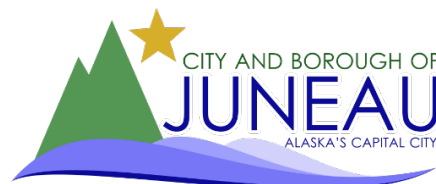


ASSEMBLY HUMAN RESOURCES COMMITTEE MINUTES

November 13, 2023 at 6:00 PM

Assembly Chambers/Zoom Webinar



<https://juneau.zoom.us/j/95241164899> or 1-253-215-8782 Webinar ID: 952 4116 4899

A. CALL TO ORDER

Chair Smith called the Assembly Human Resources Committee to order at 6:01 p.m.

B. LAND ACKNOWLEDGEMENT

We would like to acknowledge that the City and Borough of Juneau is on Tlingit land and wish to honor the indigenous people of this land. For more than ten thousand years, Alaska Native people have been and continue to be integral to the well-being of our community. We are grateful to be in this place, a part of this community, and to honor the culture, traditions, and resilience of the Tlingit people. Gunalchéesh!

C. ROLL CALL

Present: Chair Greg Smith, Wade Bryson, 'Wáahlaal Gíidaak and Ella Adkison

Absent: None

Staff/Others: Deputy Clerk Di Cathcart, Municipal Clerk Beth McEwen, City Attorney Rob Palmer, AMCO Representative Gabriel Gonzales,

D. APPROVAL OF AGENDA

Agenda approved as presented.

E. APPROVAL OF MINUTES

August 21, 2023 and September 11, 2023 HRC minutes were approved as presented.

1. **August 21, 2023 Assembly Human Resources Committee Meeting Minutes - Draft**
2. **September 11, 2023 Assembly Human Resources Committee Meeting Minutes - Draft**

F. AGENDA TOPICS

3. State of AK Title 4 Rewrite - Changes Effective January 1, 2024

SOA/AMCO Local Government Specialist, Gabriel Gonzales, will give a short presentation, via Zoom, to the committee highlighting what changes to the Title 4 rewrite affect CBJ.

SOA/Alcohol & Marijuana Control Office (AMCO) Title 4 Rewrites can be found at: <https://www.commerce.alaska.gov/web/amco/Title4Rewrite.aspx>

SOA/AMCO website as a resource
<https://www.commerce.alaska.gov/web/amco/OtherAlcoholResources.aspx>

[Clerk Note: due to the subject matter and important Q/A discussion, the following are more verbatim minutes than are typically submitted]

Chair Smith welcomed Mr. Gonzales and wanted the Assembly to be aware of the rewrite to Title 4 which is the State of Alaska title of law that refers to alcohol regulation and noted Mr. Gonzales, from AMCO (Alcohol Marijuana Control Office) might talk through some of those changes, some of which impact local governments and some of the powers and things they can do. Specifically, one of those is allowing local governments to

petition for additional restaurant or eating place licenses (REPL's). It is something that, come January 1st, local communities will have the power to request.

Mr. Gonzales, thanks for having me, I'll jump right in to REPL's. There's a new provision in the Title 4 rewrite that came into effect when the bill was signed into law last year. Two municipalities (Valdez and Wasilla) have already requested and been approved for additional restaurant eating places in their communities. This rewrite allows municipalities to request REPL's in excess of your population cap. REPL's are for beer and wine only and CBJ is currently capped at 22 REPL's based on a population of 32,000. The ratio to determine that is, they take your qualified population, divide it by 1,500 so it's a one to 1,500 ratio, and that's how it's determined how many you're authorized to have. The slide referenced in your packet is a population and license cap spreadsheet that is on the AMCO website, and we use this to advise business owners whether licenses are available. There was one license that was converted under another change to Title 4 that went into effect immediately. It was originally a REPL public convenience license that automatically converted to a full REPL. So that is why you are in excess of your cap by one for a total of 23 REPL's for Juneau.

Mr. Bryson thanked Mr. Gonzales for being here to answer questions and asked how AMCO considers tourism numbers when during the summer there can be upwards of 50,000 people in Juneau vs. this time of year where 32,000 people is a more accurate number.

Mr. Gonzales, so that net population is, as you said, it's your residence. It's your qualified population and the census. Now there's a couple of different things that come into play when we talk about tourism. There are licensees that can apply for beverage dispensary licenses, beverage, dispensary tourism, licenses, and as long as they're either at an airport terminal or have a hotel attached to that building, they can operate with without having to worry about that population limit. So, if you were to go around and count the bars (beverage dispensary license) in Juneau, you probably have more than 20, but a lot of those are probably tourism licenses. Title 4 does allow for excess to the population cap, as long as it meets certain tourism requirements, and the other part to answer your question is that I don't think that tourism was taken into account, and I think that's why the stakeholders fought for this new provision in Title 4 to recognize we have a larger population that comes in. How can we get more licenses? And so, as I walk you through these next slides, I think you're going to see that that's how those new qualifying populations will allow municipality to have more licenses.

Chair Smith asked Mr. Gonzales to define public interest as noted by AMCO. Mr. Gonzales said the onus is on the municipality to say granting these licenses is in the public interest. Other municipalities who've been approved, have done it by saying, it's in our economic interest and stimulates job growth and entrepreneurial like opportunities. That's what the AMCO Board is looking for the municipality to say - this is in our public's interest.

A resolution adopted by your legislative body must include that you meet the criteria mentioned before. It must include the most recent estimate of the number of people who claim residency or work outside of the boundaries of the municipality, and who are served by the municipality, including the population located outside of the boundaries that relies on that municipality for goods and services, the visitor population and the non-resident worker population that resides in the municipality, but has not been counted in the latest census. So those 3 numbers, if you will, are how AMCO is going to take that new number of people that come in and are not counted as part of your 32,000 in order to authorize additional REPL's.

The resolution must also include the number of existing REPL's. Again, in your case, that's 22 both within the boundaries and outside of the boundaries. Now, in Juneau's case this may not really be applicable; you don't have a road system to bring people in from different municipalities into the borough, but they can use other means so it must include the number of REPL's in the geographic area that the municipality serves. If, for instance, the municipality says citizens from this area come in, well, how many REPL's are in that area, and I have all that data at the granular level if/when you need it. Also, the resolution must include information showing that the number

of additional licenses requested does not exceed one license for each 1,500 population of the population identified under 2 of this subsection. So those nonresident workers and that visitor population, when we take that big number and divide it by 1,500, we've got to make sure you're not requesting more than that. I imagine your tourism numbers alone would make it very high. The resolution must include additional justification as necessary to demonstrate that granting the additional licenses is in the public interest. The resolution must include those 5 points. If the board grants a petition for additional REPL's under this section, the board may not authorize additional REPL's to the same municipality for the following year. So basically, you'd have to take a year off until you could request it again.

Mr. Bryson asked, do we need a resolution for each additional eatery that we're proposing? Or do we, as an Assembly, decide roughly, this is how many we can get, and we make a resolution asking for what the new amount would be? Mr. Gonzales responded that you're not going to have to ask every time there's an application, you're simply asking to raise that limit from where you're at right now of 22. Let's say you decide to add 10 more; so that brings it up to 32 and because Juneau is one in excess, it would make it 33. So, you would have authority with this one resolution that AMCO could take 10 additional applications and approve them without worrying about the population count, and an application would go through the normal AMCO process. You would still have the ability as a legislative body to protest it upon renewal, or upon application.

'Wáahlaal Gídaag asked, if this would go to the Manager's Office to determine how many and what the calculation would be, or the discussion would stay here at HRC. How would we determine what that appropriate amount would be? What's the best way to get to that number. Mr. Gonzales may be able to help provide that information as well as any feedback. Mr. Gonzales, there is a bit of a math equation in there, but I can give you a couple of examples. In the case of Valdez, they requested and were approved for 10 additional REPL's and Wasilla, just tonight, requested and were approved for 20 additional REPL's. In Wasilla's case their tourism numbers were upwards of 750,000 annual and that number right there authorized their request if you divided that by 1,500, along with their other qualifying populations they could have requested up to 185 additional REPL's. But of course, that's not feasible. So, they felt comfortable, asking for 20 and when they were having conversations with me, just to get some feedback similar to what you are doing, they determined that they wanted to get a good number that would allow for plenty of applicants, and not have to be capped until they can request again.

Follow up by 'Wáahlaal Gídaag, if we request, say, 20 and then we're at 43 from here on out. We won't have to request those 20 annually, or ever again, correct. And the second question is, as you're seeing these requests in real time from Valdez and Wasilla, do you know the level of public interest. Did those communities send out a survey or get public testimony, what level of public interest would be viable and help our application be the strongest it can be. Mr. Gonzales noted that no, you would not have to ask again if you asked for 20 and were approved for 20, it would take that to 43, and that would be the new number until you requested again. As far as receiving public input that question was actually asked by one of our board members tonight to the city administrator and Wasilla and they did a public notice before their City Council meeting, where they introduced this resolution, opened it up to public testimony. They said they had only one business owner testify in favor of, because he wanted to apply for that REPL. So, there wasn't much testimony. I'm not aware of any surveys or anything like that that were sent out. I know, in Valdez's case, which is a much smaller community. They spoke with a lot of the people who had come to them previously that said they would like this license and reached back out to them and brought them into the fold, and they had a robust City Council meeting, where a lot of people were in favor of it. I'm not aware of any opposition. To take that one step further, once that resolution hits the AMCO Board's agenda we also public notice that request and we notify the public health people in the State, as well as notify all the licenses within that municipality where that request is being made.

Mayor Weldon, Regarding the restaurant eating place license; I understand that it's just beer and wine, and you must have 50% of your profits from food. What other restrictions are on those licenses? Do they have hourly

restrictions? And can they have live music. Mr. Gonzales stated yes to live music and the hours of operation follow Title 4 as well as any additional hourly restrictions set by CBJ code.

Chair Smith asked about the seasonal restaurant eating place licenses and that process. Mr. Gonzales outlined that seasonal REPL's go through the normal process as all other licenses that come before a local governing body. Your Clerk's Office gets the notice with the normal 60-day protest period in place for CBJ departments to review and the Assembly to act on. So, the seasonal restaurant, eating place tourism, license authorizes them to also sell beer and wine, but it does not count against the population cap. It goes against tourism numbers separate to this resolution, and this is also a new provision that I'd have to dig in to see exactly what qualifies them, but it is separate, it's not a population cap license.

Mr. Bryson, how many times, if any, we had to deny an applicant. How many people have applied, how many businesses would this create an opportunity? Do we start with like 8 and see how long it takes to get 8 new eateries in town. I'd like statistical information to say this might be a good starting place to determine this, so some stats would be helpful. Mr. Gonzales does your agency track that. Mr. Gonzales, we could, if they actually went through the application process but usually, they get told no before they even get to submitting an application. It usually starts with a phone call to AMCO from a potential licensee and are told, sorry that's capped and AMCO doesn't track that type of data. 'Wáahlaal Gídaag, I would like to know what the public interest is for adding additional licenses.

4. Ordinance 2023-04 (vHRC) An Ordinance Establishing a City and Borough of Juneau Whistleblower Act.

City Attorney Palmer walked the committee through Ordinance 2023-04 the Juneau Whistleblower Act. CBJ has a very robust conflict of interest code however it doesn't explicitly say whistleblower, CBJ has had events over the last 10 years in which employees have asked the question, when there's a conflict of interest that's bubbling around, does CBJ have whistleblower protections or not? CBJ does but it's because of state law that governs this topic. State law allows municipalities to adopt their own Whistleblower Act and if a municipality adopts their own that act governs instead of state law. The opportunity before this committee is to answer the question, is this something CBJ wants to consider further and if so, the draft in front of you, premised on the state law, is to get that conversation started. The first item is to promote government accountability. The second item is to provide processes for employees, to raise concerns. The third is to protect employees that raise concerns and then force to provide enforcement mechanisms. This ordinance is for employees not for the public. The conflict-of-interest code does have some provisions that apply to the public if they want to raise concerns regarding specific municipal officers. The whistleblower ordinance in State law, and as proposed, would only protect, and provide protections for employees.

Under 01.46.010, on the 2nd page of the ordinance, this is a protection for whistleblowers, and everything listed is nearly identical to State law with a couple of tweaks. One of the differences is the last item where State law requires posting of whistleblower protections in various workplaces; that is not proposed in this draft; the thought being, this would be an ordinance on the books and would be covered during new employee orientation.

The second substantive change is in the next section on page 3, line 19-20 of the ordinance, before an employee can make a whistleblower claim outside of the CBJ, meaning different entities, the employee would have to notify the manager or know that the manager knows about the topic.

The last item is on page 4 of 5; if an employer were to violate the Whistleblower Act, under State law it allows the person who's been violated the opportunity to get punitive damages so punishment damages. In general State law, municipalities are not subject to punitive damages, the idea of punitive damages is that the taxpayers are the ones who pay. The philosophy being if a government harms a citizen the government needs to pay the economic impact, they suffered what they suffered usually pain and suffering component but not punitive damages because that's over and above and harms the public treasury; however, State law does allow for punitive damages for

whistleblower claims. This draft ordinance does not have that so the committee would need to add punitive damages back into the ordinance.

Ms. Adkison asked what the definition of good faith is and if it needs to be defined in this ordinance. Mr. Palmer responded that good faith is not defined in this ordinance and the definitions come directly from State law there are good faith requirements in employment law that we could use by analogy.

Chair Smith asked if this ordinance was adopted would it create a larger workload or burden for staff. Mr. Palmer responded that he didn't believe so. Chair Smith asked about the personal liability section on page 4. Mr. Palmer stated that language in B and C is the same as in State law.

MOTION: by Mr. Bryson to move Ordinance 2023-04(v HRC) *An Ordinance Establishing a City and Borough of Juneau Whistleblower Act* be moved to the full Assembly for introduction and asked for unanimous consent.

Hearing no objection, motion passed.

5. Ordinance 2023-32 An Ordinance Clarifying the Process for Electing an Assemblymember Due to a Midterm Vacancy.

City Attorney Palmer walked committee members through Ordinance 2023-32. It was requested to provide a Whereas that provides context as to where this ordinance comes from. Mr. Palmer noted there is some the Charter, City Code and State law as to when a midterm sitting Assemblymember resigns and what happens next. The assembly can always appoint a new member. But the question is, when that person resigns does the vacancy appear on the upcoming ballot or not? That's dependent on how close in context, that resignation occurs to the election. The draft in front of the HRC would provide clarity.

MOTION: by 'Wáahlaal Gídaag to move Ordinance 2023-32 *An Ordinance Clarifying the Process for Electing an Assemblymember Due to a Midterm Vacancy*, to the full Assembly for introduction and ask for unanimous consent. **Hearing no objection, motion passed.**

G. STAFF REPORTS

6. Setting Empowered Board Interview Dates

The HRC needs to set dates for Empowered Board interviews and appointments. The Planning Commission has three seats with terms ending December 31, 2023; two of the three commissioners are termed out and the third commissioner has applied for reappointment. The Bartlett Regional Hospital Board also has three seats with terms ending December 31, 2023; one of the BRH members is termed out and the other incumbents have both applied for reappointment.

The Clerk's Office requests that HRC set dates for interviews, decide how to hold the interviews (zoom only, or in-person w/ zoom option for applicant if they are unable to attend) as well as determine if the committee would like to change any of the advanced interview questions prior to them being sent to applicants. The application deadline for the Planning Commission and the BRH Board has a deadline of Wednesday, November 29. Ms. Cathcart will keep Chair Smith apprised of the number of applicants in case the decision needs to be made to extend the application period into December with interviews than scheduled for early January.

The committee picked December 13 and 14 as potential meeting dates depending on the number of applications received.

H. COMMITTEE MEMBER COMMENTS AND QUESTIONS

The committee will take up the discussion of updating the Empowered Board advanced interview questions as well as review of the boards and committees' application at the January or February meeting. 'Wáahlaal Gídaag recommended the committee come up with more scenario questions vs. having the questions focused on talking about self.

I. NEXT MEETING DATE

December 11, 2023 at 6:00 p.m.

Draft HRC Agenda Topics for December

Continued Discussion on Title 4

Douglas Advisory Board Appointment & Annual Report

Juneau Economic Development Council Appointments

Local Emergency Planning Committee Appointments

J. ADJOURNMENT

There being no further business to come before the committee, meeting adjourned at 6:50 p.m.