

**I. CALL TO ORDER**

The special meeting of the Matanuska-Susitna Borough Assembly was held on February 28, 2012, at the Borough Assembly Chambers, 350 E. Dahlia Avenue, Palmer, Alaska. The meeting was called to order at 1:09 p.m. by Mayor Larry DeVilbiss.

**II. ROLL CALL**

Assembly members present and establishing a quorum were:

Mr. Warren Keogh, Assembly District No. 1  
Mr. Noel Woods, Assembly District No. 2  
Mr. Ronald Arvin, Assembly District No. 3 (*Deputy Mayor*) (*attended telephonically*)  
Mr. Steven Colligan, Assembly District No. 4 (*attended telephonically*)  
Mr. Darcie K. Salmon, Assembly District No. 5 (*attended telephonically*)  
Mr. Jim Colver, Assembly District No. 6  
Mr. Vern Halter, Assembly District No. 7 (*arrived at 1:38 p.m.*)

Staff in attendance were:

Ms. Lonnie R. McKechnie, Borough Clerk  
Mr. Don Moore, Acting Assistant Borough Manager  
Mr. Nicholas Spiropoulos, Borough Attorney  
Ms. Jamie Newman, Deputy Borough Clerk  
Ms. Tammy Clayton, Finance Director  
Ms. Shaune O'Neil, Public Works Director  
Mr. Alex Strawn, Permitting Services Manager  
Mr. John Aschenbrenner, Deputy Borough Attorney  
Mr. Paul Hulbert, Platting Officer  
Mr. Brad Sworts, Transportation and Environmental Manager  
Ms. Nancy Cameron, Land Management Agent  
Mr. Stefan Hinman, Media Design Specialist

**III. APPROVAL OF AGENDA**

Mayor DeVilbiss inquired if there were any changes to the agenda.

Assemblymember Woods requested to move audience participation before unfinished business.

There was no objection noted.

GENERAL CONSENT:                   The agenda was approved as amended without objection.

**IV. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Mr. Marvin Yoder, a member of the public.

## V. ITEMS OF BUSINESS

- A. Resolution Serial No. 12-027: A RESOLUTION SUPPORTING HOUSE BILLS 158 AND 159 AND SENATE BILLS 79 AND 80 RELATING TO THE AUTHORITY AND OBLIGATIONS OF THE KNIK ARM BRIDGE AND TOLL AUTHORITY (KABATA).
1. IM 12-059

MOTION: Assemblymember Colver moved to adopt Resolution Serial No. 12-027.

Assemblymember Keogh:

- spoke in opposition to the legislation;
- expressed concern that pushing the KABATA project may occur at the expense of the other legislative priorities adopted by the Assembly;
- noted that there is only so much money available to the Governor and Legislature;
- further added that pushing hard on this project over others may diminish the likelihood of success on funding the other projects; and
- affirmed his growing reservations about the financial feasibility of the KABATA project.

Assemblymember Salmon:

- spoke in support of the legislation;
- noted that the legislation before the body does nothing more than support House Bills 158 and 159 and Senate Bills 79 and 80; and
- further added that KABATA requested support of the bills as they are essential to the project.

Assemblymember Colligan:

- spoke in support of the legislation;
- stated that the legislation simply affirms the Assembly's commitment to the KABATA project, as identified in the Borough's 2012 Legislative Priority list;
- noted that all future growth from Anchorage will extend toward the Borough; and
- commented on the importance of addressing future transportation needs in relation to growth.

MOTION: Assembly Arvin moved to postpone Resolution Serial No. 12-027 until after unfinished business.

Assemblymember Arvin spoke in support of taking up the legislation when Assemblymember Halter arrives in anticipation of his support.

VOTE: The motion to postpone passed without objection.

## B. PUBLIC HEARING (Three minutes per person)

1. Ordinance Serial No. 12-038: AN ORDINANCE AUTHORIZING THE MATANUSKA-SUSITNA BOROUGH TO ISSUE AREAWIDE GENERAL OBLIGATION BONDS, IN ONE OR MORE SERIES, TO FINANCE THE

ACQUISITION, DESIGN, CONSTRUCTION, MAJOR RENOVATION AND RENEWAL OF EDUCATIONAL CAPITAL IMPROVEMENT PROJECTS AND RELATED CAPITAL IMPROVEMENTS IN THE BOROUGH; AND REFUND CERTAIN OUTSTANDING GENERAL OBLIGATION BONDS AND AUTHORIZING THEIR SALE.

a. IM No. 12-051

Ms. Clayton presented a staff report.

Mayor DeVilbiss opened the public hearing.

The following person spoke in support of Ordinance Serial No. 12-038: Mr. Ken Forrest.

There being no others present who wished to testify, the public hearing closed and discussion moved to the Assembly.

MOTION: Assemblymember Colver moved to adopt Ordinance Serial No. 12-038.

VOTE: The motion passed without objection.

*(The meeting recessed at 1:40 p.m. and reconvened at 1:48 p.m.)*

*(Assemblymember Salmon exited the meeting at 1:48 p.m.)*

## **VII. AUDIENCE PARTICIPATION**

The following persons spoke to concerns that amendments have been made to Ordinance Serial No. 11-072, without further public hearing: Ms. Crystal Nygard and Mr. Marvin Yoder on behalf of the Mat-Su Business Alliance.

The following person requested amendment of regulations to assist in the subdivision of a 26 acre parcel owed by her family: Ms. Cindy Marble.

*(Assemblymember Salmon reentered the meeting at 1:54 p.m.)*

The following person spoke in opposition to Ordinance Serial No. 11-072, noting that the majority of amendments made to date revert back to Title 27, and make development to costly: Mr. Ed McCain.

The following person spoke to access issues that need to be resolved prior to the adoption of Ordinance Serial No. 11-072: Mr. Butch Moore.

The following person spoke to the need for dedicated public rights-of-ways within subdivisions that develop around schools as a matter of pedestrian safety: Mr. Randy Diller.

## **VI. UNFINISHED BUSINESS**

A. Ordinance Serial No. 11-072: AN ORDINANCE REPEALING MSB TITLE 27 AND ADOPTING MSB TITLE 16, SUBDIVISIONS. (Sponsored by Assemblymember Colver)

1. IM No. 11-122

PENDING MOTION: Assemblymember Colver moved to adopt Ordinance Serial No. 11-072.

MOTION: Assemblymember Colver moved a primary amendment to Ordinance Serial No. 11-072, MSB 16.20.300, by striking subsection (D) in its entirety and inserting in its place the following:

(D) Flag lots

(1) Flag lots are allowed with a maximum pole length of 2640 feet and the flag pole portion shall not count in the width to length ratio.

(a) for poles up to 1320 feet or upon survey where a one-quarter section aliquot part dimension exceeds 1320 feet, the width of the pole portion must be a minimum of 30 feet wide and the sixty foot road frontage requirement does not apply.

(b) For a pole length greater than 1320 feet and not exceeding 2640 feet, the pole portion width must be a minimum of 60 feet wide.

Assemblymember Colver affirmed the primary amendment is proposed for development beyond the first 40 acre parcel.

Mr. Hulbert presented a staff report.

Assemblymember Woods expressed concern regarding access issues that may arise as a result of the development of flag pole lots.

VOTE: The primary amendment passed without objection.

MOTION: Assemblymember Keogh moved a primary amendment to Ordinance Serial No. 12-072, MSB 16.15.022, to add a new subsection (C), to read as follows: (C) Public notice of waiver subdivisions shall follow the procedures of MSB 16.10.065 pertaining to actions requiring a public hearing and written comments on the waiver application shall be accepted. A public hearing is not required for waiver subdivisions.

Assemblymember Keogh:

- noted that the primary amendment is proposed to comply with Alaska Statute;
- stated that the amendment clarifies the process for waivers and abbreviated plats; and
- further added that the amendment is related to the process only and will place in code the provisions for notices as required under State law and due process concerns raised by the Attorney.

Mr. Spiropoulos:

- stated that the Law Department had previously advised the Assembly that Alaska Statute 29.40.090, Abbreviated Plats and Waivers, contains a prohibition mandating not more than four lots be created from a single lot;
- advised that serial waivers are not allowed under State law;
- further added that there has not been a court ruling on the matter; and
- acknowledged that Assemblymember Colver disagrees with his interpretation of the law.

Assemblymember Colver:

- spoke in opposition to the primary amendment; and
- expressed support of an efficient serial waiver process.

VOTE: The primary amendment passed with Assemblymember Colver opposed.

MOTION: Assemblymember Keogh moved a primary amendment to Ordinance Serial No. 12-072, MSB 16.15.025, to add a new subsection (D), to read as follows: (D) Public notice of abbreviated plats shall follow the procedures of MSB 16.10.065 pertaining to actions requiring a public hearing.

Assemblymember Keogh noted that the intent of the primary amendment is to ensure compliance with State law.

Mr. Spiropoulos:

- affirmed that State law requires a public hearing; and
- further added that putting the language in code clearly informs the public of the requirement.

Assemblymember Colver:

- spoke in opposition to the primary amendment; and
- voiced that the primary amendment appears redundant.

MOTION: Assemblymember Arvin called for the question (to stop debate).

VOTE: The motion passed without objection.

VOTE: The primary amendment passed without objection.

MOTION: Assemblymember Colver moved a primary amendment to Ordinance Serial No. 12-072 MSB 16.15.055(B)(2), to add the words "when applicable" at the end of the first sentence and to add a new paragraph (3) to read as follows: (2) the subdivider has entered into a subdivision agreement under MSB 16.55, when applicable. The execution of a guarantee under MSB 16.55 does not change, waive or extend the period of time during which the preliminary plat approval is effective.

(3) for subdivisions served by a community water and /or sewer system(s) that are subject to regulatory approval by the Regulatory Commission of Alaska (RCA), a certificate of approval to operate from the Alaska Department of Environmental Conservation is provided. This provision applies to subdivisions, phases of

master plans, and previously approved master plan phases that are subject to RCA jurisdiction.

Assemblymember Colver:

- stated that the intent of the amendment is to ensure that subdivisions served by a public water system have a certificate of approval to operate from the Alaska State Department of Environmental Conservation, subject to regulatory approval by the Regulatory Commission of Alaska; and
- further added that the amendment is proposed to protect public health.

Mr. Roy Robertson, Environmental Engineer, with the Alaska State Department of Environmental Conservation, spoke to the process of obtaining a public water system certificate.

VOTE: The primary amendment passed without objection.

MOTION: Assemblymember Keogh moved a primary amendment to Ordinance Serial No. 12-072, MSB 16.15.055(B), to strike the words “minor plat amendments to combine 2-4 lots into one lot” after the word “waivers,” to read as follows: The platting officer shall act upon applications for abbreviated plat approval, waivers.

MOTION: Assemblymember Colver moved a secondary amendment to replace subsection B, in its entirety and inserting in its place the following:  
(B) The platting officer shall act upon applications for abbreviated plat approval, waivers, minor plat amendments to combine lots into one-four lot(s) 40 acre exemptions and right-of-way acquisition plats.

Assemblymember Colver spoke in favor of expanding the amount of lots that may be combined under the minor plat amendment process.

Mr. Spiropoulos noted the secondary amendment conforms with State law.

MOTION: Assemblymember Halter called for the question (to stop debate).

VOTE: The motion passed without objection.

VOTE: The secondary amendment passed without objection.

VOTE: The primary amendment passed as amended without objection.

*(The meeting recessed at 3:01 p.m. and reconvened at 3:10 p.m.)*

MOTION: Assemblymember Keogh moved a primary amendment to Ordinance Serial No. 12-072, MSB 16.15.005(B)(3) to add the sentence “The platting officer is to use the following criteria to determine the reasonableness and adequacy of the utility easement:” at the end of paragraph (3) and to add subsections a through f to read as follows:

(3) The platting officer shall determine whether utility easement requests are reasonable and only require reasonable requests as recommendations to the Board or as conditions of approval. The platting officer shall provide final approval on the adequacy of an easement(s) provided for a platting action on final plats and platting actions delegated by this title, within twenty (20) days of acceptance of submission. The platting officer is to use the following criteria to determine the reasonableness and adequacy of utility easements:

- (a) Fifteen-foot wide utility easement outside both sides of road rights-of-way for overhead wire utilities. Utility easements can be reduced to 10' if all wire utilities are buried.;
- (b) The portion of back slopes or fore slopes that extends into the utility easement should not exceed a 4:1 slope;
- (c) If the city has standards for installing utilities, those standards must be met;
- (d) If overhead utilities are to be installed, the developer is to provide anchor easements appropriately sized and located meeting the utility company's design standards;
- (e) Utility easements are not to be placed in swamps, steep slopes, or other unusable areas. Utility easements are to be fully useable for utility installations where installation equipment can safely work;
- (f) Utility easements are to be designed in accordance with current subdivision construction design standards.

Assemblymember Keogh:

- noted that the Department of Law recommended that the Assembly adopt standards for the Platting Officer to follow; and
- further added that the standards proposed are supported by the Platting Department.

Mr. Spiropoulos:

- affirmed that if the platting officer has to determine whether an easement is adequate, the Assembly should enact standards from which to make that determination; and
- further added that because the determination is subject to appeal, applicants need to know what the standards are, as a matter of due process under planning law.

Assemblymember Colver:

- stated that the standards will create more problems than will be solved; and
- further added that the language is not currently in code and if needed, amendments may be made at a later date.

MOTION: Assemblymember Arvin moved to suspend the rules to resume discussion on Resolution Serial No. 12-027 at this time.

VOTE: The motion passed without objection.

*(Discussion continued on Resolution Serial No. 12-027)*

Assemblymember Arvin

- reiterated that the legislation simply affirms the Assembly's support of the project; and
- asked for unanimous support of the legislation.

VOTE: The motion passed with Assemblymember Keogh opposed.

*(Discussion continued on Ordinance Serial No. 11-072)*

MOTION: Assemblymember Arvin moved to postpone Ordinance Serial No. 11-072, to a date certain of April 17, 2012, at 2 p.m.

Assemblymember Arvin:

- spoke in favor of the postponement; and
- opined that the proposed amendments are substantial and require careful review.

Assemblymember Colver expressed hesitation with the postponement as construction season is right around the corner.

Assemblymember Salmon spoke in support of the postponement due to the number of proposed amendments that have been drafted for Assembly review.

VOTE: The motion to postpone passed with Assemblymembers Woods and Colver opposed.

## **VIII. MAYOR, ASSEMBLY, AND STAFF COMMENTS**

Ms. McKechnie reported that she will provide the Assembly with a clean copy of Ordinance Serial No. 11-072, incorporating amendments made to date.

Assemblymember Keogh:

- noted that many of his amendments to Ordinance Serial No. 11-072 have been previously discussed;
- reported that he plans to attend a public meeting in early March, at the Lake Louise Public Safety Building, regarding a 97 parcel land sale by the Alaska State Department of Natural Resources; and
- requested that a staff member accompany him to the meeting to answer questions.

Assemblymember Colver:

- spoke in support of finalizing Ordinance Serial No. 11-072, as soon as possible;
- noted the vast majority of his amendments to the subdivision code have come from members of the public; and
- remarked on policy decisions of the Assembly.

Assemblymember Salmon:

- spoke in support of wrapping up Ordinance Serial No. 11-072; and
- thanked Assembly Members for supporting the KABATA resolution.

Assemblymember Colligan:

- reported he is in Juneau on Borough business;
- noted he was called to Juneau to present the Rail Spur Project to the Senate Finance Committee;
- spoke about the importance of supporting the KABATA project; and
- expressed support of finalizing Ordinance Serial No. 11-072.

Assemblymember Arvin:

- spoke about the need to thoroughly review substantive amendments to legislation;
- commented on the public process and the difficulty in pleasing everyone;
- suggested that the Assembly involve subject matter experts in the discussion process as amendments are made to the subdivision code to assist the Assembly with the complexity of the subject matter;
- commented on the magnitude of the KABATA project in terms of an economic engine to Southcentral Alaska; and
- spoke to the success of the school bond package.

Mayor DeVilbiss:

- noted he wished the Assembly would have made more progress on Ordinance Serial No. 11-072;
- spoke about a public meeting he attended on the Chickaloon Coal Lease; and
- talked about the importance of the KABATA project.

## IX. ADJOURNMENT

The regular meeting adjourned at 3:58 p.m.

  
LARRY DeVILBISS, Borough Mayor

ATTEST:

  
LONNIE R. McKECHNIE, CMC, Borough Clerk

Minutes Approved: 03/20/12