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**THE CITY AND BOROUGH OF JUNEAU, ALASKA**

**January 7, 2008**

**MEETING NO. 2008-01:** The Regular meeting of the City and Borough of Juneau Assembly, held in the Assembly Chambers of the Municipal Building, was called to order at 7 p.m. by Mayor Bruce Botelho.

**I. FLAG SALUTE** was led by Mayor Bruce Botelho.

**II. ROLL CALL**

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

Assembly Absent: None.

Staff Present: Rod Swope, City Manager; John Hartle, City Attorney; Kim Kiefer, Deputy City Manager; Laurie Sica, Municipal Clerk; Craig Duncan, Finance Director; Roger Healy, Engineering Director; Marc Matsil, Parks and Recreation Director; Dale Pernula, Community Development Director; John Stone, Port Director; Heather Marlow, Lands and Resources Manager; Barbara Berg, Library Director; Kristie West, Zach Gordon Youth Center Manager.

**III. SPECIAL ORDER OF BUSINESS**

**A. Employee Recognition**

Finance Director Craig Duncan recognized Michael Kirchner and Debbie Johnson of the Treasury Division for their vigilance in identifying and apprehending a counterfeit CBJ check that had been forged and run through the bank in the amount of \$48,000.00. Their quick action saved the city from a potential loss of a considerable amount of money.

**IV. APPROVAL OF MINUTES**

**A. November 29, 2007 – Special Assembly Meeting 2007-29**

Mayor Botelho noted a correction on page 7, 4<sup>th</sup> paragraph, from “understand” to “understood.” Mr. Doll noted a correction to add the word “proposals” on page 7, 9<sup>th</sup> paragraph, after the word “receiving.”

Hearing no objections, the minutes of the November 29, 2007, Special Assembly Meeting 2007-29 were approved as corrected.

**B. December 12, 2007 - Special Meeting 2007-31**

Hearing no objections, the minutes of the December 12, 2007, Special Assembly Meeting 2007-31 were approved.

**C. December 17, 2007 – Regular Meeting 2007-32**

Hearing no objections, the minutes of the December 17, 2007, Regular Assembly Meeting 2007-32 were approved.

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

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

*Danny Fenn*, Mendenhall Valley resident, took up reading from Micah, Chapter 4, where she had left off from the last meeting.

## VII. CONSENT AGENDA

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

The public requested that Resolution 2423(b) be removed for public hearing.

### B. Assembly Requests for Consent Agenda Changes

### C. Assembly Action

*MOTION*, by *Wanamaker*, to adopt the consent agenda, with the removal of Resolution 2423(b), and he asked for unanimous consent. Hearing no objection, it was so ordered.

#### 1. Ordinances for Introduction

##### a. Ordinance 2008-01

#### **An Ordinance Relating To Traffic Impact Analysis Under The Land Use Code.**

Administrative Report: Attached. The manager recommended Ordinance 2008-01 be introduced and set for public hearing at the next regular Assembly meeting.

#### 2. Resolutions

##### a. Resolution 2434

#### **A Resolution Expressing Assembly Support For The Alaska Municipal League's Proposed Approach To PERS And TRS Funding.**

Administrative Report: Attached. The manager recommended Resolution 2434 be adopted.

#### 3. Transfers

##### a. Transfer T-869

#### **Transferring \$6,294,753 From Districtwide Major Maintenance To Two Projects: Glacier Valley Renovation And Harborview Elementary Renovation.**

Administrative Report: Attached. The manager recommended this transfer be approved.

Removed from the consent agenda:

##### Resolution 2423(b)

#### **A Resolution Extending The Sunset Date On The Port Development Fee On Vessels Carrying Passengers For Compensation, And Repealing Resolution 2294(b) am.**

Administrative Report: Attached. Mr. Hartle, Page 2, Section 2, place a period after the word "exist" and delete the remaining words. This word change was directed by the Finance Committee and was an error in drafting. There was no objection to Mr. Hartle's correction. The manager recommended Resolution 2423(b) be adopted, as amended.

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## Public Comment:

*Don Habeger*, Mendenhall Valley, referred to his letter to the Assembly dated January 4, 2007. He asked if the harbors regulations were related and if he should divide his testimony. Mayor Botelho asked him to do so. He clarified that his letter was addressed from Royal Caribbean and Celebrity Cruises, however, he had checked with his colleagues in the industry about his comments, and all, including John Hanson of the Northwest Cruise Association supported his comments. They support the \$3.00 fee. No specific new dock project is planned now and part of the \$3 was forward funding for that project. That funding should be considered in the port fee regulations which were on the agenda later in the meeting. We believe this is adequate for the coming season. We hope to be included in the discussion on how to move the issues forward.

Mr. Dybdahl asked if he saw the \$3 as being authorized for existing maintenance to existing docks downtown. Mr. Habeger said he viewed this \$3 fee to be in harmony with any project that was in the waterfront plan.

Mr. Anderson asked if the use would be directed to specified docks. Mr. Habeger said yes, with a caveat. There were some passengers that would pay this fee that would be going to a private facility, and in that context we need to make sure that whatever that proportion is, private/public, does not overlap. If it was a public project we are going to use money for, we may want to make sure we use public revenues or have some correlation.

Mr. Doll asked if Mr. Habeger thought private docks would be funded through this fee. Mr. Habeger said no. He said that the Assembly, when spending these revenues, needed to consider that this fee is collected from users of private docks, and those people would oppose the use of their portion of the fee going into a project that only benefited public users of the dock. By public he meant those industry users which tied up and used public docks should only receive benefit of their portion of the fee.

Mr. Doll asked if Mr. Habeger was suggesting exempting users of private docks from these fees.

Mr. Habeger said if there was deterioration in the Alaska steamship dock and cruise ship terminal of batter piles, it could be said the sole beneficiary of an upgrade belonged to the cruise ship which was docked near that dock. A company or line that docked at a private facility might consider it inappropriate for public funds going to that sole beneficiary of that city dock that only benefited a particular line. Another example would be using public funds from these revenues to re-build a bulkhead, such as the Tramway bulkhead. That benefits all users as all use the parking lot, so the correlation could be made. The industry had discussed this issue and it ought to be part of the process.

Mr. Anderson asked Mr. Habeger if he had any wording change suggestions for this resolution. Mr. Anderson referred to section I.C. 4. Mr. Habeger said he thought the wording was broad enough to address numerous projects on the waterfront. We still need to address new infrastructure and we do not know where this will end up. There is concern about the "Concept 15" dock regarding congestion, chopping up the harbor and traffic flow into the Franklin Dock and we can't support that project at this time.

*Andrew Green*, Mendenhall Valley, submitted his comments in writing, as the Port Manager for Cruise Line Agencies of Alaska. He has worked with the harbor board and city government on future projects for port development and was disappointed that the first formal interaction was tonight's proposals to increase port dues in the amount of \$3 million in 2008 and a 6 times increase in the port development fee. Industry understood the needs for maintenance and forward funding for development, however, they felt that the issue was one of a cart before the horse. He could not tell his principles the legitimate need for the funds. He said a memo to the Marine Passenger Fee Committee of February 2007 showed there was \$10.4 million in unexpended or unencumbered proceeds in reserve. In addition the

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another \$8 million collected in passenger fees in 2007 that had not been appropriated by the Assembly. Docks and Harbors had some reserves collected from the port maintenance fee. The cruise industry was not opposed to future funding of a port development project and there may be a need to increase port fees to some extent, but existing revenues could and should be used for port development and maintenance. He looks forward to working together with the city on port planning.

Mr. Green said he was also the Dock Master of AJ Juneau Dock LLC, the newer private dock in town. The owners and operators of that facility asked him to convey their concern of legal liability to the city of collecting a fee at a private facility and then using those revenues from private dock passengers to fund a project that could compete with their private facility.

Mr. Dybdahl said he had heard everything from \$12– 18 million in needed maintenance work for existing docks, whether or not there was a proposed new docking scheme on the horizon. He asked if Mr. Green understands that these funds could be used for those purposes. Mr. Green said yes, and to date, the port development fees had not been used for maintenance. The port maintenance fee had been used, which was a \$.05.5 per ton assessed to the ships which used the city facility. Mr. Green said he thought the port development fee could be used for maintenance, as well as the \$5 passenger fee.

Reed Stoops, Downtown Juneau, of Franklin Dock Enterprises, said he agreed with Mr. Green and Mr. Habeger, regarding concerns about continuation about port dues. These fees were originally established by the Assembly to fund the Marine Park addition. The predominant fee was on the users of the municipal dock, but by virtue of an agreement with the industry, there was general agreement that a smaller fee be assessed to the private docks. He asked the Assembly to go back to that methodology, whereby a project is first chosen to be funded with port dues, and then establish a fair allocation of fees in order to accomplish the project. The action before the Assembly tonight establishes a fee without establishing a project. It also applies equal fees to the public and private docks, which creates some legal issues. They have a legal memorandum prepared by Jim Reeves of Dorsey/Whitney, that Mr. Hartle has a copy of, that expresses the industry view that port dues collected from the private docks have to be spent in a way that is reasonably related to the impacts from those private docks. If port dues collected from private docks end up going toward constructing a new downtown dock that would create legal jeopardy by the city. If this fee is adopted this evening, be aware of how the project funds are spent.

Mr. Dybdahl asked what type of projects Mr. Stoops saw as appropriate. Mr. Stoops said perhaps a restroom facility somewhere in the vicinity of the private docks, a seawalk project near the private docks, possibly power facilities near private docks, as long as there was a reasonable nexus.

Mr. Doll asked Mr. Stoops if he was suggesting that the Assembly adopt the fee schedule and then deal with any difficulties in the future. Mr. Stoops said his recommendation was to not adopt, but first choose the project and fund it appropriately, or to adopt it and only collect it from public docks if used for new development or keep very good track of the expenditures.

Larry Johanson, West Juneau, represented Cruise West, and said that small ship operators should be viewed differently from the large ships. When the port development fee was proposed to be extended, it was tied to a project that directly benefited only the large cruise ships. Cruise West paid on average \$44 per passenger in taxes to Juneau and those taxes are clearly outlined – there are direct benefits from airport taxes in the form of airport improvements, bed tax revenue goes to marketing Juneau and sales tax goes to street improvements, which all directly benefit small ship passengers. The port development fee was very cloudy for use. Projects proposed by the NWCA do not necessarily benefit small ship operators. If there is an identified need for a service or an asset that would benefit us, we could reexamine the port development fee at that time and if it was determined beneficial, we would not have a problem being part of the fee paying businesses. As it is now, the port development plan did not make sense for small ship operators. They asked that the resolution be amended in section 1.B, exemptions, 1., the wording be changed to exempt vessels that are less than 100 tons.

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Mr. Wanamaker asked how many companies this might apply to. Mr. Johansen said Cruise West was the largest with eight tour ships, Lindblad had a couple, Safari Cruises brought in a few with 12–24 passengers.

Assembly Action:

*MOTION, by Wanamaker, Resolution 2423(b) as corrected on page 2, deleting all language after the word “exist” on the third line, for purposes of discussion.*

Mr. Wanamaker asked Mr. Hartle why there was a 12 person definition in the exemption section B.1. Mr. Hartle said he was not sure of the reason for setting this exemption by passenger instead of tonnage – it was a policy call of the Assembly. Mr. Wanamaker asked if there were any legal prohibitions to exempting the ships under 100 tons. Mr. Hartle suggested that it was perhaps to match the wording in the marine passenger fee. Mr. John Stone said such a change to the exemption would not cause a problem and might ease administration. The exempted ships were a small percentage of the fees collected.

Mr. Anderson said it was still a question of how the money would be used. He could see a number of projects that would benefit the large and small ships alike, and some projects that would only benefit the public docks.

*MOTION, by Anderson, to amend, section 1.C.4., to add an additional sentence that says “it is also the intent of the assembly that any project paid for from the port development fund shall benefit all payers of the fee.”*

Mr. Bush said that with this, no project could be implemented that would not benefit all users, and wondered if any project could benefit all users. He suggested that with an improvement to Marine Park, which would seem to benefit all users that an argument could still be made that users of private docks would not benefit. The seawalk project might hear arguments that the portion of the seawalk being developed would benefit one user more than another, if not to the exclusion of another, and therefore, he thought the language problematic.

Mr. Anderson said he refrained from saying “directly benefit.” He thought Marine Park improvements would benefit all, even if indirectly.

Ms. Chambers asked how the amendment could address the proportional concerns of the expenses. Mr. Anderson said it did not.

Mr. Wanamaker said that the amendment arose out of the private sectors and public sectors of the waterfront, he asked Mr. Hartle what his initial thought was on the propriety and legitimacy of Mr. Stoop’s concerns. Mr. Hartle said he had not read the Jim Reeves memo in a while, but he generally agreed with it. Collecting \$3 from all docks was not illegal, or he would have recommended against it. It should be the intent of the Assembly to benefit the users that pay for the fee. He said the Assembly was looking to balance a set of projects, rather than having each project benefit all payers.

Mr. Anderson asked if Mr. Hartle had a recommendation to address Mr. Anderson’s concern.

Mayor Botelho requested a 5 minute recess.

*MOTION, by Anderson, to substitute the words in his amendment, “any project,” with “the projects.”*

Mr. Doll objected. He said it seemed that the Assembly was trying to dress up an ugly date. There was no agreement of the users of the port of how this fee will benefit them and no understanding on the part

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of the public of what this money will be used for. Waterfront development is a contentious issue. This is not ready for assembly action and he will not support the resolution overall.

Roll call:

Aye: Anderson, Bush, Chambers, Dybdahl, Sanford, Stone, Botelho.

Nay: Doll, Wanamaker

Motion passed, 7 ayes, 2 nays.

*MOTION, by Sanford, to amend Resolution 2423(b) at Section 1. (b). 1., to delete the words "vessels having accommodations for 12 or fewer passengers, and inserting the words "Vessels under 200 tons;"*

Mr. Sanford said he had reviewed this with harbors, and they were satisfied with this amendment, which made collection issues simplified.

Hearing no objection, the motion to amend was passed.

Ms. Chambers asked about the effect of delaying adoption of this resolution. Mr. Swope said it would postpone the collection of the fees based on the sunset date.

Mr. Wanamaker, asked staff if funds collected could be used for port maintenance. Mr. Swope said that the cruise ship representatives present did not object and staff agreed that this was an appropriate use.

Mr. Wanamaker said the statement had been made that the funds were being collected without an identified project in mind. What projects did the staff have in mind for these funds. Mr. John Stone said the waterfront plan was the guide, and totaled several hundred million dollars worth of projects. The fees were collected each year and the projects competed for these funds and could be easily used on planned port projects. Regarding port maintenance, \$15 million was needed at a minimum, and if a port development project was chosen, several million more for a new dock either at existing location or at the Gold Creek area.

Ms. Chambers said \$18 million was collected but unexpended – what were those funds for. Mr. Swope said \$8 million had been collected but not spent of Marine Passenger fees, and a large majority of that was money set aside for the seawalk. We intend to design and construct the seawalk, however, the money was not yet spent on that project. The second item was land acquisition, which was setting aside money for possible purchase of the wharf building or any future acquisition of property along the waterfront that became available to enable the waterfront plan to move forward. Funds were identified for purposes based on the waterfront plan.

Mr. Dybdahl supported the resolution and supported the use of the funds for existing maintenance needs.

Mr. Wanamaker asked what could be the positive and negative consequences of delay and of sitting down with industry to review the proposed projects if the funding source were to be implemented.

Mr. John Stone said billing needed to be in effect the first day of the season if this was to go forward. Providing as much notice as possible was necessary for the industry to know this is coming. No funds are needed immediately, but any loss of funds next summer would delay many projects. Mr. Swope agreed with Mr. Stone.

Ms. Chambers asked what the process was to date in working with the industry on development of Res. 2423(b). Mr. Swope said this was distributed to the Northwest Cruise Association (NWCA) and they had had an opportunity to comment back. This was developed originally for the steamship dock/marine park project. We have been collecting funds from this source for the project which has been completed. He spoke with NWCA for their input on projects to be used with these funds.

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Ms. Chambers said this resolution was built upon a specific project, however, we are now trying to apply it without a specific project. This was her concern.

Mayor Botelho asked Mr. John Stone to refresh the Assembly on the progress regarding their discussions with industry regarding this fee since last February, which we understood was the urgent need from industry standpoint to anticipate the arrival of panamax vessels. Mr. Stone said the genesis of this was looking for the improvements “out front” and it sounds like that may not be on the front burner, but everyone understands there is a project looming, at a cost of far more than what we are talking about collecting here in the next few years.

Roll call:

Aye: Anderson, Bush, Dybdahl, Sanford, Stone, Botelho

Nay: Chambers, Doll, Wanamaker

Motion passed, 6 ayes, 3 nays.

The meeting recessed at 8:08 – 8:15 p.m.

## **VIII. PUBLIC HEARING**

A. Ordinance 2007-62

**An Ordinance Authorizing The Port Director To Negotiate And Execute A Tidelands Lease Within Alaska Tidelands Survey No. 1347, For Operation And Maintenance Of A Dock And Breakwater At Yankee Cove.**

Mr. Wanamaker declared a conflict of interest as a board member of Goldbelt, which is a competitor with the dock project. There was not objection and Mr. Wanamaker stepped away from the meeting.

Administrative Report: Attached. The manager recommended Ordinance 2007-62 be adopted.

Public Comment: None.

Assembly Action:

*MOTION, by Stone, to adopt Ordinance 2007-62. Hearing no objection, Ordinance 2007-62 was adopted.*

Mr. Wanamaker rejoined the meeting.

B. Ordinance 2007-21(AJ)

**An Ordinance Appropriating To The Manager The Sum Of \$300,000 As Funding To Develop The North Lemon Creek Gravel Source, Funding Provided By Lands Fund Balance.**

Administrative Report: Attached. The manager recommended Ordinance 2007-21(AJ) be adopted.

Public Comment: None.

Assembly Action:

*MOTION, by Chambers, to adopt Ordinance 2007-21(AJ), for purposes of discussion.*

Ms. Chambers asked about the life of this gravel source. Heather Marlow said the existing pit has 1-2 years of gravel extraction left. This future source would have a 20 – 30 year supply. Ms. Marlow said there was some confusion regarding the names of the parcels in this area, but this area proposed as North Lemon Creek is north of the bridge and is a section of the area being proposed to come

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Mr. Anderson asked if this expenditure depleted the Lands Fund. Ms. Marlow said yes, the funds would be recharged from the Lena land sale, the parking lease from the armory project, refunds from JPD for the impound lot, and her staff was working to develop steady revenue flows.

Hearing no objection, Ordinance 2007-21(AJ) was adopted.

C. Ordinance 2007-21(AL)

**An Ordinance Appropriating To The Manager The Sum Of \$20,000 As Funding For The Replacement Of Upholstered Chairs At The Downtown Branch Of The City And Borough Of Juneau Library, Funding Provided By The Library Endowment Fund.**

Administrative Report: Attached. The manager recommended Ordinance 2007-21(AL) be adopted.

Public Comment: None.

Assembly Action:

*MOTION*, by Sanford, to adopt Ordinance 2007-21(AL), and he asked for unanimous consent. Hearing no objection, Ordinance 2007-21(AL) was adopted.

D. Ordinance 2007-21(AM)

**An Ordinance Appropriating To The Manager The Sum Of \$3,400,000 As Partial Funding For The Replacement Of The City And Borough Of Juneau's Core Financial System, Funding Provided By Lease Proceeds.**

Administrative Report:

Kim Kiefer said this ordinance would provide an additional \$3.4 million in funding for the core software replacement CIP PRISM project-Providing Reliable Information Systems Management. The funding for this increase would be provided through our master lease arrangement with Key Bank. If approved we are planning on entering into a 7-year lease resulting in annual lease payments of approximately \$550,000. We propose the funding to pay the annual lease payments to be included as an item in the six-year CIP program.

The Assembly previously provided \$1.7 million in funding. The additional \$3.4 million in funding, this request, will bring the project total to \$5.1 million. This budget is based on costs from the two software companies we are in current contract negotiations with. If the contract negotiations are not fruitful, the project budget will likely change. The current project budget has a 5% contingency fund

This project is unlike any other CIP project. It is really a project made up of many smaller projects or software modules. Each module, currently 19, needs to be configured, tested, and staff training provided before it can go live. The software company and CBJ staff will work closely together on each module to prepare it for go live.

CBJ has contracted with a Washington firm, PTI Management Consultants, since November 2005. PTI's mission is to help the public sector plan effective technology strategies and solutions. They specialize in strategic IT planning, procurement assistance services, system selection and implementation oversight. PTI has assisted CBJ with the system selection including identification of software systems that would meet CBJ's needs, set up scripted demos, provided quality assurance for the fit analysis, and are currently working with the CBJ on contract negotiations. PTI will be providing Quality Assurance for CBJ throughout the software implementation.

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The PRISM project will allow CBJ to document internal work processes that will assist with CBJ knowledge transfer, electronic permitting for some permits, provide up to date information to the Assembly and public in a timelier manner, and implement electronic payment options for the public 24/7.

Ms. Kiefer recommended Ordinance 2007-21(AM) be adopted.

Public Comment: None.

Assembly Action:

*MOTION, by Anderson, to adopt Ordinance 2007-21(AM).*

Mr. Anderson asked how the “Master Lease Arrangement” worked. Mr. Duncan said the city, through the RFP process, solicited a vendor to provide leasing to the city over a specific time period. Leasing terms are in place already and this provides a lower lease rate, which was now approximately 4%. Mr. Duncan said there were two types of leases – lease and return, and lease and purchase. This allowed the city to lease and purchase this system over multiple years.

Hearing no objection, Ordinance 2007-21(AM) was adopted.

E. Ordinance 2007-21(AN)

**An Ordinance Appropriating To The Manager The Sum Of \$4,500 As Funding For Zach Gordon Youth Center’s Healthy Community Bike Program, Funding Provided By The Southeast Regional Health Consortium.**

Administrative Report: Attached. The manager recommended Ordinance 2007-21(AN) be adopted.

Public Comment: None.

Assembly Action:

*MOTION, by Sanford, to adopt Ordinance 2007-21(AN), and he asked for unanimous consent. Hearing no objection, Ordinance 2007-21(AN) was adopted.*

### **IX. UNFINISHED BUSINESS**

#### **A. Solid Waste Management Plan**

Mayor Botelho said the Assembly previously acted in a special meeting on November 29, 2007, to adopt recommendations and a motion made by Mr. Doll. Mr. Wanamaker gave timely notice of reconsideration and it was reconsidered at the last meeting on December 17, at which time the Assembly agreed to place the matter under unfinished business. Mayor Botelho said this could be treated as if the motion was before the Assembly.

Mr. Wanamaker said he had distributed proposed amendments to the solid waste strategy proposed by Mr. Doll.

Mayor Botelho asked if there were any parts of Mr. Wanamaker’s motion that the Assembly specifically questioned. Mr. Doll objected to all of the amendments.

*MOTION, by Wanamaker, to adopt Mr. Doll’s Proposed Assembly Action on Solid Waste Strategy, for purpose of amendment.*

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*MOTION, by Wanamaker, to amend item 2, "Hire solid waste coordinator;" to read "The Manager prepare a position description, schedule and recommendation as to hiring a solid waste coordinator."*

Mr. Wanamaker said the purpose of this amendment and all the other amendments was to give the public the confidence that the Assembly was thoroughly reviewing the issue and that we are looking at alternatives that are well thought out and that provide us with both private and government alternatives that develop cost effective solutions for the community's solid waste strategy and recycling efforts, and that they avoid unnecessary growth in government services and government itself.

Mr. Anderson said it was not the Assembly's purview to review position descriptions. The Assembly review stated the policy, but did not manage the implementation. Mr. Bush agreed with Mr. Anderson and the original language to hire a solid waste coordinator was sufficient. It is not appropriate for us to modify this or any other strategy.

Mr. Doll said unless we obtain this expertise, very little in the way of recycling or negotiations with Arrow or Waste Management will be possible. One reason we haven't done much in this area is that we have not had this knowledge or expertise. I hope to keep this direction, unless the manager has some other recommendation.

Mr. Sanford would like to know the costs and would like to evaluate this in the coming budget sessions.

Mr. Swope said this position would be an increment and presented to the Finance Committee during discussions on the budget. We are looking at the options, whether it is a contract or a hired position.

Roll call:

Aye: Chambers, Dybdahl, Sanford, Wanamaker

Nay: Anderson, Bush, Doll, Stone, Botelho

Motion failed, 4 ayes, 5 nays.

*MOTION, by Wanamaker, to change Item 6 from "Identify alternatives for Multipurpose Materials Recovery Facility (MREF) to read, "Identify private industry and municipal alternatives..."*

Mr. Wanamaker said this expands the options the Assembly can choose from the most cost effective ways to better serve the public. Mr. Stone said that the Solid Waste Committee always assumed this would be handled by private enterprise. Mr. Wanamaker said it ends up looking like a large government program, and he wanted the public to know that we are looking at a wide range of solutions to benefit the community.

Roll call:

Aye: Anderson, Bush, Chambers, Doll, Sanford, Stone, Wanamaker, Botelho

Nay: Dybdahl

Motion passed, 8 ayes, 1 nay.

*MOTION, by Wanamaker, to change Item 7 from "Design and implement residential refuse collection with variable rates" to read "Research and recommend residential refuse collection with variable rates"*

Mr. Bush said it sounds like we are trying to stall this program. It has to come back to the Assembly for review and approval. He wanted it to read that the Assembly intended for this to happen. Mr. Doll said this item was the most widely endorsed issue. The intention was to get on with the program and to sustain momentum.

Mr. Sanford said the public supported some type of recycling program, but we haven't told them what the cost will be. If it is only \$2 more that may be fine, but if it ends up 10 – 20 times more, we need to get public input.

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Mr. Doll said that he has no doubt that the manager would do what Mr. Sanford recommends and the Assembly will review the decision.

Roll call:

Aye: Chambers, Sanford, Wanamaker

Nay: Anderson, Bush, Doll, Dybdahl, Stone, Botelho

Motion failed, 3 ayes, 6 nays.

*MOTION, by Wanamaker, to amend item #8 "Design and construct MRF" to read, "Prepare private industry and municipal alternatives for the design, construction and operation of a Materials Recovery Facility"*

Hearing no objection, the amendment passed.

*MOTION, by Wanamaker, to amend item #9 "Design and implement Promotion, Education and Outreach (PEO) plan;" to read "Design and recommend..."*

Roll call:

Aye: Chambers, Doll, Dybdahl, Sanford, Stone, Wanamaker, Botelho

Nay: Anderson, Bush,

Motion passed, 7 ayes, 2 nays.

*MOTION, by Wanamaker, to amend item #10 "Design and implement residential recycling collection service" to read "Design and recommend..."*

Roll call:

Aye: Chambers, Dybdahl, Sanford, Stone, Wanamaker,

Nay: Anderson, Bush, Doll, Botelho

Motion passed, 5 ayes, 4 nays.

*MOTION, by Wanamaker, to amend item #11 "Design and implement commercial/institutional recycling collection service; and" to read, "Design and recommend..."*

Roll call:

Aye: Chambers, Dybdahl, Sanford, Stone, Wanamaker,

Nay: Anderson, Bush, Doll, Botelho

Motion passed, 5 ayes, 4 nays.

*MOTION, by Wanamaker, to amend item #12 "Adopt recycling standards for designated construction and demolition projects" to read, "Recommend recycling standards..."*

Mr. Bush said standards were standards, we don't recommend them, and they are either regulations or ordinances. Mr. Hartle said they could be either.

Mr. Wanamaker said there could be cost differences between different levels of standards and our support may be based on those standards that we recommend.

Mr. Bush said he agreed with Mr. Wanamaker, however, by leaving it the way it was, staff could bring it to us in any manner, by changing this we are making this potentially more difficult by forcing an ordinance on this.

Mr. Wanamaker asked for staff opinion. Mr. Swope noted item (b) in the recommendation which stated "direct the consultants to work with CBJ staff and the Solid Waste Working Group to re-evaluate and further delineate the activities, steps and timelines for each recommendation." All steps would be reviewed by staff, the solid waste working group, consultants and the Assembly.

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Roll call:

Aye: Chambers, Dybdahl, Sanford, Stone, Wanamaker,

Nay: Anderson, Bush, Doll, Botelho

Motion passed, 5 ayes, 4 nays.

Hearing no objection, the motion to adopt a Solid Waste Strategy was adopted as amended.

## **X. NEW BUSINESS**

A. Regulations – Docks and Harbors

### **Waterfront Sales Permit**

Administrative Report: Attached.

Public Comment: None.

Assembly Action:

MOTION, by Dybdahl, for orders of the day. Hearing no objection, so ordered.

B. Regulations – Docks and Harbors

### **Port Improvement Fee**

Mr. Stone said he had a conflict in that he is a stockholder of a company that has an interest in a private dock and said he asked to be excused. Hearing no objection, Mr. Stone stepped away from the meeting.

Administrative Report: Attached.

Mayor Botelho noted a correction in the dates outlined in the regulations on page 2, section 2(e), to read 2009 instead of 2008.

Public Comment:

Don Habeger, said he was opposed to this fee. The reasons he and his colleagues in the Northwest Cruise Ship Association disagree is that regarding the dock development plans, the growth patterns projected are not there, there is no clear pathway to a new development project, there are numerous revenue streams currently adequate to sustain maintenance and projects deemed worthy by the CBJ. Until such time as a new project is identified with industry and community support, they opposed additional fees over those they paid in 2007.

Larry Spencer, Downtown Juneau, representing the Downtown Business Association Board of Directors, said the DBA Board had long supported a downtown dock extension. He introduced Board Members Josh Adams, Paul Thomas and his son Cole Thomas, and Ann House, President. They all support this project, and thanked the Assembly for the public/private partnership in the economic development in the downtown historic commercial district for over 30 years. He mentioned street improvements, Marine Park, waterfront land acquisitions, and construction of the deckover. The increase in the property tax on the uplands had been substantial, and generated substantial benefits to the city. Two public docks are vital to downtown. We have a compact and vital downtown. He talked about the improvements to most of the buildings downtown since the late 70's and referred to the prior dilapidated state of his own Senate Building and many other buildings downtown. The continued improvements downtown take faith and investment by the leadership of the city. Failure to maintain, update and improve downtown docks will be detrimental to the community and downtown businesses. The dock extensions provide local union jobs, access by small businesses, city port revenue.

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security on the public docks and provides a vital 1200 ft. seawalk link to the public that would be eventually closed for security purposes otherwise. Honor the Waterfront Plan which was developed through public input and proceed with forward funding the dock extension and maintenance projects. This dock extension project is ready to proceed. The revenue stream needs to be there to continue the project and prove its economic viability.

Mr. Doll said it was curious, and asked how was the Assembly to adjudicate between private cruise docks and the Downtown Business Association. Mr. Spencer said there was a long 30 year tradition to honor past Assembly actions and we are continuing along that course. There is a commitment to a historic downtown, it has been endorsed by the public as well as the business community, by the waterfront plan, the comprehensive plan, and there is a project that has been funded through a preliminary design and at some point the talk needs to stop and the building needed to begin.

Josh Adams, General Manager of the Alaska Hotel, supported Larry Spencer's comments and encouraged the assembly to build the new dock.

Mr. Anderson asked Mr. Adams if he was aware that passage of this regulation had nothing to do with what the money would be spent on. Mr. Adams said yes.

Mr. Doll asked if Mr. Adams was equating the passage of this action to the equivalent of voting for the dock extension. Mr. Spencer and Mr. Adams said that they knew this was not a vote by the Assembly for the dock extension, but this provided forward funding so the Assembly would have adequate funds for dock maintenance and dock extensions both which were to address economic and physical obsolescence.

### Assembly Action:

*MOTION, by Wanamaker, to return the regulations to the Docks and Harbors Board.*

Mr. Wanamaker said that the Assembly did not have the figures to support the growth that the fees indicate, and due to the uncertainty of the Hawaiian issue, this may not serve us well. He does not want to collect fees and forward fund a project which we do not know what it will be.

Mr. Bush said the Lands Committee met and heard that whether or not the Gold Creek project went forward, the minimum repair bill on the downtown docks was between \$15 – 18 million and these regulations were a funding source for those repairs. It would be a mistake not to approve the regulations.

Mr. Doll said he has heard "Gold Creek Dock," "dock extension" and "dock repairs." He was not sure what his vote was supporting.

Mr. Bush said the Assembly had not made any new decisions on a Gold Creek project. The Assembly needs to review this issue again, as many projects in this area are dependent on what the city's stand will be on this area. Some project, either at Gold Creek, or the downtown dock, or the repair of the downtown dock, needs to happen. In any case, \$15 million or more needs to be spent on the downtown docks and addresses the needs.

Mr. Dybdahl said that Resolution 2423(b) funds could be used for maintenance of docks. He does not support this fee now, as we don't know what project we are funding. The floating dock concept would cost \$40 – 50 million to gain 200 feet of dock, and to cause increased congestion in the area. We need to look at other possibilities. We are just creating a savings account. We can bond as long as we guarantee a funding stream and we need a by-in from the cruise ship industry.

Mayor Botelho asked Mr. John Stone to speak. He asked if these regulations only applied to those ships which used the public docks, unlike the previous resolution which applied to all ships.

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Mr. Stone said that was correct. He asked Mr. Stone to comment on the need for funds. Mr. Stone said the board had done a thorough study of the harbor assets and knew what needed replacement and maintenance. This fee was to establish a replacement reserve to address maintenance and replacement of the cruise ship docks to have money for these projects. The replacement value of the assets downtown is over \$100 million. The enterprise fund reserve was now between \$1 – 2 million. Based on the condition of the assets we have, the board does not think this is prudent. Knowing we need to invest at least \$15 million in short term maintenance needs now, this fee was based on the needs. Our rates are a quarter or a sixth of what the private docks are charging and we feel it is a lost opportunity to not charge what private docks are charging in order to have a reserve just to do a revenue bond – we don't have sufficient reserves.

Mr. Wanamaker said now we have a port maintenance fee, and Docks and Harbors would like to change this to a port improvement fee. Could the port maintenance fee not be used for expansion? Mr. Stone said the intent of changing the title was to make it clear it could be used for new construction as well as maintenance. It was clearly to be used for projects related to the cruise ship docks, whether it was new or replacement of infrastructure.

Mr. Wanamaker said he was concerned about such a dramatic increase, and the uncertainty of the plan for expenditures. He did not support setting aside money to spend some day. Mr. Stone said the other alternative was to revenue bond, and people were opposed to paying interest.

Ms. Chambers supported returning this to Docks and Harbors for further input from the industry. We have heard that we have \$18 million in reserves, which should be spent on fixing what we have now, not acquiring new land to maintain. If the industry is not here, what is the point of a seawalk. We have increased fees on the industry tonight. We do not want to kill the golden goose to create projects to support it.

Mr. Sanford said that if this is returned to the Docks and Harbors Board, the DBA should be part of the discussion as well as the cruise ship industry.

Mr. Bush thought the goal of this fee was admirable – to estimate the maintenance and collect that money to do the maintenance. You can revenue bond this, or you charge a fee for what it costs to maintain the docks. If that is not the intention, then it needs to be looked at.

Roll Call:

Aye: Anderson, Chambers, Doll, Dybdahl, Sanford, Wanamaker

Nay: Bush, Botelho

Motion passed, 6 ayes, 2 nays.

Assemblymember Stone returned to participate in the meeting. A short at ease was taken.

### **XI. STAFF REPORTS – None.**

### **XII. ASSEMBLY REPORTS**

#### **A. Committee Reports**

*Lands and Resources:* Chair Bush said the committee reviewed the Whale Sculpture project and asked for further analysis of the costs and issues for each location option. The committee reviewed the Seawalk, specifically the area near Taku Smokeries. Docks and Harbors recommends re-routing the Seawalk to the Thane Road Side, and they encouraged staff to continue negotiating with owners, who are not willing to give up the seaward right-of-way. The committee heard a presentation on the support vicinity plan, one report from John Stone on possible Gold Creek cruise ship harbor development and a report from Mental Health Trust, the support owner, and their early planning for the area. **Text 029, p. 14**



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development is dependent on the city's plans, and whatever plan they develop is dependent on whether or not a cruise ship dock is located adjacent to their lands. They want to know if the city is committed to the current waterfront plan that does not show a cruise ship dock in that area.

Public Works and Facilities: Chair Doll said the committee was busy with the West Valley sewer issues and staff will do more negotiating with property owners and will report back next Monday. Chief Mohrmann reported on downtown sprinkler system costs and priorities and more information will be obtained. The committee discussed pedestrian guard railings along South Franklin and will be getting more information from the state DOT and input from property owners.

Human Resources Committee: Chair Chambers said the next meeting was January 28.

### B. Liaison Reports

Sustainability Commission: Liaison Doll said that sub-committee work was active.

Affordable Housing Commission: Liaison Chambers said the Commission was meeting in joint session with the Chamber of Commerce on Thursday in the JDHS library.

Planning Commission: Liaison Anderson said the PC would meet the next day and discuss a cottage housing proposal and an allowable use for the Scottish Rite Temple building.

T.E.A.M. – Liaison Bush said this new task force was assigned to look at funding for athletics at the high schools and would be meeting for next three Thursdays.

Airport Board: Liaison Stone said the Airport Board meeting was next week Wed. at 7 p.m.

### C. Presiding Officer Reports

#### 1. Hood vs. CBJ Board of Adjustment - Adoption of Decision

Mayor Botelho asked to incorporate this discussion into executive session and have a decision at this meeting.

## **XIII. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS – None.**

## **XIV. EXECUTIVE SESSION**

### A. Potential Contract Negotiations

Administrative Report: Mr. Swope would like to discuss the status of negotiation regarding Thunder Mountain High School Auditorium, the matter of which knowledge of the discussions could have an immediate adverse affect on the finances of the city and borough.

Mayor Botelho would also like to enter into executive session to discuss the position of deputy mayor, and a continuation of the discussion on the decision in the matter of the Hood v. Board of Adjustment appeal.

#### Public Comment:

Ms. Dixie Hood, Mendenhall Valley, said an executive session had already been held on this draft decision, comments had been made, and transparency had been lacking in this issue. She asked that this discussion be held in open session. She thinks it would be a failure in government for the Assembly to not discuss the matter in public.

**Ex. 029, p. 15**

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Mayor Botelho said the thinking of the body was included in the written decision and as an appeal body, the Assembly was acting in its quasi-judicial capacity to review the decision.

Mr. Hartle said the Open Meetings Act did not govern the assembly when acting as a quasi-judicial body in such a matter.

Mayor Botelho said Ms. Hood's objection was noted.

## Assembly Action:

Mayor Botelho said that hearing no further objection, the Assembly would recess to executive session in Room 224, at 9:41 p.m. The Assembly returned to regular session at 10:48 p.m.

Mayor Botelho said the Assembly reviewed the Hood v. CBJ Board of Adjustment Decision. The decision of the Assembly in its appellate role is that the Board of Adjustment was supported by substantial evidence and was therefore affirmed. The Assembly requested that the manager and city attorney to look into two ideas to prevent the problems that led to this appeal from recurring. The language of the subsections of the variance requirements was somewhat confusing and if an ordinance could be crafted that could clarify this area it might save time and effort for developers, the Planning Commission and the Assembly. An ordinance requiring payment of double fees for all permits applied for after-the-fact could provide a financial incentive to developers to apply for CBJ permits in a timely manner. This was a final administrative decision of the Assembly of the City and Borough of Juneau Alaska and may be appealed to the Juneau Superior Court if such an appeal was brought to the Juneau Superior Court through the Alaska Rules of Court within 30 days of the January 7, 2008, and there would be three members, Bush, Anderson and Doll, who were dissenting. Mr. Anderson and Mr. Doll would have written dissents that would be appended to the decision.

Mayor Botelho said the Assembly discussed potential contract negotiations with respect to Thunder Mountain High School, the knowledge of which could have immediate adverse effects on the finances of the city, and instructions were given to the manager.

The Assembly selected Randy Wanamaker as a permanent successor to the Deputy Mayor position.

## **ASSEMBLY COMMENTS AND QUESTIONS**

Ms. Chambers spoke regarding the letter from Collaboration Juneau of December 28 and asked to have the topic of flightseeing on the next Committee of the Whole agenda to review the Assembly's position. There was no objection.

Mr. Anderson discussed the State of Alaska Department of Transportation long range comprehensive transportation planning "2030- Let's Get Moving.": Comments were due this Thursday, Jan 10. Mr. Anderson will comment personally on how this plan needs more effective public participation, that DOTPF decisions need to be equally based on regions and not just populations or aggregate demands, that local government-owned airports are part of the state system and need support as much as state-owned airports and the Juneau North Douglas Crossing is crucial for safety and economic development.

## **XV. ADJOURNMENT – 10:55 p.m.**

Signed: \_\_\_\_\_  
Laurie Sica, Municipal Clerk

Signed: \_\_\_\_\_  
Bruce Botelho, Mayor

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