

MATANUSKA-SUSITNA BOROUGH REGULAR MEETING
ASSEMBLY SEPTEMBER 18, 2001

I. CALL TO ORDER

The regular meeting of the Matanuska-Susitna Borough Assembly was held on September 18, 2001, at the Matanuska-Susitna Borough Assembly Chambers, Palmer, Alaska. The meeting was called to order at 6 p.m. by Mayor Timothy L. Anderson.

II. ROLL CALL

Assembly members present and establishing a quorum were:

Mr. Larry DeVilbiss, Assembly District No. 1
Ms. Sara Jansen, Assembly District No. 2
Mr. Talis J. Colberg, Assembly District No. 3
Mr. Dan Kelly, Assembly District No. 4
Ms. Jody Simpson, Assembly District No. 5
Mr. Jim Colver, Assembly District No. 6
Ms. Kelly Lankford Ladere, Assembly District No. 7

Staff in attendance were:

Ms. Sandra A. Dillon, Borough Clerk
Mr. John Duffy, Borough Manager
Mr. John Aschenbrenner, Acting Borough Attorney
Ms. Michelle M. McGehee, Borough Clerk's Secretary
Mr. George Strother, Acting Public Works Director
Ms. Tammy Clayton, Finance Director
Ms. Sandy Garley, Planning Director
Mr. Ron Swanson, Community Development Director
Mr. Jack Krill, Chief Central Mat-Su Fire Department

III. APPROVAL OF AGENDA

Mayor Anderson:

- noted the addition of item V., Special Orders of the Day, A. Proclamation Re: Terrorist Attacks on the United States.

The agenda, as amended, was approved without objection.

IV. PLEDGE OF ALLEGIANCE

The pledge of allegiance was led by Michelle Church, a member of the audience.

V. SPECIAL ORDERS OF THE DAY

Mayor Anderson read a proclamation in honor of the victims of the September 11, 2001, terrorist attacks and called for a moment of silence. This proclamation will be forwarded to the National Association of Counties (NACO) and will be joined with proclamations from around the country.

VI. MINUTES OF PRECEDING MEETINGS

A. Regular Assembly Meeting: September 4, 2001

The mayor referenced the September 4, 2001, regular minutes and asked for any corrections.

Ms Dillon noted the following corrections:

- page eight to strike the general consent language, [THE MOTION TO REFER ORDINANCE SERIAL NO. 01-133

TO THE GOLD TRAIL ROAD SERVICE AREA BOARD OF SUPERVISORS FOR A RECOMMENDATION DURING THEIR NEXT REGULAR MEETING PASSED WITHOUT OBJECTION], and to insert, The motion to adopt Ordinance Serial No. 01-134 and Resolution Serial No. 01-082 passed without objection.

- page nine, last line on the page, to strike the word “Lake” and to insert the word “Creek”, to read: “noted a footbridge at Eska [LAKE] Creek as a future project.”
- page 22, paragraph nine, line two, to strike the phrase “a noise ordinance” and to insert the phrase “the radio controlled airplane issue” to read: “opined that [A NOISE ORDINANCE] the radio controlled airplane issue could be addressed with the enactment of a noise ordinance.”

VII. REPORTS/CORRESPONDENCE

A. AGENCY REPORTS

1. Reports from cities

(There were no reports given.)

2. Matanuska-Susitna Borough School District

(There were no reports given.)

B. COMMITTEE REPORTS

1. Joint Assembly/School Board Committee on School Issues

(There was no report given.)

2. Intergovernmental Liaison Committee (Anchorage Municipality - Matanuska-Susitna Borough)

Assemblymember Jansen:

- reported that she, Mr. Duffy, and Assemblymember Simpson met with members of the committee, other staff from the Municipality of Anchorage, and Mayor Wuerch on September 17, 2001;
- noted that topics discussed included replacement of a sewer line near Ship Creek, the update to move the health and human services building, a brief update on the regional transportation planning effort which is currently underway, and fire prevention;
- discussed the idea of the Matanuska-Susitna Borough Assembly and the Municipality of Anchorage Assembly providing a joint list of legislative priorities; and
- also discussed the charter of the liaison committee.

C. MANAGER COMMENTS

Mr. Duffy:

- commented that in response to the terrorist attacks on September 11, 2001, the borough activated certain components of the emergency operations plan;
- thanked all those people who participated in implementing the emergency operations plan;
- noted the presentation regarding Port MacKenzie by the Cornell Group;
- stated that the attorney’s fees issue related to the Hatcher Pass litigation has been settled;
- spoke to the Beck report which assesses the potential uses of low value timber;
- remarked that there is an administrative policy that is being prepared that addresses live fire training exercises;
- noted that the state is now accepting Statewide Transportation Improvement Program (STIP) nominations;
- commented that the borough’s Capital Improvement Program (CIP) is now in the nomination phase with a deadline of November 15, 2001;
- stated that the municipal entitlement survey of the Blair Lake/Whiskers Creek land is underway;
- remarked that the borough is working very closely with the State Department of Environmental Conservation regarding the completion of emergency work in the Talkeetna area;

- reported that the state of Alaska has provided the borough with \$30,000 to assist with fire prevention; and
- commented that he will be meeting with the radio-controlled airplane association next week to speak about sites and issues related to operation of the planes in residential areas.

D. ATTORNEY COMMENTS

(There were no comments given.)

E. CLERK COMMENTS

Ms. Dillon:

- reported that the September 11, 2001, joint meeting with the school board has been rescheduled to September 25, 2001;
- commented that the next regular meeting will be held on October 16, 2001, and there is a special meeting for election certification on October 9, 2001;
- stated that the joint work session with the Municipality of Anchorage is scheduled for October 25, 2001, and that the place and the time of the meeting is still to be determined;
- remarked that information on the Alaska Municipal League (AML) is provided in the clerk's report;
- noted that absentee/early voting for the borough election started on September 17, 2001;
- encouraged everyone to take advantage of the early and absentee voting options;
- reported that she has been giving presentations to various community groups regarding options for voting in the borough election;
- stated that the reapportionment advisory committee finalized their plan on September 13, 2001; and
- noted that the October 16, 2001, regular assembly meeting packet will include the legislation for the ballot proposition for the special election and reapportionment maps.

Assemblymember DeVilbiss:

- requested that the clerk bring a resolution forward in support of the reconstruction of the Lake Louise airport.

Assemblymember Lankford Ladere:

- inquired regarding an ordinance to provide for alternates on the planning commission.

F. CITIZEN AND OTHER CORRESPONDENCE

1. MSB Board/Committee Minutes:

- a. Cook Inlet Aquaculture Association - 08/24/01
- b. Library Board - 05/19/01
- c. Knik Road Service Area Board of Supervisors - 08/19/01
- d. Platting Board - 08/16/01
- e. Port Commission - 06/11/01

The citizen and other correspondence were presented and no comments were given.

G. INFORMATIONAL MEMORANDUMS

1. IM No. 01-236: CHANGE ORDER TO CORNELL GROUP FOR ADDITIONAL SERVICES

Assemblymember DeVilbiss:

- inquired as to why the allocation of funds for the Cornell study increased.

Mr. Duffy:

- stated that funds were not included in the original scope of work for the Cornell group representatives to give a presentation directly to the assembly.

Assemblymember Lankford Ladere:

- opined that the costs associated with this presentation should have been approved by the assembly.

The informational memorandum was presented and no comments other than noted were given.

VIII. UNFINISHED BUSINESS

A. Ordinance Serial No. 01-014(AM): AN ORDINANCE ADOPTING MSB 10.08.023, ESTABLISHING A SITE SELECTION PROCESS FOR CHARTER SCHOOLS. (Sponsor: Assemblymember DeVilbiss) (Postponed from 09/04/01)

1. IM No. 01-028

2. IM No. 01-223

MOTION: Assemblymember Jansen moved to postpone Ordinance Serial No. 01-014(AM) to a time certain of October 16, 2001.

Assemblymember Jansen:

- stated that the administration has not had time to address the assembly's concerns relating to purchase or lease of the property.

VOTE: The motion, to postpone, passed with Assemblymembers Lankford Ladere, DeVilbiss, and Colver in opposition.

B. Ordinance Serial No. 01-118: AN ORDINANCE REPEALING MSB 17.60.135 AND ENACTING MSB 17.63, REGULATING RACE TRACKS IN THE CORE AREA. (Sponsor: Mayor Anderson and Assemblymember Colberg) (Postponed from 08/07/01)

1. IM No. 01-178

Ms. Dillon:

- clarified that the main motion for this item of business was pending from the August 7, 2001, meeting;
- stated that two substitutes have been provided to the assembly, SUB 1 and SUB 2;
- noted that if the assembly wished to amend Ordinance Serial No. 01-188 by substitute, then a motion should be made in that regard;
- remarked that substitute 2 (SUB 2) contains highlighted areas in blue, with Assemblymember Colberg's amendments;
- commented that red highlighted areas reflect the amendments that were made from the planning commission; and
- noted that the substitute was not currently on the floor.

MOTION: Assemblymember Colberg moved to amend Ordinance Serial No. 01-118 in full by substitute 2 (SUB 2).

Assemblymember Colberg:

- stated that he does not feel it has ever been reasonable to place race tracks in residential areas;
- spoke to issues regarding noise levels;
- commented that the ordinance will set regulations regarding future race tracks and expansion of existing race tracks; and
- noted that the ordinance is not as restrictive as the initial ordinance.

Discussion continued regarding:

- the changes that have been implemented in Ordinance Serial No. 01-118(SUB 2).

Ms. Garley:

- noted that Mr. Earl Mullins, an expert in sound and acoustics, was available to present information to the assembly regarding noise levels.

Mayor Anderson:

- noted the time;

- suggested that Mr. Mullins' presentation be heard in full after conclusion of the public hearings; and
- asked the clerk to read the introductions into the record.

IX. NEW BUSINESS

A. INTRODUCTION (Suggested public hearing - 10/16/01)

1. Ordinance Serial No. 01-157: AN ORDINANCE APPROVING A SUPPLEMENTAL APPROPRIATION OF \$100,000 FROM LAND MANAGEMENT FUND BALANCE, FUND 203, TO FISCAL YEAR 2002 LAND MANAGEMENT ASSET MANAGEMENT OPERATING BUDGET FOR PROFESSIONAL SERVICES FOR HATCHER PASS SKI DEVELOPMENT.
 - a. AM No. 01-140: AUTHORIZATION FOR THE MATANUSKA- SUSITNA BOROUGH TO ENTER INTO AN AGREEMENT WITH THE ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AUTHORITY FOR THE HATCHER PASS PROJECT.
2. Ordinance Serial No. 01-158: AN ORDINANCE REPEALING MSB 15.08.110(C), MEETINGS/AGENDA/ORDER OF BUSINESS, RELATING TO THE PLANNING COMMISSION, AND REENACTING IT UNDER MSB 15.08.110(F) .
 - a. IM No. 01-224
3. Ordinance Serial No. 01-159: AN ORDINANCE APPROVING THE LAND CLASSIFICATION OF "GENERAL PURPOSE LANDS", AN AMENDMENT TO THE SUSITNA AREA PLAN, AND AUTHORIZING THE SALE OF BOROUGH-OWNED LAND DESCRIBED AS A PORTION OF SECTION 24, T20N, R7E, SEWARD MERIDIAN, ALASKA, LOCATED IN THE PURINTON CREEK AREA, MSB003359.
 - a. IM No. 01-229
4. Ordinance Serial No. 01-160: AN ORDINANCE REQUESTING A SUPPLEMENTAL APPROPRIATION OF \$22,000 FROM THE BIG LAKE FIRE SERVICE AREA FUND BALANCE, FUND 256, TO THE BIG LAKE FIRE SERVICE AREA FISCAL YEAR 2002 OPERATING BUDGET, FUND 256, TO PURCHASE A THERMAL IMAGING DEVICE.
 - a. IM No. 01-231
5. Ordinance Serial No. 01-161: AN ORDINANCE REQUESTING A SUPPLEMENTAL APPROPRIATION OF \$15,400 FROM THE ENHANCED 911 FUND BALANCE, FUND 202, TO THE FISCAL YEAR 2002 ENHANCED 911 OPERATING BUDGET, FUND 202, TO COMPLETE MODIFICATIONS TO THE ENHANCED 911 SYSTEM.
 - a. IM No. 01-232
6. Ordinance Serial No. 01-162: AN ORDINANCE ACCEPTING AND APPROPRIATING \$776.78 FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY TO THE PROJECT IMPACT PROGRAM, FUND 480, PROJECT 20318, FOR CONFERENCE EXPENSES.
 - a. IM No. 01-233
7. Ordinance Serial No. 01-163: AN ORDINANCE ACCEPTING AND APPROPRIATING \$175,000 FROM THE ALASKA STATE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT, TO FUND 450, FOR THE HATCHER PASS WATER AND ELECTRIC DISTRIBUTION, PROJECT NO. 20161.
 - a. Ordinance Serial No. 01-164: AN ORDINANCE ACCEPTING AND APPROPRIATING \$315,000 FROM THE ALASKA STATE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT, TO FUND 450, FOR THE PORT MACKENZIE INTERMODEL FACILITY, PROJECT NO. 70001.
 - b. Resolution Serial No. 01-101: A RESOLUTION APPROVING THE SCOPE OF WORK AND BUDGET FOR HATCHER PASS WATER AND ELECTRICITY AND PORT MACKENZIE INTERMODEL FACILITY AND AUTHORIZING THE MANAGER TO ENTER INTO GRANT AGREEMENTS WITH THE ALASKA STATE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT.
 1. IM No. 01-237
 2. AM No. 01-142: EXTENSION OF ELECTRICAL DISTRIBUTION SYSTEMS TO HATCHER PASS SKI AREA

AND PORT MACKENZIE.

8. Ordinance Serial No. 01-165: AN ORDINANCE ACCEPTING AND APPROPRIATING \$21,000 FROM THE STATE OF ALASKA, MUNICIPAL CAPITAL PROJECT MATCHING GRANT PROGRAM TO FUND 440, PROJECT NO. 20203, FOR HISTORIC PRESERVATION.

a. Resolution Serial No. 01-102: A RESOLUTION APPROVING THE TALKEETNA HISTORICAL SOCIETY'S SCOPE OF WORK AND BUDGET FOR THE SUM OF \$21,000 RECEIVED AS A MUNICIPAL MATCHING GRANT FROM THE STATE OF ALASKA, FOR THE PURPOSE OF HISTORIC PRESERVATION.

1. IM No. 01-239

Ms. Dillon read the above legislation into the record.

MOTION: Assemblymember Jansen moved for introduction of the legislation as read into the record by the clerk and set the public hearing for October 16, 2001.

GENERAL CONSENT: The motion passed without objection.

The regular meeting recessed at 6:55 p.m. and reconvened at 7 p.m.

X. SPECIAL ORDERS (to begin at 7 p.m.)

A. PERSONS TO BE HEARD (Three minutes per person.)

(There were no persons to be heard.)

B. PUBLIC HEARINGS (Three minutes per person.)

1. Ordinance Serial No. 01-119: AN ORDINANCE CREATING NORTH SHORE NO. 2 NATURAL GAS LOCAL IMPROVEMENT DISTRICT NO. 340, APPROVING THE IMPROVEMENT PLAN FOR THE DISTRICT, AUTHORIZING THE MANAGER TO PROCEED WITH THE IMPROVEMENT, AND ASSESSING EQUALLY AMONG THE PROPERTIES WITHIN THE DISTRICT THE COSTS OF THE IMPROVEMENT. (Continued from 08/21/01)

a. IM No. 01-193

Mayor Anderson opened the public hearing. There being no one who wished to be heard, the public hearing closed and discussion moved to the assembly.

MOTION: Assemblymember Lankford Ladere moved for adoption of Ordinance Serial No. 01-119.

Assemblymember Lankford Ladere:

- noted that this local improvement district received just under the percentage of signatures required for approval; and
- stated that she has spoken with some of the residents and intends to start working with those individuals to attain the necessary percentage of signatures.

GENERAL CONSENT: The motion failed unanimously.

2. Ordinance Serial No. 01-151: AN ORDINANCE ACCEPTING AND APPROPRIATING \$5,000 FROM THE CITY OF WASILLA TO FISCAL YEAR 2002 OPERATING BUDGET (100.130.134) FOR JUNK VEHICLE REMOVAL.

a. IM No. 01-209

Mayor Anderson opened the public hearing. There being no one who wished to be heard, the public hearing closed and discussion moved to the assembly.

MOTION: Assemblymember Kelly moved for adoption of Ordinance Serial No. 01-151.

Assemblymember Kelly:

- thanked the city of Wasilla for their contribution.

GENERAL CONSENT: The motion passed without objection.

3. Ordinance Serial No. 01-152: AN ORDINANCE APPROVING A SUPPLEMENTAL APPROPRIATION OF \$25,000 FROM THE WASILLA-LAKES FIRE SERVICE AREA FUND BALANCE, FUND 250, TO THE WASILLA-LAKES FIRE SERVICE AREA OPERATING BUDGET, FUND 250, TO PURCHASE RADIOS, ACCESSORIES, SOFTWARE FOR PROGRAMMING, AND RADIO INSTALLATION.

a. IM No. 01-210

Mayor Anderson opened the public hearing.

The following spoke in favor of Ordinance Serial No. 01-152: Ken Slauson, a representative from the Wasilla-Lakes Fire Service Area Board of Supervisors.

There being no others who wished to be heard, the public hearing closed and discussion moved to the assembly.

MOTION: Assemblymember Kelly moved for adoption of Ordinance Serial No. 01-152.

GENERAL CONSENT: The motion passed without objection.

4. Ordinance Serial No. 01-153: AN ORDINANCE REQUESTING AN APPROPRIATION OF \$6,200 FROM THE TALKEETNA FIRE SERVICE AREA FUND BALANCE, FUND 254, TO THE CAPITAL PROJECTS, FUND 405, PROJECT NO. 10136, TO PAY FOR SITE PREPARATIONS, PAVING, AND OTHER ASSOCIATED COSTS.

a. Resolution Serial No. 01-093: A RESOLUTION REVISING THE SCOPE OF WORK FOR THE TALKEETNA FIRE SERVICE AREA CAPITAL PROJECTS, FUND 405, PROJECT NO. 10136, FOR AN ADDITIONAL \$6,200 TO PAY FOR SITE PREPARATIONS, PAVING, AND OTHER ASSOCIATED COSTS.

1. IM No. 01-219

Mayor Anderson opened the public hearing. There being no one who wished to be heard, the public hearing closed and discussion moved to the assembly.

MOTION: Assemblymember Lankford Ladere moved for adoption of Ordinance Serial No. 01-153 and Resolution Serial No. 01-093.

Assemblymember Lankford Ladere:

- stated that this is commonly referred to as the “Sunshine Fire Department Building.”

GENERAL CONSENT: The motion passed without objection.

5. Ordinance Serial No. 01-154: AN ORDINANCE ACCEPTING AND APPROPRIATING \$140,000 FROM THE ALASKA STATE MUNICIPAL CAPITAL PROJECT MATCHING GRANT PROGRAM, TO FUND 425, PROJECT NO. 45092, FOR THE PURCHASE OF ONE AMBULANCE, ONE RESCUE UNIT, AND RELATED EQUIPMENT.

a. Resolution Serial No. 01-094: A RESOLUTION APPROVING THE SCOPE OF WORK AND BUDGET FOR THE ALASKA STATE MUNICIPAL CAPITAL PROJECT MATCHING GRANT, FOR THE PURCHASE OF ONE AMBULANCE, ONE RESCUE UNIT, AND RELATED EQUIPMENT, FUND 425, PROJECT NO. 45092.

1. IM No. 01-221

Mayor Anderson opened the public hearing. There being no one who wished to be heard, the public hearing closed and discussion moved to the assembly.

MOTION: Assemblymember Jansen moved for adoption of Ordinance Serial No. 01-154 and Resolution Serial No. 01-094.

Discussion ensued regarding:

- the final disposition of the outdated equipment.

GENERAL CONSENT: The motion passed without objection.

6. Ordinance Serial No. 01-155: AN ORDINANCE ACCEPTING AND APPROPRIATING \$147,334 FROM THE ALASKA STATE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT, TO FUND 435 TO BUILD A COVERED STORAGE AREA FOR SALTED SAND, PROJECT NO. 30077.

a. Ordinance Serial No. 01-156: AN ORDINANCE REAPPROPRIATING \$63,143 FROM FUND 410 TO FUND 435 FOR THE MATCH FOR BUILDING A COVERED STORAGE AREA FOR SALTED SAND, PROJECT NO. 30077.

b. Resolution Serial No. 01-095: A RESOLUTION APPROVING THE SCOPE OF WORK AND BUDGET TO BUILD A COVERED STORAGE AREA FOR SALTED SAND AND AUTHORIZING THE MANAGER TO ENTER INTO A GRANT AGREEMENT WITH THE ALASKA STATE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT.

1. IM No. 01-226

Mr. Strother:

- presented a staff report regarding the purpose of the covered salted sand storage facility;
- noted that a covered facility is needed so that precipitation does not freeze the sand;
- reported that this has been presented to the road service area advisory board who were originally opposed to it in December, as funds were earmarked from their operating budgets;
- commented that a state grant has been secured for 70 percent of the funds, with a borough match of 30 percent;
- stated that the match is proposed to be split among the road service areas in proportion to the mileage of each road service area;
- remarked that this was not previously included in the capital improvement projects; and
- noted contradictions received from various road service area supervisors in regard to approvals or disapprovals of the project.

Ms. Clayton:

- spoke to funding of the project;
- noted that the project dates back to December 2000;
- reported that funds to build this facility were included in each road service area budget;
- stated that the road service area supervisors were not in approval of the funds being designated to build the covered sand storage facility;
- remarked that a state grant was secured and that the funds were transferred to a different line item in the budget in order to be transferred to capital projects; and
- noted the estimated cost of the facility at \$148,000.

Mayor Anderson opened the public hearing.

The following spoke in favor of Ordinance Serial No. 01-155 and 01-156, and Resolution Serial No. 01-095: Wes Hamrick, Road Service Area Supervisor, No. 21.

There being no others who wished to be heard, the public hearing closed and discussion moved to the assembly.

Assemblymember Simpson:

- stated the need for support from the road service areas; and
- suggested postponement of action until the road service area board of supervisors had a chance to review the legislation.

MOTION: Assemblymember Jansen moved for adoption of Ordinance Serial No. 01-155, Ordinance Serial No. 01-156, and Resolution Serial No. 01-095.

Mr. Strother:

- reported that construction of the facility is not mandated;
- commented that postponement of one month will likely defer construction until next year; and
- remarked that the facility will be located at the central landfill.

Discussion continued regarding:

- communities at a distance from the facility, whether or not salted sand would be stored in the upper Susitna Valley, the potential of a salted sand storage area at Big Lake for the mid road service areas, past history of Caswell, Talkeetna, and Trapper Creek not utilizing salted sand largely due to the cost involved, sand being available in the upper valley, but not in a covered sand storage, dimensions of the proposed facility, and use of the road service areas' projects as a matching source.

MOTION: Assemblymember DeVilbiss moved to amend Ordinance Serial No. 01-156 by changing it from a reappropriation source to a matching source. The substitute language for Section 2 would read:

Section 2. Matching source. The Matanuska-Susitna Borough Assembly intends to match the grant with funds in the amount of \$63,143 from the capital projects fiscal year 2002 budget to provide for the construction of a covered storage area for salted sand within the various road service areas as noted below:

GENERAL CONSENT: The motion, to amend, passed without objection.

Discussed continued regarding:

- the possibility of contamination, funding to upgrade to the central landfill road, the desire to obtain an opinion from the road service area advisory board as to the need of the facility, and referral of the issue to the road service area advisory board with a letter from the manager explaining how the funds have been allocated.

MOTION: Assemblymember Colver moved to postpone Ordinance Serial No. 01-155 and 01-156, and Resolution Serial No. 01-095 to a time certain of October 16, 2001.

VOTE: The motion, to postpone, failed with Assemblymembers Colver and Lankford Ladere in favor.

MOTION: Assemblymember Simpson moved the previous question.

VOTE: The motion, to stop debate, passed with Assemblymembers Lankford Ladere and Kelly in opposition.

VOTE: The motion, as amended, passed with Assemblymember Lankford Ladere in opposition.

7. AM No. 01-138: APPROVING \$30,000 FROM ASSEMBLY RESERVES TO FUND PREPARATION OF AN AMICUS BRIEF IN THE STATE REDISTRICTING LITIGATION. (Sponsor: Assemblymember Colberg)

Mayor Anderson opened the public hearing.

The following spoke in favor of AM No. 01-138: Ken Slauson.

The following spoke in favor of intervention rather than preparation of an amicus brief: Kevin Sorensen, Noel Lowe (Wasilla City Councilman), and Lucille Frye.

There being no others who wished to be heard, the public hearing closed and discussion moved to the assembly.

MOTION: Assemblymember Colberg moved for approval of AM No. 01-138.

Assemblymember Colberg:

- stated that many parties have filed suit to the state redistricting plan;
- noted that these parties will most likely not address the issues of the borough;
- commented that an amicus brief will allow the borough to have a voice;
- opined that a senator from the Fairbanks area will not understand the needs of the borough;
- remarked that intervention will amount to joining the lawsuit; and

- reminded the assembly that they did not previously desire to enter the litigation.

Discussion continued regarding:

- the deadline for filing an intervention in state court.

MOTION: Assemblymember DeVilbiss moved to amend AM No. 01-138 by inserting the phrases “from assembly reserves” and “intervention and failing that, an . . .”, to read: “Approve \$30,000 from assembly reserves to fund preparation of an intervention and failing that, an amicus brief in the state redistricting litigation, particularly focusing on correcting the inequities created in the state senate representation for the Mat-Su Borough.”

RULING: Mayor Anderson ruled the motion out of order as proper public notice regarding an intervention has not been made.

MOTION: Assemblymembers DeVilbiss moved to appeal the decision of the Chair.

Ms. Dillon:

- noted that the amendment could constitute a substantial change which usually requires public notice; and
- deferred to the acting borough attorney for an opinion on the proper notice requirements in this regard.

Mr. Aschenbrenner:

- noted that this amendment would constitute a substantial change; and
- recommended that the assembly give adequate notice to the public in relation to funding an intervention in the state redistricting plan litigation.

Ms. Dillon:

- clarified the process regarding motions to appeal rulings of the Chair; and
- advised that a majority vote is required and that a tie vote would sustain the ruling of the Chair.

VOTE: [The question is: Shall the decision of the Chair be sustained?] The motion failed with Assemblymembers Jansen, Colver, and Simpson in favor.

Discussion continued regarding:

- modification of the appropriation of funds for intervention;
- release of the previous legal opinion;
- the previous assembly action objecting to filing a lawsuit regarding the redistricting plan; and
- rescinding the previous motion in order to address the amended motion on the floor.

The regular meeting recessed at 8:15 p.m. and reconvened at 8:30 p.m.

Ms. Dillon:

- noted that the motion made on July 10, 2001, to file a lawsuit to correct the inequities of the plan failed, so rescinding something previously adopted would not be applicable as no position statement was made.

Discussion continued regarding:

- clarification on whether filing an intervention would make the borough a party to the lawsuit;
- extra costs associated with intervening after the deadline for filing has lapsed;
- adequate public notice requirements regarding an intervention;
- the public support heard to defend full representation in the state legislature;
- funds expended by the city of Wasilla and the city of Valdez to enter the litigation; and
- the inability to limit intervention to one issue.

MOTION: Assemblymember Colver moved to amend AM No. 01-138 to strike the phrase “from assembly reserves” and to insert “from the legal services department”, to read: “Approve \$30,000 [FROM ASSEMBLY RESERVES] from the legal services department to fund preparation of an intervention and failing that, to file an amicus brief in the state redistricting litigation particularly focusing on correcting the inequities created in the state senate representation

for the Mat-Su Borough.”

RULING: Mayor Anderson ruled the motion out of order as there was an amendment pending on the floor.

Discussion continued regarding:

- challenge of the court’s intervention deadline schedule; and
- not appealing the court’s decision to disallow intervention based upon an untimely filing.

VOTE: The motion to amend AM No. 01-138 by inserting the phrases “from assembly reserves” and “intervention and failing that, an . . .”, to read: “Approve \$30,000 from assembly reserves to fund preparation of an intervention and failing that, an amicus brief in the state redistricting litigation particularly focusing on correcting the inequities created in the state senate representation for the Mat-Su Borough” passed with Assemblymembers Jansen, Colver, and Simpson in opposition.

MOTION: The main motion, as amended, passed with Assemblymembers Jansen, Colver, and Simpson in opposition.

Discussion ensued regarding:

- possible failure of the motion; and
- if it could be brought back to the assembly in its original form.

MOTION: Assemblymember DeVilbiss moved to reconsider AM No. 01-138.

VOTE: The motion to reconsider failed with Assemblymember Colver in favor.

Mayor Anderson:

- stated his opposition to the passage of the legislation until the legality of the public notice requirement relating to the amendment could be addressed.

C. AUDIENCE PARTICIPATION (Three minutes per person.)

Mr. Jim Turner:

- spoke to the settlement of attorney’s fees as they relate to the Hatcher Pass litigation; and
- requested dismissal of the borough manager.

Mr. Moll:

- noted his support of the resolution calling for the resignation of the borough manager; and
- stated that application for recall of the mayor will be made to the clerk for certification.

Mr. Bryan Scorsky:

- thanked the assembly and those involved in paving Loma Prieta Road.

Mr. Noel Lowe:

- noted his support regarding intervention in the state redistricting plan litigation; and
- voiced his desire to cooperate with the borough to move forward in the intervention of the state redistricting plan litigation.

Ms. Barbara Morris:

- voiced her opposition to Resolution Serial No. 01-103.

Mr. Ken Slauson:

- voiced his support for the borough manager and noted his opposition to Resolution Serial No. 01-103.

The regular meeting recessed at 9:30 p.m. and reconvened at 9:40 p.m.

B. Ordinance Serial No. 01-118: AN ORDINANCE REPEALING MSB 17.60.135 AND ENACTING MSB 17.63, REGULATING RACE TRACKS IN THE CORE AREA. (Sponsor: Mayor Anderson and Assemblymember Colberg)

(Postponed from 08/07/01)

1. IM No. 01-178

(Discussion continued see p. 5)

Ms. Garley

- provided a staff report on Ordinance Serial No. 01-118(SUB 2) regarding setting standards for race tracks located in the core area;
- noted that noise was a main issue addressed by the planning commission; and
- introduced Mr. Earl Mullins, specialist on fundamental concepts of noise.

Mr. Mullins:

- gave a PowerPoint presentation regarding noise levels associated with areas in and around race tracks.

Discussion ensued regarding:

- recent noise measurements taken via sound meter by the division of code compliance and how they differ from previous figures;
- efforts on behalf of the race track to limit noise;
- Mr. Mullins not being commissioned to research North Star Speedway, but rather to look at noise levels there as a point of reference;
- new facilities entering the core area;
- the effects that the new ordinance will have on North Star Speedway;
- the grandfather rights of North Star Speedway;
- expansion of North Star Speedway falling under the regulations of the new ordinance;
- nonconforming uses as defined by the borough code; and
- race track peak noise level readings.

Ms. Dillon:

- clarified that a substitute is an amendment in full; and
- advised that the assembly had the option of making amendments to both the substitute and the original ordinance.

Discussion continued regarding:

- the definition of LEQ, which is a time-integrated summation of all sound levels as measured during the lesser of the period of the noise event or a three-minute period during the noise event. Leq is often referred to as an average sound level.

MOTION: Assemblymember Jansen moved the previous question.

GENERAL CONSENT: The motion, to stop debate, passed without objection.

GENERAL CONSENT: The motion to amend Ordinance Serial No. 01-118 by substitute 2 (SUB 2) passed without objection.

Assemblymember Simpson:

- noted that she visited North Star Speedway; and
- opined regarding the traffic impact analysis and public input process aspects of the ordinance.

VOTE: The motion, as amended by substitute 2 (SUB 2), passed with Assemblymember DeVilbiss in opposition.

MOTION: Assemblymember Colver moved for reconsideration of Ordinance Serial No. 01-118(SUB 2).

VOTE: The motion, to reconsider, failed with Assemblymember DeVilbiss in favor.

IX. NEW BUSINESS

B. CONSENT AGENDA

(Resolution Serial Nos.103, Resolution Serial No. 01-105, AM No. 01-144, and AM No. 01-147 were pulled from the consent agenda.)

1. RESOLUTIONS

b. Resolution Serial No. 01-104: A RESOLUTION REVISING THE SCOPES OF WORK AND BUDGETS AS ADOPTED IN THE FISCAL YEAR 2002 BUDGET, CAPITAL PROJECTS FUND 435, PROJECT NO. 10148 (SECURITY SYSTEM), TO DECREASE THE TOTAL FUNDS BY \$14,000 AND PROJECT NO. 10146 (CREMATORY AND BUILDING) TO INCREASE THE TOTAL FUNDS BY \$14,000, FOR THE ANIMAL CARE AND REGULATION SHELTER.

1. IM No. 01-230

2. AM No. 01-137: AWARD OF BID NO. 02-033, ANIMAL CARE AND REGULATION SHELTER CREMATORY DESIGN/BUILD.

d. Resolution Serial No. 01-106: A RESOLUTION SUPPORTING APPLICATION TO CONGRESSIONALLY FUNDED FOREST GRANT PROGRAMS. (Sponsor: Assemblymember Lankford Ladere)

1. IM No. 01-241

2. ACTION MEMORANDUMS

a. AM No. 01-135: AWARD OF PROPOSAL NO. 01-141, BRETT MEMORIAL ICE ARENA EXPANSION AND UTILITY UPGRADE DESIGN.

b. AM No. 01-136: AWARD OF PROPOSAL NO. 02-028, LITTLE SUSITNA PARK AND LAKE LUCILLE PARK CAMPGROUNDS RV DUMP STATIONS.

c. AM No. 01-141: WILLOW COMMUNITY CENTER AND PUBLIC LIBRARY PAINTING PROJECT CHANGE ORDER APPROVAL.

d. AM No. 01-143: PURCHASE OF SODIUM CHLORIDE FOR WINTER ROAD SANDING OPERATIONS.

f. AM No. 01-145: AWARD OF BID NO. 02-037, MEADOW LAKES RESCUE EQUIPMENT.

g. AM No. 01-146: ELIMINATION OF TWENTY-FOOT WIDE TELECOMMUNICATION, ELECTRICAL, AND NATURAL GAS EASEMENT WITHIN COUNTRY FIELD ESTATES VII, SECTION 6, T17N, R1E, SEWARD MERIDIAN, ALASKA, SOUTH LAKES COMMUNITY COUNCIL AREA.

Ms. Dillon read the above legislation into the record.

MOTION: Assemblymember Jansen moved for adoption of the above-referenced legislation as read into the record by the clerk.

GENERAL CONSENT: The motion passed without objection.

MOTION: Assemblymember Jansen moved to suspend the rules and to extend the meeting beyond 11 p.m., but no later than midnight.

GENERAL CONSENT: The motion, to suspend the rules, passed without objection.

a. Resolution Serial No. 01-103: A RESOLUTION CALLING FOR THE RESIGNATION OF THE BOROUGH MANAGER. (Sponsor: Assemblymember DeVilbiss)

MOTION: Assemblymember Jansen moved to object to consideration of Resolution Serial No. 01-103.

VOTE: The motion, to object to the consideration of Resolution Serial No. 01-103, failed with Assemblymembers Jansen, Colver, Kelly, and Simpson in favor. [This motion requires a 2/3 majority.]

MOTION: Assemblymember DeVilbiss moved to approve Resolution Serial No. 01-103.

Mayor Anderson:

- inquired if Mr. Duffy desired to convene in executive session to discuss Resolution Serial No. 01-103.

Mr. Duffy:

- declined convening in executive session.

The regular meeting recessed at 10:55 p.m. and reconvened at 11:02 p.m.

Members of the Assembly spoke to political differences, recognized the efforts of Mr. Duffy, and supported his retention as the borough manager.

MOTION: Assemblymember Jansen moved the previous question.

VOTE: The motion, to stop debate, failed with Jansen, Colver, and Simpson in favor.

Some discussion followed regarding the recent litigation concerning Hatcher Pass.

VOTE: The motion, to adopt Resolution Serial No. 01-103, failed with Assemblymember DeVilbiss in favor.

c. Resolution Serial No. 01-105: A RESOLUTION ENDORSING THE PROPOSED PROJECTS FOR THE FY 2003 MUNICIPAL CAPITAL PROJECT MATCHING GRANT PROGRAM.

1. IM No. 01-235

MOTION: Assemblymember Colver moved to adopt Resolution Serial No. 01-105.

Assemblymember Colver:

- requested a staff report regarding the Brett Ice Arena.

Mr. Swanson:

- reported that costs for this project were underestimated by approximately \$300,000; and
- noted the inadequacies of the ice arena.

Assemblymember Colver:

- spoke to his discussion with the director of public safety and the manager regarding the funds proposed in the state capital projects list, specifically in regard to the funds proposed for the ambulance;
- noted that this item could be addressed more adequately by placing it in the borough capital projects list and the operating budget and moving the \$115,150 proposed for the ambulance into the Brett Ice Arena project.

MOTION: Assemblymember Colver moved to amend Resolution Serial No. 01-105 to strike the appropriation for the ambulance from the state capital projects list and to insert the \$115,150 into the Brett Ice Arena project.

Discussion continued regarding:

- the match being accounted for through the parks and recreation bonds;
- attaining the ambulance sooner because it will be placed in the budget; and
- whether or not the legislature has the option of replacing the borough's priorities with their own.

VOTE: The motion, to amend Resolution Serial No. 01-105, failed with Assemblymember Colver in support.

Discussion continued regarding:

- insufficient funds to complete the Brett Ice Arena project.

MOTION: The motion, to adopt Resolution Serial No. 01-105, passed without objection.

e. AM No. 01-144: BIG LAKE PUBLIC LIBRARY CHANGE ORDER APPROVAL

MOTION: Assemblymember Colver moved for approval of AM No. 01-144.

Assemblymember Colver:

- spoke in opposition to the motion as he felt it was a reallocation rather than a change in the scope of work for the project.

GENERAL CONSENT: The motion passed without objection.

h. AM No. 01-147: COOK INLET BELUGA WHALE, ET AL. VS. WILLIAM M. DALEY, ET AL. AND CITY OF ANCHORAGE, KENAI PENINSULA BOROUGH, MATANUSKA-SUSITNA BOROUGH AND ALASKA OIL AND GAS.

MOTION: Assemblymember Jansen moved to approve AM No. 01-147.

MOTION: Assemblymember Jansen moved to amend AM No. 01-147, to include in the staff recommendation the language, "not to exceed \$10,000", to read: "Have Steve Sliver of Robertson, Monagle, and Eastaugh oppose an appeal if one is filed, not to exceed \$10,000."

GENERAL CONSENT: The motion, to amend AM No. 01-147, passed without objection.

GENERAL CONSENT: The motion, as amended, passed without objection.

C. MAYORAL NOMINATIONS AND APPOINTMENTS

1. VACANCY REPORT

Mayor Anderson made the following recommendations:

(There were no recommendations.)

Mayor Anderson requested the following confirmations:

Platting Board

Claudia Roberts

Roger Anderson

Talkeetna Flood Control SSA #7

William W. Stearns

Midway RSA #9

Larry S. Leveen

Talkeetna Sewer and Water SSA #36

Eugene Jenne

Mayor Anderson requested confirmation of the following resignations:

Parks, Recreation, and Trails Advisory Board

Bruce Greer

Meadow Lakes FSA #34

Betty Vehrs

MOTION: Assemblymember Jansen moved to confirm the mayor's appointments up for confirmation this evening and to accept the resignations as presented.

GENERAL CONSENT: The motion passed without objection.

D. OTHER NEW BUSINESS

(There was no other new business.)

X. RECONSIDERATION

(There was no reconsideration.)

XI. VETO

Mayor Anderson:

- noted that he vetoed a portion of Resolution Serial No. 01-087 and stated that he had distributed a memorandum in this regard.

XII. EXECUTIVE SESSION

(There was no executive session.)

XIII. MAYOR AND ASSEMBLY COMMENTS

MOTION: Assemblymember Kelly moved to contribute \$2,800 from assembly reserves for the city of Wasilla's honor garden project.

Assemblymember Jansen:

- stated that she still feels this action would be precedent setting;
- noted that there are many worthy non-profit organizations in the borough; and
- commented that the administrative fee is charged because that is the cost associated with conducting business.

Assemblymember Kelly:

- opined that these funds would be designated to a monument, not a person or organization; and
- stated that the city of Wasilla should receive the full funds necessary to complete their project.

Assemblymember Simpson:

- agreed that this action would be precedent setting.

VOTE: The motion, to contribute \$2,800 from assembly reserves to the city of Wasilla's honor garden project, failed with Ladere, DeVilbiss, and Kelly in support.

Assemblymember Kelly:

- expressed his sadness at the failure of the motion to contribute the additional funds for the honor garden project;
- spoke to the rights of the land owners in the proximity of the race track; and
- commented regarding fluctuations in decibel levels and advised caution.

Assemblymember Colberg:

- [no comments were given]

Assemblymember Lankford Ladere:

- introduced government students from Su Valley High School;
- spoke to the students' work in regard to the health clinic; and
- commented regarding nonforest products in Alaska.

Assemblymember DeVilbiss:

- commented regarding Ms. Jay Nolfi's recent poem in the Frontiersman Newspaper.

Assemblymember Simpson:

- encourage everyone to attend the trails simposium at Lake Lucille;
- extended her appreciation to public safety personnel for all their efforts;
- asked the manger to alert the road service areas' supervisors in regard to the salted sand storage facility legislation;
- and
- requested that the department of public safety provide a quarterly report regarding statistics for intake, euthanasia, adoptions, microchip figures, collection of fees, etc., at the animal care and regulation shelter.

Assemblymember Colver:

- spoke to street lights and lapsed funds in some of the road service area budgets; and
- opined that this is low on the priority list for Matanuska-Susitna Electric Association.

Assemblymember Jansen:

- spoke to continuity in the assembly.

Mayor Anderson:

- commented that he was impressed with the staff's efforts to implement the emergency operations plan;
- spoke to some of the events of the evening;
- remarked that he is very conscientious regarding his position in the local government;
- opined that the people will decide the fate of the recall petition;
- also recognized Ms. Jay Nolfi's poem.

XIV. ADJOURNMENT

The regular meeting adjourned at 11:55 p.m.

TIMOTHY L. ANDERSON, Borough Mayor

ATTEST:

SANDRA A. DILLON, Borough Clerk

Minutes approved: October 16, 2001