance for introduction.

At the hearing, counsel for the Commission expressed some concern about the lack of cases in support a referral from a quasi-judicial body to a legislative body, and the point is well taken. However, there is no doubt that one remedy in any appeal from the Planning Commission is to send the matter back to the Planning Commission. And if, as the Commission argues in its brief, the Planning Commission is a legislative committee of the Assembly, there seems little separation-of-powers reason to deny the legislature what its committee may have. More importantly, a direct referral will serve the interests of justice. This rezone effort has required Bicknell to expend significant time and money in numerous different procedures seeking the same thing but with no clear result. It is manifest that it would work an injustice to require strict adherence to yet more such procedures when current rezone applicants enjoy direct access to the lawmaking powers of the Assembly.

01.50.260 - Relaxation of requirements. This chapter is designed to facilitate the business of the appeal agency or hearing officer, and shall be construed to secure the reasonable, speedy and inexpensive determination of every appeal. The procedural requirements of this chapter may, in the discretion of the appeal agency or hearing officer, be relaxed in any case where it is manifest to the appeal agency that a strict adherence to them will work injustice.

⁶¹ 228 P.3d 87, 89 (Alaska 2010). The case featured an ordinance not present here: AMC 21.30.190 provides that both the Platting Board and the BOA shall not be reversed except for a lack of substantial evidence.

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V. The Takings Issue

Both the federal and state constitutions prohibit the government from taking property without just compensation. The state prohibition⁶² also requires compensation when private property is “damaged”, and Bicknell correctly cites *Tlingit-Haida Regional Electrical Authority v. State*⁶³ for the proposition that Alaska thus provides broader protection to property owners. Bicknell would make the protection broad enough to require compensation in this case, but its briefing does not clearly identify the property which it believes has been taken or damaged. At the hearing, counsel for Bicknell argued that it had a very solid case for the rezone it sought and CDD staff recommended a rezone, but the Commission denied the rezone for the principal reason of keeping the Property zoned RR as a form of leverage so CBJ could acquire the Property at a depressed price and that this effect would extend to Bicknell’s efforts to market the Property to other buyers. The property that Bicknell sees taken, then, appears to be the difference in value between the Property zoned as it is and the Property zoned as Bicknell wishes it were.

Bicknell is arguing that the government can be liable for a taking when it does nothing; a calamitous rule given the nature of governments everywhere. But it conditions this argument on the premise that in this case the government *should* have done something—grant Bicknell’s rezone request—and its failure to do so is compensable.

It is true that the concept of a “taking” has evolved over the years from the notion of a physical seizure to that of a diminution of the owner’s rights and attributes of ownership. In *Anchorage v. Sandberg*⁶⁴ the Alaska Supreme Court acknowledged this evolution but cautioned against taking it too far. The case involved a developer, SD&R, who acquired several lots in an undeveloped subdivision with the intention of improving and selling them. Over several years, SD&R and the municipality engaged in a variety of actions with each other: local improvement districts, buying and selling lots with adjoining property owners, subdividing property; all circling around the possibility that the city would develop a park and associated water, sewer and road improvements in the neighborhood. The developer wound up with eight lots surrounded on three sides by municipal property designated

⁶² Alaska Const. art. I, § 18

⁶³ 15 P.3d 754 (Alaska 2001)

⁶⁴ 861 P.2d 554, 558 (Alaska 1993)

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as park land, and suggested that the city buy them. The parties entered into negotiations, and when a cash purchase became unworkable, the city suggested a land trade, but that didn't work either. Then the city initiated a petition to "re-ballot" the LID's, claiming that soil tests now showed that construction costs would be much higher than originally planned. SD&R protested, claiming that the city was attempting to walk away from the situation created by its park acquisitions. In the re-ballot, the city voted its majority interest and the new LID's were defeated. The Anchorage Assembly then abolished the earlier districts. The developer sued, claiming inverse condemnation.

The court first reiterated the factors which the court must consider in taking cases where, as here, the government has neither physically invaded the property nor denied its owner all economically feasible use of the property: (1) the character of the governmental action; (2) its economic impact and (3) its interference with reasonable investment-backed expectations. This test was a hard one for SD&R:

Government actions become "takings" under principles of inverse condemnation when a private land owner is forced to bear an unreasonable burden as a result of the government's exercise of power in the public interest.

This case involves neither a physical invasion nor even a regulation constraining SD&R's use of its property. Instead, it involves a series of municipal decisions which, indirectly, have rendered SD&R's development plans economically infeasible. To find a taking where the infringement of SD&R's property rights is so unclear, the severity of the economic impact and the reasonableness of SD&R's expectations concerning its development plans must weigh heavily in SD&R's favor.

...
This case differs significantly from [earlier regulatory takings cases] in that the municipality has never threatened or initiated condemnation proceedings. In fact, unlike the typical regulatory taking case, the municipality has never placed any direct restrictions on SD&R's right to use and develop any portion of its property. Nevertheless we recognize that it has now become economically infeasible for SD&R to develop its land in part due to the municipality's change of plans. The real question presented by this case is whether SD&R's expectations concerning its development plans were reasonable and whether those expectations should be afforded constitutional protection.

...
It is undisputed that SD&R's lots could not be developed without the approval and construction of the necessary water, sewer and road improvements. In order to find a compensable taking under [an earlier case], we would have to conclude that the Assembly's approval of the water and sewer districts constituted some kind of "guarantee" or "express promise" that the road improvement district providing access to SD & R's property would eventually be approved and constructed. There is absolutely no basis for such a conclusion.⁶⁵

⁶⁵ The court noted, at 560, that the ruling was "in the absence of a viable estoppel claim". Bicknell has not

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In this case, Bicknell has acknowledged⁶⁶ that CBJ condemnation proceedings are not a threat. The city has placed no direct restrictions on Bicknell's use of its land, other than the zoning it has always had.

Bicknell does not allege that CBJ has evidenced an unequivocal intention to take the Property, nor any evidence that the rezone was denied for the purpose of depressing its price.⁶⁷ *In Ehrlander v. Alaska Department of Transportation*⁶⁸ A property owner sought damages for a decrease in the value of his property resulting from an impending condemnation by the state. The court adopted a four-part test to determine whether the condemnation valuation date should be advanced to a time well before the impending condemnation depressed the value:

For the time of valuation to be advanced, marketability must be substantially impaired and the condemning authority must have evidenced an unequivocal intention to take the specific parcel of land. The special use of the land by the owner must be acquiring and holding the property for subsequent development and sale. Further, the owner must have taken active steps to accomplish this purpose.

Bicknell may claim that it has a very strong case for its rezone under the comprehensive plan, but a strong case is not the same as a guarantee, as every lawyer who walks the earth can tell you. It is not even a reasonable investment-backed expectation, given the language of CBJ 49.05.200:

(c) *No rights created.* The goals and policies set forth in the comprehensive plan are aspirational in nature, and are not intended to commit the City and Borough to a particular action, schedule, or methodology. Neither the comprehensive plan nor the technical appendix adopted under this section nor the amendment of either creates any right in any person to a zone change nor to any permit or other authority to make a particular use of land; neither do they constitute a regulation of land nor a reservation or dedication of privately owned land for public purpose.

claimed estoppel. The court also quoted with approval from *Habersham at Northridge v. Fulton County, Georgia*, 632 F.Supp. 815, 823-24 (N.D.Ga.1985) which held that a county zoning board's refusal to change a property's zoning from residential to commercial did not constitute a taking.

⁶⁶ Record, at page 97.

⁶⁷ At page 13 of its opening brief, Bicknell cites to pages 101 and 178 of the Record, where a member of the public argues that a rezone would increase acquisition costs, but this view should not be attributed to the Planning Commission, which avoided such speculation, as stated by Commissioner Watson, in the minutes of the December 10 meeting, "He said the Commission has an application before it, and it is charged with making a decision on land use only, not on speculative purchases. He said purchasing the land has always been the plan of Parks and Recreation, but it has never had the funds to do so. He said that is not something for the Commission to even consider at this point, since it is all hypothetical." Record, at page 213.

⁶⁸ 797 P.2d 629, 634 (Alaska 1990)

Similarly, in *Tlingit-Haida Regional Electrical Authority v. State*, cited above, an electrical utility that claimed a property right to a government certificate was denied compensation when it was revoked because the government had explicitly reserved the right to modify the certificate.

Bicknell did not have a reasonable investment-backed expectation that it would be granted a rezone, nor has it presented any evidence of extraordinary delay, bad faith, estoppel or other mitigating factors. I conclude that it has not made out a case for inverse condemnation.


VI. Proposed Findings

Pursuant to CBJ 01.50.140(a) and for the reasons set out above, the Assembly finds:

1. The decision by the Planning Commission is not supported by adequate written findings and is set aside by authority of CBJ 01.50.070. The parties will each bear their own costs.
2. Under the rule of *Harris v. Planning Commission*, in correspondence to current rezone procedures, and in the interests of justice pursuant to CBJ 01.50.260, the rezone at issue is forwarded as a legislative proposal to the Assembly. The Manager is directed to prepare and submit to the Assembly for introduction an ordinance or ordinances amending the comprehensive plan map, the zoning map, or both as necessary to accomplish the rezone as recommended by CDD staff in its memos of April 4, 2013 and November 21, 2013, which memos shall also be submitted. The Manager will make the record on appeal in this case available to the Assembly and shall include such staff reports as may be necessary or useful to advise the Assembly of facts or laws that have become relevant since the rezone application was filed.
3. This disposition of this appeal is based on the legal reasoning set out herein and implies no recommendation regarding the introduction or adoption of the legislation described above.

This proposed decision will be circulated to the parties for their review and any objections pursuant to cbj 01.50140(c). Thereafter, the decision, any objections, and my response to any objections will be forwarded to the Assembly. Unless rejected or modified by an affirmative vote of the Assembly on a motion to reject or modify, the proposed decision, as amended if such an amendment has been filed, shall be deemed adopted by the appeal agency and shall be the appeal agency decision. At that point it will be a final administrative decision of the Assembly of the City and Borough of Juneau, Alaska and may be appealed to the Juneau Superior Court, pursuant to the Alaska Rules of Court, if such appeal is filed within 30 days.

ORDERED this 19th day of August, 2015


John Corso
Hearing Officer

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BEFORE THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU
ON APPEAL FROM THE PLANNING COMMISSION

BICKNELL, INC.,)	
<i>Appellant</i>)	
)	
v.)	
)	Appeal of:
CBJ PLANNING COMMISSION,)	CDD File: AMD 2013-0015
<i>Appellee</i>)	
)	
and)	
)	
TERRITORIAL SPORTSMEN, INC.)	
<i>Appellee-Intervenor</i>)	
)	

APPELLEE CBJ PLANNING COMMISSION'S OBJECTION

The Proposed Decision was circulated to the parties on July 29, 2015. A party may file an objection within five days of distribution of the proposed decision. CBJ 01.50.140(c)(1). August 5, 2015, is five working days from the date the Proposed Decision was circulated. *See* Civil Rule 6(a).

The Commission does not object to the conclusion that the Assembly has complete discretion whether to consider a rezone ordinance. Proposed Decision pages 14-18, 22.

However, the Commission submits this objection because the Proposed Decision appears to adjudicate the merits of this case, Proposed Decision pages 3-14, without describing how this quasi-judicial body has subject matter jurisdiction. This case is governed inconsistently by Ord. 2012-11 and by CBJ 49.10.170(d), CBJ 01.50.020(a), CBJ 01.50.020(b), and CBJ 01.50.030(e)(2). As such, the Commission reiterates that the Hearing Officer lacked subject matter jurisdiction over this appeal, primarily because the relief requested was enactment of


1 legislation and only the Assembly—sitting in its legislative capacity—has authority to enact
2 legislation. Commission Opposition Brief at 10-16 and 19-20.

3
4 This appeal should be denied and the Assembly—in a separate agenda item and in its
5 legislative capacity—could decide whether to have a rezone ordinance introduced.

6 Alternatively, Bicknell would be free to file a similar rezone request consistent with CBJ
7 49.75.120 or sooner as determined by the Assembly, which would be governed by Ord. 2014-
8 14.

9 Finally, Appellant in its opening brief cited to *Bolieu v. Our Lady of Compassion Care*
10 *Center*, 983 P.2d 1270 (AK 1999), for authority. *Compare* Appellant’s Opening Brief at 5:16-18
11 *with* Proposed Decision at 17:2-7. Additionally, Appellant appears to concede that “Orders
12 based on contradictory findings are not adequate and are routinely subject to
13 vacation and remand.” Appellant’s Opening Brief at 6:22-25. The Hearing Officer has
14 discretion to determine whether these distinctions are relevant on the sub-issue of adequacy of
15 written findings. *See* Appellant’s Opening Brief at 9 (requesting reversal and implicitly
16 remand).
17
18

19 Dated this 5th day of August, 2015.

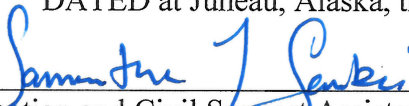
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21 By: 
22 Robert H. Palmer III,
23 *Attorney for Planning Commission*
24 Alaska Bar No. 1405032
25

CERTIFICATE OF SERVICE

I hereby certify that the foregoing CBJ Planning Commission's Objection and this Certificate of Service were served on the following parties as indicated below:

<i>For Appellants</i> Daniel Bruce, ABA #8306022 Baxter Bruce & Sullivan P.C. P.O. Box 32819 Juneau, AK 99803 (907) 789-3166, tel / (907) 789-1913, fax dbruce@baxterbrucelaw.com	<input type="checkbox"/> Legal Messenger <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> First Class Mail <input checked="" type="checkbox"/> Email
<i>Appellee-Intervenor Territorial Sportsmen, Inc</i> Bruce Weyhrauch, ABA #8706057 whyrock@gci.net	<input type="checkbox"/> Legal Messenger <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> First Class Mail <input checked="" type="checkbox"/> Email
<i>Hearing Officer</i> Mr. John Corso appeal@corso.org	<input type="checkbox"/> Legal Messenger <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> First Class Mail <input checked="" type="checkbox"/> Email
<i>Municipal Attorney for the Assembly</i> Amy Mead Amy.Mead@juneau.org	<input type="checkbox"/> Legal Messenger <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> First Class Mail <input checked="" type="checkbox"/> Email
<i>Municipal Clerk</i> City.Clerk@juneau.org	<input type="checkbox"/> Legal Messenger <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> First Class Mail <input checked="" type="checkbox"/> Email

DATED at Juneau, Alaska, this 5 day of August, 2015.


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BEFORE THE ASSEMBLY OF THE CITY & BOROUGH OF JUNEAU

ON APPEAL FROM THE PLANNING COMMISSION

BICKNELL, INC.

APPELLANT

v.

CBJ PLANNING COMMISSION

APPELLEE

AND

TERRITORIAL SPORTSMEN, INC.

APPELLEE-INTERVENOR

CCD FILE

AMD 2013 0015

**Hearing Officer's Response to
Appellee's Objection to Proposed Decision**

As required by the CBJ appellate code¹, I provided the parties with copies of the Proposed Decision for their review and comment. The Commission filed a timely Objection. The other parties did not respond. I have reconsidered the Proposed Decision in light of the Commission's Objection, have concluded that no change in the Proposed Decision should be made², and herein set forth the reason for the rejection of the Commission's Objection.

In its Objection, the Commission reiterates its argument that I³ lack subject matter jurisdiction primarily because the relief requested by Bicknell was enactment of legislation, and only the Assembly in its legislative capacity can do that. The Commission is correct to argue that this appeal cannot grant an ordinance, but incorrect to end the analysis there.

The precise relief requested by Bicknell in its Notice of Appeal is "Reversal of the Decision being appealed *and* granting of the rezone request." [emphasis added] Granting a rezone request does indeed require an ordinance, but reversing the decision being appealed does not, and is well within the

¹ CBJ 01.50.140(c)

² I did correct a typographical error, and clarified the language at page 13, line 18 to eliminate a confusing use of "required" and "requirement".

³ As noted in footnote 48 of the Proposed Decision, I assume that the Commission does not mean to raise an objection unique to the hearing officer and would likewise argue that the Assembly in its appellate capacity lacks subject matter jurisdiction.

John R. Corso
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subject matter jurisdiction of the Assembly in its appellate capacity and the derived jurisdiction of this hearing officer.⁴

The appellate code does not use the term “reversal” but does provide that the Assembly may “set aside” the decision being appealed.⁵ The Proposed Decision does just that, and for a reason—inadequate findings—that no party has contested. It is difficult to see how this constitutes, as the Objection suggests, “a decision on the merits”. Only the Assembly in its legislative capacity can make a decision on the merits of a rezone. The Proposed Decision merely resolves this appeal on procedural grounds in a “reasonable, speedy and inexpensive”⁶ manner so that the Assembly in its legislative capacity may consider the other half of Bicknell’s requested relief.

The Proposed Decision, the Commission’s Objection, and this Response shall be forwarded to the Assembly for its consideration under CBJ 01.50.140(c)(2). Unless rejected or modified by an affirmative vote of the Assembly on a motion to reject or modify, the Proposed Decision shall be deemed adopted by the Assembly and shall be the Assembly’s decision. No testimony or evidence of any nature may be received by the Assembly at the meeting at which the Proposed Decision is presented.

ORDERED this 19th day of August, 2015

John Corso
Hearing Officer



⁴ A “reversal” is not necessarily an order imposing the opposite of what was decided below. It can be an order to conduct further proceedings such as making better findings, *Elk v. McBride*, 344 P.3d 818, 826 (Alaska 2015), or it can be a method of vacating a judgment, Alaska R. Civ. P. 60(b)(5), or it can be an unexplained part of a judgment in which a lower court ruling is “reversed, vacated, and set aside”, *Matter of Mendel*, 897 P.2d 68, 77 (Alaska 1995)

⁵ CBJ 01.50.140(a) says in relevant part “A decision may affirm, modify, or set aside an agency decision in whole or in part. A decision may be to remand any issue to the agency.” The Commission asserts in its Objection at page 2, line 18 that Bicknell in its opening brief “implicitly” requested a remand, but a careful review of the cited briefing provides no support for this assertion. A better indicator is Bicknell’s explicit request in its reply brief at page 6, line 2 for precisely the relief provided by the Proposed Decision, though not, as the koan on page 9, line 15 would have it “for each of the reasons which Bicknell has stated, each of which applies to every other reason.”

⁶ CBJ 01.50.260



155 SOUTH SEWARD STREET, JUNEAU, AK 99801

2015 Senior Citizen/Disabled Veteran Exemption Manager Summary Late File Determination Review

Applicant: CONNIE NICOLLS
 Parcel ID: 4B2701020120
 Physical Address: 4235 LAKE SHORE DR
 Legal Description: LAKESHORE LT B7

Assessors Office #: APL 2015-0296

CONNIE NICOLLS applied late for the Senior Citizen/Disabled Veteran Property Exemption on JULY 23, 2015. City and Borough code places the authority for approving late claims with the Assembly:

Per 69.10.020 (C): The Assembly, for good cause shown, may waive the claimant's failure to make timely application for an Exemption under subsection (A) or CBJ 69.10.0210 and authorize the assessor to accept the application as if timely filed.

The applicant states the application was filed late due to MISUNDERSTANDING THE APPLICATION PROCESS WHEN THEY PURCHASED THEIR NEW HOME WHICH WAS FURTHER COMPLICATED BECAUSE THEY BENEFITED FROM THE SENIOR CITIZEN EXEMPTION THE PREVIOUS HOME OWNERS RECEIVED IN 2014, and has provided the attached letter providing more detail.

The assessed values for the property in question and the potential financial impact to the city are shown below:

	2015 Assessed Value	
	<i>As Shown on Tax Statement Mailed</i> July 1, 2015	<i>Financial Impact if Approved</i>
Site/Land Value	122,800	122,800
Building/Improv Value	231,100	231,100
Total Assessed Value	353,900	353,900
Exempt Total Value	-	150,000
2015 Taxable Value	353,900	203,900
2015 Tax Amount	\$ 3,807.96	\$ 2,193.96
LOSS IN REVENUE		\$ 1,614.00
Mill Rate	10.76	

Approval of this late filing would result in a loss of \$ 1,614.00 in revenue for the City.

The Assessor's Office has received the application and determined that the applicant would have qualified for the Senior Citizen/Disabled Veteran exemption had been it been filed in a timely manner.