

# ASSEMBLY COMMITTEE OF THE WHOLE

## **DRAFT** MINUTES

September 18, 2023 at 6:30 PM



### Assembly Chambers/Zoom Webinar

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#### A. CALL TO ORDER

Deputy Mayor Gladziszewski called the meeting to order at 6:31 p.m. in the Assembly Chambers.

#### B. LAND ACKNOWLEDGEMENT

Mr. Bryson provided the following 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

**Assemblymembers present:** Mayor Beth Weldon, Deputy Mayor Maria Gladziszewski, Greg Smith, Michelle Hale, 'Wáahlaal Gídaag, Christine Woll, Alicia Hughes-Skandijs, Loren Jones, Wade Bryson

**Assemblymembers absent:** None

**Staff Present:** City Manager Rorie Watt, Acting City Attorney Sherri Layne, Municipal Clerk Beth McEwen, Deputy Clerk Diane Cathcart, Tourism Manager Alix Pierce, Port Director Carl Uchtyl, Harbormaster Matt Creswell, JPD Acting Chief Krag Campbell, CDD Planner Teri Camery

#### C. APPROVAL OF AGENDA

The agenda was approved as presented

#### E. APPROVAL OF MINUTES

None

#### F. AGENDA TOPICS

##### 1. Whale Watching Operator Committee Update

Ms. Pierce introduced the speakers at tonight's meeting Bob Janes, owner of Gatineau Guiding, and Dr. Suzie Teerlink of National Oceanic and Atmospheric Administration's (NOAA) Alaska Region Protected Resources Division. Mr. Janes presented on the work of the Whale Watching Focus Group, which was formed to address complaints regarding whale watching management. Dr. Teerlink talked about NOAA's regulatory capacity, what it can do, and what Whale SENSE is.

Bob Janes reported that the focus group met for 8 weeks and were set out to develop a revised and updated Tourism Best Management Practices (TBMP) recommendations. He advised that the recommendations have not gone to TBMP yet, so they are not "solid in stone" yet. He began the presentation titled, "Juneau Commercial Whale Watching Fleet, TBMP Guidelines and Recommendations to Date". He and Kirby Day started developing the guidelines 27 years ago. Regarding impacts to coastal zones, he said they strive to minimize impacts of wakes and plan to do a wake study next summer. He pointed to a map of Auke Bay on slide 3 and explained that operators have agreed to voluntarily navigate along the centerline of the bay, but not all have complied with staying in the centerline. He outlined that operators follow all NOAA regulations regarding marine mammal viewing, do not observe the whales for over 30 minutes, and minimize engine idling wherever possible. He moved to slide 6 and said that a current issue is public perception of commercial

fleet whale watching behavior. He pointed to the photo and said, from the shore, the group of boats looked disorganized. He moved to slide 7 to show a satellite image view of the same photo and highlighted that there are two boats fully powering up, something that is against Whale SENSE guidelines. He suggested that the boats in question are not whale watching boats since he does not see his fleet behaving this way. On June 26 there was an All Operators meeting where 18 operators and captains decided to form a group and develop recommendations for future whale watching guidelines. The group then proceeded to meet on July 17, July 27, August 10, August 17, and August 31. Of the proposed TBMP Guidelines recommendations, one that operators agreed to is to eliminate “whale sightings guaranteed” marketing from April 1 to May 15, as well as from September 15 to October 31. Another recommendation is that operators of inspected vessels agree to navigate Coghlin Cut at 5-7 knots when other vessels or people are present, 10-knot maximum speed when no vessels or people are present or go around Coghlin Island at full speed.

Ms. Hale asked what the importance is of “inspected vessels.” Mr. Janes answered that inspected vessels are larger than 6 passengers and are inspected annually.

Ms. Hughes-Skandijs inquired if Mr. Janes is using the term “inspected vessels” interchangeably with members of the commercial whale watching fleet, or if it pertains to a subset of the fleet. Mr. Janes answered that it pertains to a subset, because there are operators with small boats that hold 6 people maximum and do not have to be inspected.

‘Wáahlaal Gídaag asked if the 5-7 knots guideline could be reduced in instances where there are traditional Tlingit canoes in the water, as there was an instance where a whale watching vessel swamped a canoe in its wake. Mr. Janes said this was a tough subject for the group because some boats create wakes at 5 knots. There was some talk of not even using the Coghlin Cut and just having boats go around the island, but the group ultimately came to the consensus that they would try the guideline this year; if it doesn’t work and there are still issues with canoes and kayaks, then they will switch to vessels only going around the island. Going around Coghlin island adds about a gallon of fuel to a trip. He said that cost is not the consideration, time is. The group is considering a wake study, which would be completed during the 2024 season.

Mr. Janes pointed to a photo of Auke Bay on slide 13. He explained that one of the proposed guidelines asks that operators of inspected vessels agree to come off step at the line between the two Derby orange markers in Auke Bay and to reduce speed to 5 knots prior to reaching the white buoy. Regarding proposed open water guidelines, operators agreed to 100-200 yards of distance when there are 8 vessels, and 200+ yards when there are 8 more vessels. Vessels would move in and out of the inner circle in 15-minute cycles with a total of 30 minutes for any one vessel.

Ms. Woll asked what the difference is between the proposed open water guideline and current practice. Mr. Janes answered that it’s a reduction in the number of vessels that are within the 100–200 yard limit, so there wont be vessels that try to squeeze in to the 100 yard limit as they would need to wait their turn to go in. Also, this makes it so boats can better maneuver when a whale comes close to them.

Ms. Gladziszewski asked if there is currently a limit on the number of boats that can be around a whale. Mr. Janes responded that there isn’t a boat limit, but there is a 30-minute time limit.

Ms. Hughes-Skandijs asked if it is normal to have more than 8 boats around a whale. Mr. Janes answered yes.

Ms. Hale inquired about the wake study, and if they will be looking at cumulative and cross wakes. Mr. Janes said the study will examine what wake size each boat puts out as there are some boats that put out a bigger wake than other boats.

Mr. Janes explained that operators agree that, when a whale is along the shoreline, 4 vessels can keep a distance of 100-200 yards and 12 vessels keep a distance of over 200 yards; Vessels would move in and out of the inner circle in 15-minute cycles with a total of 30 minutes for any one vessel.

Ms. Hughes-Skandijs asked about boat spacing. Mr. Janes said it is typically a line of boats.

Ms. Hale asked that, since there are 72 boats permitted to do this, how many boats are giving tours. Mr. Janes responded that his guess is 16. He invited an operator to answer the question.

Jayleen Goodland, a whale watch operator, relayed that there are 75 boats in the Juneau whale watching fleet and that currently all 75 boats could go out and watch one whale. She said the goal is to minimize that, and that this guideline starts encouraging captains to spread out.

Ms. Gladziszewski asked Ms. Goodland if there are ever 20-25 boats around one whale. Ms. Goodland confirmed that there have been. She said that operators have paid captains to go to meetings and discuss how to give more space to whales and how to keep boats moving if there are too many boats.

‘Wáahlaal Gídaag asked if all operators are in agreement with the proposed guidelines. Mr. Janes answered all operators part of Whale SENSE. He explained that the guidelines are currently just recommendations to TBMP, which needs to be approved by the entire TBMP group before they go into action. He advised that they will be presenting the guidelines to as many of the 75 operators that are part of TBMP that are willing to come to a meeting.

Ms. Gladziszewski asked how many operators are part of TBMP. Mr. Janes said all of them.

Mr. Janes explained that operators in the group agree that limited entry is an important next step. He said they don’t know whether it would go through NOAA, Docks & Harbors, or the Assembly. With the number of passengers coming to Juneau, they still believe that limited entry in the whale watching corridor is important to start considering because it can’t be managed any more than they are trying to now.

Ms. Gladziszewski asked where operators launch from. Mr. Janes answered Auke Bay at Statter Harbor; Allen Marine has their own dock. Mr. Watt added that some vessels use Fisherman’s Bend, which is also privately owned.

Mr. Janes commented that managing limited entry through the docks is the most difficult way to go because they have different docks. He moved to slide 16 and relayed their promises: ***With a strong commitment to responsible practices, tour operators will continue to adhere to NOAA regulations; operators will continue to agree to voluntarily follow Whale SENSE and TBMP guidelines; and operators will continue to take every precaution to value and protect the well-being of whales.*** He finished on slide 17 with a slide showing the TBMP whale watching fleet members.

Dr. Suzie Teerlink began the NOAA Whale SENSE presentation titled, ***“Watching Whales in Juneau, AK: Are existing practices sustainable?”*** She shared that she has been studying humpback whale populations throughout Alaska for over 15 years and that the focus of her PhD research was a multidisciplinary approach to evaluating the benefits and drawbacks of whale watching, with the Juneau whale watching industry as a case study. She leads NOAA’s humpback whale programs including the Whale SENSE program. She said she’ll be providing some context on the federal management side of whale watching. She moved to slide 2 of the presentation to explain that Humpback whales in Southeast Alaska primarily breed in Hawaii. NOAA considers this breeding area to be a distinct population segment (DPS). The Hawaii DPS is not listed under the Endangered Species Act (ESA) because they have been recovered. However, they are still protected by the Marine Mammal Protection Act (MMPA), which offers protections to all marine mammals, regardless of their population status. She moved to slide 3 and pointed out that there are more DPSs that feed in Alaska. In Southeast, there is a portion from the Mexico DPS, which ESA listed as threatened. Because there is no way to readily distinguish the DPS’s, they generally assume that both the ESA and MMPA apply to humpback whales in southeast Alaska, as they do in other mixing zones. The MMPA and the ESA both explicitly prohibit “take”, which is to harass, hunt, capture or kill or attempt to harass, hunt, capture, or kill any marine mammal. Under the MMPA, humpback whales are provided with an additional regulatory rule, the Alaska 100-yard approach regulation, to help people avoid incidental take of humpback whales and to give them a physical buffer from boats. The 100-yard rule is one precaution to avoid take but may not prevent take in all circumstances. She addressed the question, how could take occur: vessel strike is an obvious way, but the

physical presence of boats could disturb whales feeding or migrating or the noise from the boats could impact the whales by causing physical injury or impacting the ability to hear each other or find their prey. She shared general fleet sizes from other popular whale watching destinations in the U.S. Stellwagen Bank, a series of ports and communities, has a total of 14 whale watching boats. Monterey has a fleet of 12 vessels. Maui had 45 last winter. However, these were distributed between two harbors and thus the effort was distributed across more area. Most of the Lahaina fleet was demolished in the recent fires. Friday Harbor, where killer whales are a focus of whale watching, has about 10 whale watching boats. Juneau has 72 whale watching boats and counting.

Ms. Hale asked if the whale watching boats in other communities are regulated. Dr. Teerlink answered that there are no permit systems in place for whale watching in Juneau, statewide, or nationwide. Washington state attempted to pass a permit system, but it failed to get passed. At a city level in Maui, there are limits for the number of whale watching boats, but that is not codified in law.

Mr. Bryson highlighted Dr. Teerlink's comment that Alaska has a smaller whale population, and offered his understanding that the Alexander Archipelago had the largest concentration of humpback whales. Dr. Teerlink said it depends on how one is quantifying abundance. Juneau is a final destination for humpback whales to feed. Juneau sees between 100 to 120 individual animals that might pass through during the season, whereas Maui has closer to 10,000 to 15,000. She said that, once the animals are here, they have a high site fidelity and tend to stay in certain areas longer, and so the seasons worth of vessel presence is concentrated on a fewer number of whales.

Ms. Hughes-Skandijs sought confirmation that Juneau has more boats but less whales, while other whale watching destinations have less boats and more whales. Dr. Teerlink responded yes, there are less whales that are part of the Juneau tour area over the course of a season than any of the other destinations.

Dr. Teerlink returned to the presentation and relayed that Hervey Bay, Australia is the self-proclaimed whale watching capital of the world. They once had 18 whale watching boats, but reduced this down to 12 boats after concerns of vessel disturbing and crowding around whales. For reference, Hervey Bay gets approximately 1,200 whales migrating through per season. Juneau waters see approximately 1/10th of that. She explained that, while Juneau tours see whales during 2–3-hour tours out of Auke Bay, sometimes there aren't always lots of whales to be found. Juneau traditionally has a lull in whales every June where there are just 1 or 2 whales for the entire fleet to satisfy their whale guarantees; the industry is propped up by these two female whales, Flame and Sasha, who appear for now to have a very high tolerance for vessel activity. She advised that shoulder seasons can be less predictable, and climate-driven shifts in prey result in whales exploring new areas and changing their habits. For example, this May, for the first time in her 15 years studying Juneau area humpback whales, they had days with no whales in the tour area. When one whale would poke her head into the Juneau area, there were dozens of boats vying for a look.

Ms. Gladyszewski offered that this is like a crowded restaurant, where, if it is really crowded but the food is good, a person will tolerate it. If it's really crowded and loud and the food is not good, the person is not going to tolerate it. She asked if Dr. Teerlink has data on whether the food is so great in the area that the whales are willing to tolerate the boats. Dr. Teerlink said she believes the concept applies in that, when the food is good, the whales are going to spend the time looking for food. There are some whales that are far more tolerant to vessel activity than others. If prey shifts, the whales will shift too. She is concerned about a growing industry that relies so much on whales being present when it is known that they migrate thousands of miles and are accustomed to searching for food.

Dr. Teerlink stated that, as a humpback whale biologist, she would recommend that companies anticipate fluctuations in whale numbers in the future and would urge businesses to foster resilient business models that aren't overly reliant on a highly migratory and mobile resource. NOAA Fisheries has rolled out voluntary measures to help mitigate potential impacts of whale watching and define best practices. She commended the Juneau whale watching industry, as company owners in Juneau were the first in Alaska to adopt these

guidelines and set an example of how competitors can work together to reduce impacts and promote marine conservation. Many of these same industry members have worked together to suggest new recommendations under TBMP. She said that, while she is proud of the fleet for their intention and commitment to the Whale SENSE values and cooperations under TBMP, the Whale SENSE program nor TBMP can address the volume of whale watching vessels. She said they acknowledge that it is not just commercial whale watching, as recreational boaters also enjoy watching the whales.

NOAA has developed guidelines for the general public to adopt best practices and acknowledges that NOAA needs to also factor non whale watching boats into their equations. She explained that some days there are lots of whales to go around, but other days, there are only 1-2 whales or groups of whales and the fleet must share the viewing opportunities with dozens of other boats; It is not uncommon to have upwards of 30 boats around one whale or group of whales. She posed the question: "Is 'take' occurring?" She said NOAA doesn't know, but it is possible that it is, and maybe even intuitive to interpret that at some point, it must be. She explained that every boat in the fleet can operate with consideration and respect for the wildlife they are viewing, but at what point it is simply the number of boats around a whale that tips those scales. NOAA Fisheries implements the MMPA and ESA to prevent and reduce take of their Trust species. She commented that, while they are concerned about the potential impacts from vessel disturbance in Juneau's humpback whales, they follow the science and, in this case, they don't have all the information they need to confidently draw conclusions. She said there have been studies on Juneau whale watching. From land-based studies using Theodites, Juneau-area humpback whales behavior changes as the number of boats around them increase. She shared that they have studied and continue to study steroid stress responses in humpback whales near Juneau but know that hormones are complicated and they don't have clear ways of connecting hormone concentrations to potential take.

She acknowledged that there are concerns in the community and even within the whale watching industry about the number of boats around whales in Juneau. Passengers are coming to Juneau in ever-increasing numbers and, when they book a whale watching trip, the chance to get close to whales is important to them. She said they are often asked if NOAA Fisheries can implement caps, permits, or limits. However, NOAA's jurisdiction is relative to the resource itself (whales). They can't control how many people operate businesses in Juneau or how many boats utilize State waters. If NOAA were to explore regulatory solutions to reduce and prevent incidental take of humpback whales and other marine mammals from wildlife viewing, this would need to be directed to parameters specific to the whales themselves. These include distance to whales, vessel speed restrictions near whales, and underwater sound limitations.

She stressed that her concern is that, should NOAA ever tighten the regulations around humpback whales in Juneau, the industry may be devastated by it simply because it has been so built up that it cannot adapt to tighter viewing regulations. For this reason, NOAA recommends that CBJ investigate ways to help Juneau's whale watching industry secure a more sustainable model and help ensure that the industry avoids and reduces take of marine mammal residents; it is time to limit the boats that engage in this industry. There are options to CBJ to limit and regulate the number of whale watching boats that are outside NOAA's authority to implement, but NOAA remains available during this process to discuss and consult on ways to effectively and equitably limit the number of whale watching boats. She stated that NOAA is committed to assisting CBJ's efforts to explore solutions for a sustainable whale watching industry.

Ms. Woll asked about whale strikes. Dr. Teerlink said they collect data on vessel strikes through self-reports, observations, and necropsies of dead animals on beaches. They also collect data on new scars from non-lethal vessel strikes. The most effective mitigation against ship strikes is vessel speeds.

Mr. Smith inquired if anything happens when a vessel, either commercial or recreational, gets closer than a hundred yards. Dr. Teerlink answered that the 100 yard rule is hard and fast; if a boat approaches a whale knowingly within a hundred yards, that is a legal violation. NOAA's office of Law Enforcement can investigate that and press charges if necessary. She noted that TBMP and the Whale SENSE program are both voluntary, and NOAA has a set of wildlife viewing guidelines that applies to all marine mammals.

Ms. Gladziszewski opined that 100 yards seems small. Dr. Teerlink responded that the 100 yard rule was implemented 20 years ago, and that there is an argument that the regulations may need updating.

Ms. Hale asked about what options CBJ has along the lines of limited entry, and inquired of Ms. Pierce about what ideas she has about this topic. Ms. Pierce responded that she would like to return to the assembly with recommendations regarding what the city can and cannot do.

Ms. Hughes-Skandijs asked about the city's relationship with TBMP, and how much the city is involved with the guidelines. Ms. Pierce answered CBJ is very involved, as the city requires their permittees in loading zones to be TBMP members. Ms. Hughes-Skandijs sought confirmation on whether the city could work with TBMP to shape a limited entry program to be embedded into TBMP. Ms. Gladziszewski suggested that the Assembly could just make it's own regulations. Ms. Hughes-Skandijs offered to follow up about the question at a later time.

Mayor Weldon thanked the presenters and asked them what they think would be limited entry. (Mr. Janes gave an inaudible answer off-mic.)

*The Assembly Committee of the Whole took a break at 7:51p.m and resumed at 8:02p.m.*

## 2. Hazard Map Discussion

Mr. Watt explained that staff is looking to the Assembly for policy direction on this topic.

Mr. Watt said that a memorandum from the August Committee of the Whole meeting is in the meeting packet regarding hazard maps. Public testimony was received and the matter is now back to the assembly for direction.

Ms. Gladziszewski reminded members that the city has current maps that have hazards designated, and that the maps restrict development in the hazard zones. The Assembly agrees that the current maps aren't good, and so are working on getting new maps. Questions include: What responsibility does CBJ have to notify people of potential hazards and what responsibility does CBJ have to regulate development in places that have hazards. Public testimony suggested making it clear that the hazard maps are just general maps, and are not site specific. There was also interest in putting a notice on the maps that states, ***"These maps identify zones of general potential hazard and are to be used solely for informational purposes. The maps are not predictive of precise hazards for individual properties, and site-specific engineering would be necessary to determine actual risks to individual properties."***

Mr. Bryson asked if lenders or insurance agents have been contacted and questioned as to what the consequences of motion 1 or motion 2 would be. Ms. Gladziszewski answered no, other than the information provided by the RAND corporation.

**MOTION** by Mr. Bryson to adopt the language of the proposed Motion #1 as provided in Ms. Gladziszewski's handout.

Direct the attorney to draft an ordinance that accomplishes the following:

Repeals the ~~existing~~ adopted 1987 landslide and avalanche maps.

Does not adopt the Tetra Tech maps.

Requires CBJ to conduct an annual public informational outreach regarding potential landslide and avalanche hazards.

Requires CBJ to notify anyone wishing to develop inside the mapped area that the maps exist.

Requires CBJ to include a prominent notice on the front of the maps that contains the following language:

**These maps identify zones of general potential hazard and are to be used solely for informational purposes. The maps are not predictive of precise hazards for individual properties and site-specific engineering would be necessary to determine actual risk to individual properties.**

Ms. Woll stated that she is more supportive of the proposed motion #2. She asked about the public outreach that was done. She asked if the Assembly is not providing any direction and staff would work from there. Ms. Gladziszewski said the intent was to be vague for staff. Mr. Watt explained that the city could be overly broad in providing information. If the Assembly was interested in providing information, it'd be distributed to all of the downtown area rather than to provide information to somebody in the map. Ms. Woll said she wants people who are in the zones to have this information and asked if Mr. Watt needs direction from the Assembly to do that. Mr. Watt responded that he doesn't think so, the city would just factually provide information as concisely and efficiently as able.

Ms. Hale stated that she objects to everything being proposed, as well as what the Assembly proposed on August 28. If the existing adopted maps and ordinance are repealed, there is still the Behrends Avenue neighborhood that is in a direct path of an avalanche. CBJ policy directs that no new houses be built in the path. She said her focus is to do no harm, and it seems like the city is flailing around trying to do something to help people. She stressed that the Assembly needs a consultant to review the public testimony they have received and make some proposals.

Ms. Hughes-Skandijs relayed a suggestion from the public that disclosure happens when transferring property. She said this seems outside the city's purview. Mr. Watt explained that disclosure is an issue that arises between property owners and banks in a real estate function, and the city is not setting rules on how and when to disclose information.

Mr. Smith commented that, just because the city isn't part of that function, doesn't mean the city couldn't require disclosure when there's new leases or a transfer of property. Mr. Watt explained that it would be easy for the city to encourage disclosure and could pass an ordinance requiring it, but when things like enforcement goes wrong, he is unsure what happens.

Mayor Weldon objected to the motion. She stressed that the Tetra Tech maps will probably not be adopted, but there is hazard. She concurred with Ms. Hale's comments, except about needing a consultant.

'Wáahlaal Gídaag asked that, if the motion fails, would the Assembly not vote on the existing components of the motion, or would a member need to make an amendment to include avalanche hazards. Ms. Gladziszewski said that someone can make such a motion now. She asked Mr. Bryson if he still supports his motion or if he will remove it.

Mr. Bryson commented that the city has had the same hazard maps since 1987, and that if any component of the map is kept, the city is going to get the same results; they cannot get people to build downtown. The ramifications of keeping the maps have already happened, with stifled development and higher cost of living. He stressed that the city is not in real estate, so they should not have the city in the real estate transaction dictating terms, and that the best thing they could do to increase housing is to remove the maps and allow lenders and incurrence companies to help develop more. **He removed his motion for proposed Motion #1.**

**MOTION** by 'Wáahlaal Gídaag to adopt the language of Motion #2 as provided in Ms. Gladziszewski's handout.

Direct the attorney to draft an ordinance that accomplishes the following:

Repeals the ~~existing~~ adopted 1987 landslide maps.

Does not adopt the Tetra Tech landslide maps.

Adopts the Tetra Tech avalanche maps.

Requires CBJ to conduct an annual public informational outreach regarding potential landslide and avalanche hazards.

Requires CBJ to notify anyone wishing to develop inside the mapped area that the maps exist.

Requires CBJ to include a prominent notice on the front of the maps that contains the following language:

**These maps identify zones of general potential hazard and are to be used solely for informational purposes. The maps are not predictive of precise hazards for individual properties and site-specific engineering would be necessary to determine actual risk to individual properties.**

Ms. Woll asked, if the motion was adopted at the full Assembly, whether the regulations would stay in place for avalanches. Staff and the Planning Commission suggested updates to the regulations on avalanches. Mr. Watt said the city would need to clarify its regulatory stance on avalanches if the motion passed. The Tetra Tech maps does have some useful information like predicted impact pressures, which could inform building standards. Ms. Woll inquired if staff is going to bring additional information after the committee passes it out, or if the motion should be kept in committee for further discussion. Mr. Watt said the most prudent action would be to bring the motion back to committee and draft an ordinance that enacts the specified changes.

Mr. Bryson objected to the motion. If the city kept the avalanche maps and adopted the Tetra Tech maps, then the city would do what it is trying to avoid doing. The Assembly wants the community to be able to develop downtown.

Mayor Weldon requested the difference between the 1987 avalanche maps and the Tetra Tech maps. Mr. Watt responded that that information can be brought to a future meeting but advised that the avalanche mapping is similar between the maps.

Ms. Hale commented that she is attuned to the Behrends Avenue houses that had a bad avalanche happen in 1962. She stated that there may not be avalanches there anymore, but it would be shameful if the city allowed more houses to be built. She suggested that the 1987 ordinance could be revisited and the Assembly could focus on just what it wants to limit. Many buildings have been built downtown since the 1987 maps were adopted, including on Gastineau Avenue. The Glory Hall was held up a year due to interpretations by the city's staff, so maybe the interpretations could be clarified by changing the 1987 ordinance. She stressed that she and the Assembly are woefully inadequate to make a decision, given the information that she has been able to digest up to this point.

Ms. Hughes-Skandijs relayed concerns raised by folks who did their own site specific analysis to show that their property is not in the hazard zone and also asked whether the new maps would just put them back into a hazard zone. Mr. Watt answered that he is mostly sure that when people do a site specific analysis, it isn't on the avalanche side of the mapping.

Ms. Woll objected to Mr. Bryson's comment. The Assembly does want housing developed downtown, but one concern she learned is that the public does not yet know how serious the risk of landslides is in Juneau, which is getting worse with climate change. She said they need to educate each other about that risk.

Mr. Smith suggested that staff work with financing professionals to come up with a disclaimer. Ms. Gladziszewski said she worked with the Attorney on the motion. Mr. Watt offered that a draft ordinance would be a good vehicle to attract public testimony. Mr. Smith, regarding the annual public informational outreach, sought clarity on who is notified and whether it would just be people in the study area or all of Juneau. Ms. Gladziszewski said she left the language vague so staff can work on it. Mr. Watt confirmed that the public information piece would be worked out.

Mr. Bryson said the Assembly is tip-toeing around the responsibility of the landowner. Regarding Behrends Avenue, if a person wanted to buy property on that street and a bank was willing to finance them and



insurance was willing to insure them, why would the city stop them. He asked that the ordinance have the appropriate level of responsibility on the property owner.

Ms. Gladziszewski commented that she is in favor of the motion. She said it comes back to what responsibility does the government have to inform people of hazards, and that she believes CBJ does have the responsibility to inform people.

Ms. Hale agreed that people own property and they should be allowed to do what they want with it, but said she also believes that some of the people that died in mudslide years ago were living in an apartment building. She said its been seen over and over again that places with risk are often populated by people on the lower end of the economic scale. She is voting in favor of the motion.

Ms. Hughes-Skandjjs said she is in favor of the motion.

**Roll Call Vote on 'Wáahlaal Gídaag's motion to approve proposed Motion #2**

**Yeas:** 'Wáahlaal Gídaag, Ms. Woll, Ms. Hughes-Skandjjs, Ms. Gladziszewski, Mayor Weldon

**Nays:** Mr. Jones, Mr. Smith, Ms. Hale, Mr. Bryson

**Motion passed 5 Yeas, 4 Nays.**

**3. Executive Session - Law Department Litigation Update**

**MOTION** by Mr. Bryson to go executive session at 8:41pm to receive a litigation update from the City Attorney, the matters of which are confidential in nature, and asked for unanimous consent.

*Hearing no objection, the motion passed by unanimous consent*

**M. ADJOURNMENT**

*There being no further business to come before the committee, the meeting adjourned at 9:25pm.*