

I. CALL TO ORDER

The regular meeting of the Matanuska-Susitna Borough Assembly was held on May 3, 2011, at the Borough Assembly Chambers, 350 E. Dahlia Avenue, Palmer, Alaska. The meeting was called to order at 6 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*) (*via teleconference*)
Mr. Mark Ewing, Assembly District No. 4
Ms. Cindy L. Bettine, Assembly District No. 5
Mr. Jim Colver, Assembly District No. 6
Mr. Vern Halter, Assembly District No. 7

Staff in attendance were:

Ms. Lonnie R. McKechnie, Borough Clerk
Mr. John Moosey, Borough Manager
Ms. Elizabeth Gray, Assistant Borough Manager
Mr. Nicholas Spiropoulos, Borough Attorney
Ms. Cheryl D. Marino, Deputy Borough Clerk
Ms. Tammy Clayton, Finance Director
Ms. Chuck Braun, Operations and Maintenance Division Manager
Ms. Christine Nelson, Planning and Land Use Director
Mr. Dennis Brodigan, Emergency Services Director
Ms. Patty Sullivan, Public Affairs Director
Ms. Shannon Post, Chief Information Officer
Mr. James King, Community Development Manager
Mr. Emerson Krueger, Planner II
Ms. Pamela Graham, Grants and Project Coordinator

III. APPROVAL OF AGENDA

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

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

IV. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mr. Mike Vrvilo, a member of the audience.

Mayor DeVilbiss welcomed the new Manager, Mr. John Moosey.

V. MINUTES OF PRECEDING MEETINGS

- A. Regular Assembly Meeting: 04/05/11
- B. Special Assembly Meeting: 04/19/11
- C. Regular Assembly Meeting: 04/19/11

Mayor DeVilbiss inquired if there were any corrections to the regular meeting minutes of April 5, 2011, the special meeting minutes of April 19, 2011, and the regular meeting minutes of April 19, 2011.

Assemblymember Ewing requested that the following comment be added to the April 19, 2011, regular meeting minutes under Assembly comments: "I hope that we are not selling out the farm".

Ms. McKechnie noted that his comment would be added to the April 19, 2011, regular meeting minutes.

GENERAL CONSENT: The minutes were approved as amended as presented without objection.

VI. SPECIAL ORDERS OF THE DAY

- a. Proclamation in Recognition of Fish Bone Meal Fertilizer Month

Mayor DeVilbiss:

- read the proclamation into the record; and
- presented the proclamation to Mr. Robert Greig.

VII. REPORTS/CORRESPONDENCE

A. AGENCY REPORTS

- 1. Reports from cities

(There were no reports provided.)

- 2. Matanuska-Susitna Borough School District

(There were no reports provided.)

B. COMMITTEE REPORTS

- 1. Joint Assembly/School Board Committee on School Issues

Assemblymember Bettine:

- spoke to the Assembly's previous request to hold Assembly meetings at the School Board's meeting location;
- commented that the School District referred this request to the Joint Assembly/School Board Committee on School Issues;
- noted that she thought the request had already been agreed upon; and
- queried why two Assembly Members serving on the Committee would need to discuss the request further.

Ms. McKechnie:

- noted the discussion she had with the School District regarding the Assembly's request; and
- reported that the School District would like the Committee to discuss the logistics of the Assembly's request.

Assemblymember Bettine:

- spoke to concerns that the Committee had not met for quite a few meetings;
- opined that the meeting space in Assembly Chambers is cramped; and
- commented that it would be nice to speed up the process.

Discussion ensued regarding the Joint Assembly/School Board Committee on School Issues meeting locations and meeting schedule.

2. Assembly Public Relations

Assemblymember Ewing:

- noted that he attended the Wasilla City Council meeting on April 25, 2011;
- commented that the Assembly received communications from the cities of Wasilla and Palmer regarding the libraries;
- opined that the libraries seem to be a strong issue with both of the cities; and
- encouraged the Assembly to read the communications.

Mayor DeVilbiss:

- commented that numbers had been requested to be brought forward to look at the facts with regard to the libraries; and
- noted that no promises had been made.

3. Mayor's Blue Ribbon Sportsmen's Committee

Assemblymember Colver introduced the Mayor's Blue Ribbon Sportsmen's Committee Members in attendance: Mr. Andy Couch, Mr. Howard Delo, and staff support, Ms. Frankie Barker.

Mr. Couch and Mr. Delo:

- provided an overview of the State of Alaska Board of Fisheries meeting; and
- thanked Ms. Barker for her assistance with the Committee.

Assemblymember Woods queried whether the Committee could specify that the Alaska State Department of Fish and Game, Sports Fish Division, perform the biological work and assist the Committee rather than the Alaska State Department of Fish and Game, Commercial Fisheries Division, at the same time the Committee asks for funding.

Mr. Delo:

- stated that it would be up to the Legislature whether funds to perform the project are appropriated and the Legislature would specify the who and what;
- reported that currently all of the genetic sampling is being done through the Commercial Fisheries Division;
- commented that there is a lot of concern regarding the Commercial Fisheries Division;
- opined that the research people tend to be straight and narrow;
- commented that he does not have any apprehensions with the Commercial Fisheries Division performing the work;
- stated that the trick is getting the funding to get adequate samples and adequate evaluation so that there is meaningful information that comes out of it; and
- stated that there is only going to be two years worth of data which is marginal to make any definitive statements, but it could indicate trends.

Assemblymember Colver:

- noted that the Committee had requested numerous research reports in time to respond, react, and be prepared for the Board of Fisheries meeting;
- opined that the Committee was stonewalled the whole way;
- spoke to the information not being distributed until the meeting;
- opined that every year it is all about who is serving on the Board;
- stated that he suspects emergency regulations that would overturn this next year; and
- spoke in appreciation of the hard working volunteers who are making a difference.

Discussion ensued regarding:

- the need for the Borough to not provide information that could go forward in a suit;
- the Committee information that had been requested; and
- that the subject would be taken up at an upcoming meeting between Mayor DeVilbiss and Kenai Peninsula Borough Mayor David R. Carey on May 8, 2011.

D. MANAGER COMMENTS

1. State/Federal Legislation
2. Strategic Planning Issues
3. State Redistricting

Mr. Moosey:

- spoke to arriving in Alaska on May 2, 2011;
- noted that he attended the Wasilla Chamber of Commerce luncheon with Mayor DeVilbiss earlier today;
- commented that he has been meeting with staff; and
- requested that Mr. James King provide an update on timber harvest.

Mr. King provided an update regarding timber harvest.

Mr. Moosey:

- commented that staff provided a brief written report on State Redistricting;
- noted that the Assembly directed staff to develop a Statewide Redistricting Plan;
- spoke to the Borough Statewide Redistricting plan;
- spoke to the State Redistricting Board teleconference scheduled on May 6, 2011;
- commented that he would be pleased to present the Boroughwide State Redistricting Plan to the State Redistricting Board should the Assembly approve the staff plan; and
- noted that Ms. Pam Graham was present to answer any questions.

Discussion ensued regarding:

- whether a special meeting could be advertised for May 5, 2011, to discuss State Redistricting;
- appreciation for staff's hard work;
- the need to see where the road boundaries are located;
- the need to have maps showing a blown up view of Borough Assembly Districts;
- concerns that it would be premature to act on the plan at the present meeting;
- the deadline to submit comments; and
- the need to submit comments timely.

A. ATTORNEY COMMENTS

(There was no report provided.)

B. CLERK COMMENTS

Ms. McKechnie:

- spoke regarding the upcoming meeting schedule;
- noted that there was a request to change the date of the Borough space issues special meeting on May 4, 2011, 4 p.m. meeting to May 10, 2011, at 4 p.m.; and
- asked if the Assembly would like to reschedule this meeting.

There was no objection noted.

Ms. McKechnie:

- noted that the Assembly had scheduled two budget deliberation meetings;
- suggested that the Assembly schedule a third deliberation meeting in case it is needed;

- queried whether the Assembly would like to schedule a budget deliberation meeting on May 16, 2011 at 6 p.m. in Assembly Chambers; and
- spoke to the budget public hearing and deliberations meeting schedule and meeting locations.

There was no objection noted.

C. CITIZEN AND OTHER CORRESPONDENCE

1. MSB Board/Committee Minutes:
 - a. Borough Area Schools Site Selection Committee: 09/09/10, 12/13/10
 - b. Enhanced 911 Advisory Board: 12/14/10
 - c. Greater Talkeetna RSA Board of Supervisors: 01/13/11, 02/10/11
 - d. Parks, Recreation, and Trails Advisory Board: 09/27/10, Resolution Serial Nos. 10-12, 10-13, 10-14
 - e. Platting Board: 02/17/11
 - f. Port Commission: 02/23/11
2. Community Council Correspondence:
 - a. Lake Louise Non-Profit Corporation: 02/18/10, 04/16/10, 06/18/10, 07/17/10 (2)
 - b. Lazy Mountain Community Council: 04/08/10

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

D. INFORMATIONAL MEMORANDUMS

(There were no informational memorandums presented.)

VII. UNFINISHED BUSINESS

(There was no unfinished business.)

VIII. VETO

(There was no veto presented.)

X. NEW BUSINESS

- A. INTRODUCTIONS (For public hearing – 05/17/11, 7 p.m., Borough Assembly Chambers)
 1. Ordinance Serial No. 11-055: AN ORDINANCE APPROVING A SUPPLEMENTAL APPROPRIATION OF \$34,500 FROM THE BUTTE FIRE SERVICE AREA FUND BALANCE, FUND 251, TO THE BUTTE FIRE SERVICE AREA FISCAL YEAR 2011 OPERATING BUDGET, FUND 251, TO PROVIDE ADDITIONAL FUNDING FOR NON-EMPLOYEE COMPENSATION WAGES AND RESPONDER TRAINING.
 - a. IM No. 11-093

2. Ordinance Serial No. 11-056: AN ORDINANCE AMENDING MSB 2.08 AND 2.12, TO CHANGE THE DATE ELECTED OFFICIALS TAKE OFFICE; AND TITLE 25, ELECTIONS, TO MAKE CHANGES TO THE ELECTION BROCHURE PROCEDURE, AND WHEN ABSENTEE BY-MAIL BALLOT REQUESTS CAN BE MAILED. *(Sponsored by Assemblymember Keogh)*
 - a. IM No. 11-101

Ms. McKechnie read the above legislation into the record.

MOTION: Assemblymember Bettine moved to introduce the legislation as read into the record by the Clerk and set the public hearings for May 17, 2011.

VOTE: The motion passed without objection.

B. MAYORAL NOMINATIONS AND APPOINTMENTS

1. VACANCY REPORT

Mayor DeVilbiss requested the following confirmations:

Aviation Advisory Board
Resignation of Paula Nance
Local Emergency Planning Committee
Resignation of Tom Smayda

Mayor DeVilbiss made the following recommendations:

Animal Care and Regulation Board
Dawn Vogt
Labor Relations Board
Toni Bluel
Parks, Recreation, and Trails Advisory Board
James Gustafson
Fred Miller
Ryan Towry
Todd Rinaldi
Willow FSA No. 35
Gail Just-Cornelius
Alpine RSA No. 31
Steve Hudson
Knik RSA No. 17
Tod Becker

MOTION: Assemblymember Bettine moved to approve the Mayor's resignations up for confirmation this evening.

VOTE: The motion passed without objection.

(The meeting recessed at 6:51 p.m. and reconvened at 7 p.m.)

IX. 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. 11-047: AN ORDINANCE ACCEPTING AND APPROPRIATING \$19,720 FROM THE ALASKA STATE DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT GRANT PROGRAM, TO FUND 425, PROJECT NO. 45158, FOR REIMBURSEMENT OF EMERGENCY PLANNING AND EXERCISE EXPENSES.
 - a. Resolution Serial No. 11-058: A RESOLUTION APPROVING THE SCOPE OF WORK AND BUDGET FOR THE ALASKA STATE DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT, PROJECT NO. 45158, FUND 425, FOR REIMBURSEMENT OF EMERGENCY PLANNING AND EXERCISE EXPENSES.
 - (1) IM No. 11-078.

Mayor DeVilbiss opened the public hearing.

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

MOTION: Assemblymember Bettine moved to adopt Ordinance Serial No. 11-047 and Resolution Serial No. 11-058.

VOTE: The motion passed without objection.

2. Ordinance Serial No. 11-048: AN ORDINANCE APPROPRIATING \$50,000 FROM THE GREATER PALMER CONSOLIDATED FIRE SERVICE AREA FUND BALANCE, FUND 259, TO FUND 405, PROJECT NO. 45215, FOR THE PURCHASE OF FIRE ENGINE EQUIPMENT.
 - a. IM No. 11-083

Mayor DeVilbiss opened the public hearing.

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

MOTION: Assemblymember Woods moved to adopt Ordinance Serial No. 11-048.

VOTE: The motion passed without objection.

3. Ordinance Serial No. 11-049: AN ORDINANCE APPROVING AN APPROPRIATION OF \$200,000 FROM THE WEST LAKES FIRE SERVICE AREA FUND BALANCE, FUND 249, TO FUND 405, PROJECT NO. 45260, TO ALLOW FOR FACILITY MODIFICATIONS TO INTERIM STATION NO. 73 ON SPRING ROAD.
 - a. Resolution Serial No. 11-059: A RESOLUTION APPROVING THE SCOPE OF WORK AND BUDGET FOR PROJECT NO. 45260, TO ALLOW FOR FACILITY MODIFICATIONS TO INTERIM STATION NO. 73 ON SPRING ROAD.
 - (1) IM No. 11-084

Mayor DeVilbiss opened the public hearing.

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

MOTION: Assemblymember Halter moved to adopt Ordinance Serial No. 11-049 and Resolution Serial No. 11-059.

VOTE: The motion passed without objection.

4. Ordinance Serial No. 11-050: AN ORDINANCE ACCEPTING AND APPROPRIATING A \$95,000 UNITED STATES DEPARTMENT OF HOMELAND SECURITY ASSISTANCE TO FIREFIGHTERS GRANT AND REQUESTING A REAPPROPRIATION FOR THE REQUIRED MATCHING FUNDS IN THE AMOUNT OF \$5,000 FROM THE WEST LAKES FIRE SERVICE AREA FISCAL YEAR 2011 OPERATING BUDGET, FUND 249, TO PROJECT NO. 45260, FUND 405, FOR FACILITY SAFETY MODIFICATIONS AT INTERIM STATION NO. 73 ON SPRING ROAD.
 - a. Resolution Serial No. 11-060: A RESOLUTION APPROVING THE SCOPE OF WORK AND BUDGET FOR THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY ASSISTANCE TO FIREFIGHTERS GRANT FOR THE WEST LAKES FIRE SERVICE AREA, PROJECT NO. 45260, FUND 405, FOR FACILITY SAFETY MODIFICATIONS AT INTERIM STATION NO. 73 ON SPRING ROAD.
 - (1) IM No. 11-086

Mayor DeVilbiss opened the public hearing.

The following person spoke regarding concerns on whether the funding needed to be spent: Mr. David Long.

MOTION: Assemblymember Halter moved to adopt Ordinance Serial No. 11-050 and Resolution Serial No. 11-060.

Assemblymember Halter:

- spoke to the West Lakes Fire Service Area reducing their International Organization for Standardization (ISO) rating by three or four points;
- noted that the State saved money for insurance purposes due to the ISO rating reduction; and
- spoke in appreciation of the hard work that was done to have the ISO rating reduced.

Mayor DeVilbiss queried if the upgrades were necessary.

Assemblymember Halter noted that the upgrades were necessary.

VOTE: The motion passed without objection.

5. Ordinance Serial No. 11-051: AN ORDINANCE ACCEPTING AND APPROPRIATING AN AMENDMENT TO THE COOPERATIVE AGREEMENT BETWEEN THE ALASKA ENERGY AUTHORITY AND THE MATANUSKA-SUSITNA BOROUGH FOR AN ADDITIONAL \$100,000 FROM THE ALASKA ENERGY AUTHORITY (AEA) TO FUND 480, PROJECT NO. 47504, FOR LIDAR TOPOGRAPHIC DATA AND ORTHORECTIFIED AERIAL IMAGERY ACQUISITION FOR THE MAT-SU VALLEY.
 - a. Resolution Serial No. 11-061: A RESOLUTION ESTABLISHING THE SCOPE OF WORK AND BUDGET FOR THE AMENDMENT TO THE COOPERATIVE AGREEMENT BETWEEN THE ALASKA ENERGY AUTHORITY AND THE MATANUSKA-SUSITNA BOROUGH FOR LIDAR TOPOGRAPHIC DATA AND ORTHORECTIFIED AERIAL IMAGERY ACQUISITION FOR THE MAT-SU VALLEY.
 - (1) IM No. 11-089

Assemblymember Arvin:

- spoke to serving on the Alaska Industrial Development and Export Authority Board (AIDEA), which makes him a member of the Alaska Energy Authority (AEA); and
- noted that when there are direct appropriations from AIDEA and AEA, he would be recusing himself.

CONFLICT OF INTEREST: Assemblymember Arvin declared a conflict of interest with Ordinance Serial No. 11-051 and Resolution Serial No. 11-061.

RULING: Mayor DeVilbiss ruled that Assemblymember Arvin had a conflict of interest with Ordinance Serial No. 11-051 and Resolution Serial No. 11-061.

(Assemblymember Arvin stayed on via teleconference, but did not participate in debate or voting.)

Mayor DeVilbiss opened the public hearing.

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

MOTION: Assemblymember Bettine moved to adopt Ordinance Serial No. 11-051 and Resolution Serial No. 11-061.

Assemblymember Colver:

- queried when it would be flown; and
- asked if this would be added to the existing LiDAR project.

Ms. Post:

- reported that it would be flown at the same time as the rest of the project;
- spoke to the reasons that the legislation was brought forward;
- noted that the contract had been signed on April 28, 2011;
- advised that they are waiting on weather; and
- commented that she was unsure if there was a plane in the air yet, but was expecting a plane in the air this week.

Discussion ensued regarding:

- the intended areas to be mapped;
- the need for staff to provide the Assembly with the funding and account information;
- the legislation being a pass through;
- whether underwater mapping was tied into the project;
- the photography being taken a low tide;
- whether the legislation was time sensitive;
- that AEA is paying for their part of the project; and
- the LiDAR information being needed for the Susitna Hydroelectric Project.

MOTION: Assemblymember Colver moved to postpone Ordinance Serial No. 11-051 and Resolution Serial No. 11-061 to the end of the public hearings this evening.

VOTE: The motion failed with Assemblymember Colver in support.

VOTE: The main motion passed with Assemblymember Colver opposed.

6. Ordinance Serial No. 11-052: AN ORDINANCE AMENDING MSB 15.24.030, ADOPTING THE POINT MACKENZIE COMPREHENSIVE PLAN.
 - a. IM No. 11-091

Mayor DeVilbiss opened the public hearing.

The following person spoke regarding having respect for the public members who worked on the Plan, the Plan not including as much information as other comprehensive plans, the need for the Point MacKenzie Comprehensive Plan to include more information for business development,

the need to be proactive with encouraging businesses to develop in the area, and the need for jobs: Mr. Dave Williams.

The following person spoke in opposition to Ordinance Serial No. 11-052: Ms. Lynn Gattis.

MOTION: Assemblymember Bettine moved to adopt Ordinance Serial No. 11-052.

Assemblymember Bettine:

- noted that the Point MacKenzie Comprehensive Plan has been in the works for a number of years;
- spoke to membership changes in the Planning Team;
- opined that it is hardly a plan at all;
- noted that the plan represents a compromise between the Planning Team members and the Point MacKenzie Community Council members; and
- requested Assembly support for the plan.

Assemblymember Woods:

- spoke in opposition to the Point MacKenzie Comprehensive Plan;
- noted that the plan includes the Port District which is a special use district;
- opined that there are lots of hurdles to overcome before it is determined what is done and how the area is worked with;
- spoke to the need to postpone the legislation until after the budget; and
- opined that in some cases the legislation is invasive.

Assemblymember Ewing:

- spoke in opposition to postponing the legislation as he wants to vote it down at the present meeting;
- spoke to ideas that were brought up in the 1970's regarding the aerial tramway to Anchorage, the community that would be interconnected with enclosed walkways, shopping malls, moving sidewalks, and designed to be automobile interdependent;
- opined that he does not see this plan as much of an improvement;
- noted that he agrees with the property owners that do not want the plan; and
- stated that he is not going to force government on anybody that does not want government.

Assemblymember Keogh:

- commented that the Assembly heard from some property owners;
- spoke to Planning Commission Resolution Serial No. 11-007;
- noted that the project has been three years in the works;
- spoke to the process that the plan has gone through;
- commented that the Point MacKenzie Community Council held two meetings on the draft plan and then approved the draft plan;
- spoke to when he served at the community council level and went through the arduous process of a comprehensive plan;
- noted that the plans are not simple to arrive at and that meetings are often contentious;

- stated that it has been his experience that once the plan is this far along, there has been considerable compromises made to achieve some point for a majority of the residents to buy off on the plan;
- stated that he is puzzled by some of the comments of people that participated in the plan; and
- noted that he is hesitant to oppose the plan given the three-year effort and the Point MacKenzie Community Council support of the plan.

Assemblymember Ewing:

- opined that he sees this as a perfect waste of public money;
- noted that it has been three years and there is only testimony from people in opposition;
- stated that these are the types of studies that have plagued the Borough for many years; and
- commented that if comprehensive plans are not required and people do not want them, he is not going to force it on people.

MOTION: Assemblymember Woods moved a primary amendment to Ordinance Serial No. 11-052, by striking everything regarding the Port District.

Mr. Krueger:

- reported that it is a fact to say that the Port District is within the Point MacKenzie Community Council boundaries and in that case the Port District is included in the Point MacKenzie Comprehensive Plan;
- commented that the Planning Team had decided early on that the Port District had its own Port Commission and its own Port Master Plan, so they did not want to plan anything in the Port District;
- noted that one of the Planning Team members was a former Planning Commission Chairperson and had great insight about planning that has gone into Port development;
- commented that there were some initial ideas on how to plan the community around the outside of the Port District;
- explained that the initial draft that was sent out for public review contained a map that recommended commercial development up against the boundary of the Port District, however, after public comment, that element was taken out of the plan; and
- noted that he is not aware of any specific recommendations for development inside the Port District, but there is recommendations for certain types of businesses located in the town center as being more community appropriate commercial enterprises rather than a commercial enterprise that would locate within the Port District.

Assemblymember Woods:

- spoke to the Point MacKenzie Community Council minutes; and
- queried whether the area around Lake Lorraine that had to set aside a buffer from the water table was included in the plan.

Mr. Krueger:

- reported that the Planning Team met after the Community Council completed its review of the comprehensive plan; and
- advised that the Planning Team elected to not insert any language regarding the use of land around Lake Lorraine in the community's comprehensive plan.

Assemblymember Bettine queried whether there was compromise amongst the Committee Members to move the plan forward.

Mr. Krueger noted that there was compromise from the very beginning and most of the way through the process.

Discussion ensued regarding:

- whether there was compromise amongst the Committee Members at the end of the process;
- whether there was objection or negative comments received from the Point MacKenzie Community Council to move the plan forward to the Planning Commission;
- that all objections raised had been removed from the comprehensive plan;
- that the plan is not enforceable;
- the Point MacKenzie Community Council holding a number of meetings before they decided to move forward with a comprehensive plan and then were placed on a waiting list for available staff to work on a plan;
- whether the legislation should be postponed;
- whether the Port District should be removed from the plan;
- the content of the plan;
- how much area would be left should the Port District be removed from the plan;
- concerns regarding the comprehensive plan and the Port Master Plan overlapping; and
- the soil in the area only being able to support growing hay.

VOTE: The primary amendment passed with Assemblymembers Keogh and Ewing opposed.

Assemblymember Colver queried whether there were any recommendations on minimum lot sizes that would then be followed up in a special land use district.

Mr. Krueger noted that there were none.

Discussion ensued regarding:

- whether there were zoning recommendations;
- whether there were town center site recommendations;
- whether there are any large private developers that would be interested in providing a public service retail type of development;
- the need to have specific recommendations in the plan;

- whether the recommendation of the Cook Inlet Region Inc. (CIRI) to add language regarding coordinating with other large private and public landowners on feasible economic development opportunities was included within the plan; and
- the possibility of sending the plan back to the Planning Team.

MOTION: Assemblymember Bettine moved to postpone Ordinance Serial No. 11-052 to a time certain of July 19, 2011.

Assemblymember Bettine:

- noted that she would like the opportunity to speak to the Community Council;
- stated that she feels that it is somewhat a slap in the face that at the eleventh hour there are people that were on the team that are testifying against the plan;
- commented that generally the areas that are less developed cost more per capita than those that have the most concentrated development;
- noted that all of the issues were discussed and the group kept working until they had consensus which is the reason the plan is so paired down; and
- opined that the Point MacKenzie Community is mostly worried about the protection of the trails and somewhat of their present lifestyles;
- stated that the community council ten to twenty years from now may have a different view;
- requested Assembly support for postponing the legislation; and
- opined that it is not fair to the community to put them in the Planning queue again.

VOTE: The motion passed with Assemblymember Ewing in opposition.

7. Ordinance Serial No. 11-053: AN ORDINANCE REMOVING PROPERTIES FROM THE LAZY MOUNTAIN ROAD SERVICE AREA AND AMENDING MSB 5.25.028.
(Sponsored by Assemblymember Keogh)
 - a. IM No. 11-095

Mayor DeVilbiss:

- stated that he has no property interest or an indirect or direct financial interest in the property within the legislation;
- advised that his brother owns property listed within the legislation; and
- requested the Assembly to vote on whether he has a conflict of interest with Ordinance Serial No. 11-053.

VOTE: Assemblymembers Woods, Arvin, Ewing, Bettine, and Colver voted that the Mayor did not have a conflict of interest and Assemblymembers Keogh and Halter voted that the Mayor did have a conflict of interest.

Mr. Braun and Ms. Clayton provided a staff report.

Ms. Gray:

- reported that Administration has no position on the legislation; and
- explained the reason that the recommendation of Administration portion had been stricken from IM No. 11-053.

Mayor DeVilbiss queried whether the handout was a breakdown of the implications if it were applied to the entire road service area (RSA).

Ms. Clayton affirmed the query.

Discussion ensued regarding:

- how the services would be affected should all eligible people opt out and the mill rate stayed the same;
- whether all of the parcels displayed within the map were included in the legislation;
- whether the exemptions would be applied to RSA's Boroughwide should the Assembly adopt the legislation;
- the parcels in the Trapper Creek area that would be exempt;
- whether service area exclusions had ever come up in the past;
- the changes in State Statute regarding service areas;
- how the Fairbanks North Star Borough handles exclusions from service areas;
- how much it costs per mile to serve the Lazy Mountain Road Service Area;
- whether the Assembly's action on the legislation is discretionary;
- how many of the parcels wanting exclusion have agricultural deferment;
- how much the agricultural deferment parcels would decrease the assessed value;
- whether the Assembly is opening up pandora's box;
- whether the legislation is a policy call; and
- areawide road powers.

Mayor DeVilbiss opened the public hearing.

The following persons spoke in support of Ordinance Serial No. 11-053: Mr. Ray DeVilbiss, Mr. Fred Thompson, Mr. Chris Gates, Ms. Colleen Johansen, Mr. Rick Petit, Ms. Bernadette Rupright, and Mr. David Long.

The following person spoke to Lazy Mountain residents using Borough roads in the area even though their property borders only a State road and the boroughwide implications: Mr. Jim Sykes.

The following person spoke in opposition to Ordinance Serial No. 11-053: Mr. Pat Larabee, RSA No. 19, LRSAB Chair and Mr. Bill Klebasedal.

The following persons spoke to various issues that could arise should Ordinance Serial No. 11-053 be adopted: Mr. Pio Cottini, Mr. Jim Norcross, and Mr. Jim Huston.

The following person spoke regarding the possibility of excluding his property from the RSA: Mr. Butch Moore.

The following person spoke regarding concerns that taxation is occurring without representation: Mr. Dick Stoffel.

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

MOTION: Assemblymember Keogh moved to adopt Ordinance Serial No. 11-053.

(The meeting recessed at 8:52 p.m. and reconvened at 9:03 p.m.)

(Assemblymember Arvin was not present via teleconference at this time.)

Assemblymember Keogh:

- noted that he sponsored the legislation to the glee of some and consternation of others;
- opined that it is an issue that needs to be addressed;
- spoke to the public testimony.

(Assemblymember Arvin reentered the meeting via teleconference.)

MOTION: Assemblymember Keogh moved a primary amendment to Ordinance Serial No. 11-053, MSB 5.25.028, Section 13 of the legal description, by inserting the words “excepting tax parcel C4” to read: “Section 13 N1/2, SW ¼ excepting tax parcel C4”

VOTE: The primary amendment passed without objection.

MOTION: Assemblymember Keogh moved a primary amendment to Ordinance Serial No. 11-053, by adding the following properties to be removed from the Lazy Mountain Road Service Area and to amend the legal description: 18N02E13B003, 18N02E13B004, and 18N02E13A002.

Assemblymember Keogh:

- noted that Mr. John Seemann mailed a letter to the Borough on February 1, 2011, to remove the three properties from the road service area with this legislation; and
- commented that the Clerk did not receive the letter.

VOTE: The primary amendment passed without objection.

Assemblymember Keogh:

- noted that he intends to postpone the legislation; and
- requested Assembly support for postponing the legislation.

Assemblymember Colver:

- spoke to the Borough previously electing board of supervisors;
- commented that the State funded local roads in the early 1980’s and created service area laws;
- commented that when oil prices dropped and budgets tightened up, the State wanted to shift over class 3 State roads to the Borough;

- stated that the Borough fought and pushed back hard and compromises were reached;
- commented that oil prices kept decreasing, the State stopped funding roads, and that was when the mill rates started to appear;
- noted that the demand and service grew and the growth of the Borough increased;
- noted that it can be predicted that eventually State roads will be turned over to the Borough, when the State budget tightens;
- commented that if other property owners in a similar circumstance want to be out of a service area that the tax base will shift;
- spoke to changes in the service area laws;
- opined that there are intended and unintended consequences;
- spoke to Fairbanks road service areas;
- opined that there are issues with Borough service areas;
- opined that the exclusions are a symptom of people being frustrated because their property assessments increased and they are searching for ways to relieve pressure;
- spoke to the need to have some reform of how roads are maintained and paid and how ambulance service is funded;
- spoke to the importance of being very cautious when making the policy call; and
- opined that the decision has to be framed based off of all Borough residents.

Assemblymember Ewing:

- noted that he looks at the businesses along the Parks highway and Palmer-Wasilla Highway corridor that would be asking for the same thing;
- spoke to trucks hauling materials that impact Borough roads even though the business is located on a State maintained road;
- stated that there is no one in the room that has not utilized Borough roads;
- queried whether is it fair for some people to utilize Borough roads and not pay into the RSA;
- noted that he understands where the people are coming from;
- commented that the impact will be a long line of exemptions when looking at the Parks Highway, Palmer-Wasilla Highway, and the roads in the Willow and Hatcher Pass area; and
- stated that maybe what needs to happen is a review of the RSA's and the boundaries that are encompassed within them in a fair manner.

Discussion ensued regarding:

- the growth in the Borough;
- the Mayor's Blue Ribbon Task Force on Road Service Areas;
- the possibility of consolidating the largest RSA's;
- the people that have purchased land in a developed subdivision with paved roads paying a huge mill rate, collect a lot of taxes, and then supplementing the Point MacKenzie area because of all of the substandard roads;
- the need to find an equitable way to fund Borough roads;
- the issues with the revenue cap;
- the mill rates increasing every year within service areas since the revenue cap;
- that most people think that the RSA's are approving their mill rate, but that is not what is happening;

- possible Borough road powers;
- the unjust taxation of parcels; and
- the Assembly being compelled to follow through with dealing with the bigger question if the legislation was adopted.

MOTION: Assemblymember Keogh moved to postpone Ordinance Serial No. 11-053 to a time certain of June 21, 2011.

Assemblymember Bettine:

- spoke in opposition to postponing the legislation; and
- spoke to the need to clear this idea off of the table and have a work session.

VOTE: The motion to postpone failed with Assemblymember Keogh in support.

Assemblymember Colver:

- spoke in opposition to the legislation;
- noted that there is not a plan in place;
- commented that this has not been done in the Borough;
- opined that the Assembly is not ready to deal with the consequences;
- stated that this is a huge policy call; and
- spoke to the need to work on how to make the Lazy Mountain RSA more efficient and deal with the impacts of rising assessed values.

Assemblymember Keogh noted that he would like to have a sense that the Assembly is serious at looking at other alternatives on a larger scale.

Mayor DeVilbiss:

- noted that when the legislation came up, he immediately saw this as a fundamental issue applied boroughwide and should be taken up that way; and
- commented that he plans to bring forward blanket legislation on a Boroughwide basis.

Assemblymember Halter queried whether it would be on the regular election ballot.

Mayor DeVilbiss:

- noted that it could be on the regular election ballot; and
- stated that he wants to see financial information regarding how all RSA's would be affected.

VOTE: The main motion as amended failed with Assemblymember Arvin in support.

8. Ordinance Serial No. 11-054: AN ORDINANCE AMENDING MSB 2.12.075, JOINT MEETINGS ESTABLISHED, TO MAKE A CHANGE TO THE NUMBER OF JOINT MEETINGS THAT THE ASSEMBLY HOLDS WITH THE SCHOOL BOARD AND PLANNING COMMISSION. *(Sponsored by Assemblymember Bettine)*

a. IM No. 11-096

Mayor DeVilbiss opened the public hearing.

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

MOTION: Assemblymember Bettine moved to adopt Ordinance Serial No. 11-054.

Assemblymember Bettine:

- noted that the code change to eliminate the summer meeting was brought up at the previous joint Assembly/School Board meeting; and
- commented that she also included eliminating the joint Assembly/Planning Commission meeting in June.

Assemblymember Ewing:

- stated that he supports the legislation; and
- commended Assemblymember Bettine for bringing this forward.

VOTE: The motion passed without objection.

C. AUDIENCE PARTICIPATION (Three minutes per person.)

The following persons spoke to concerns regarding Title 27: Mr. Rodney Priebe, Mr. Daniel Long, and Mr. Pio Cottini.

The following person spoke regarding his recommended changes to Title 27 and a letter that he wrote to the Frontiersman: Mr. Butch Moore.

The following person requested the Assembly postpone Resolution Serial No. 11-062, spoke in support of Ordinance Serial No. 11-053, the need for a new assessment, spoke in opposition to Title 27, and the need to get rid of public employees benefit package: Mr. Chuck Donn.

MOTION: Assemblymember Ewing moved to extend the meeting past 10 p.m. and not to exceed 10:30 p.m.

VOTE: The motion passed without objection.

Assemblymember Colver noted that the Law Department is drafting legislation for him to bring Title 16 back.

Assemblymember Ewing:

- noted that he has requested Ms. McKechnie to work on legislation amending one of the fee schedules; and
- commented that the legislation would be ready for the next meeting.

Assemblymember Bettine stated that she is not intending to reconsider Ordinance Serial No. 11-036.

The following person spoke regarding septage issues, the Regional Waste Water Treatment Study, and the need for a sewer treatment plant: Ms. Helen Munoz.

The following person spoke regarding Ordinance Serial No. 11-018 and to concerns regarding the way the letter that staff sent out with regards to his house being in the flood plain: Mr. Gary Brown.

The following person spoke regarding Resolution Serial No. 11-062 and Bogard Road: Ms. Pam Bue.

The following person spoke in support of the reconsideration of Ordinance Serial No. 11-036 Ms. Bernadette Rupright.

D. CONSENT AGENDA (Resolution Serial Nos. 11-062 and 11-063 and AM No. 11-034 were pulled from the consent agenda and addressed separately. *See pp. 21-24*)

1. RESOLUTIONS

a. Resolution Serial No. 11-062: A RESOLUTION AUTHORIZING EMINENT DOMAIN AND USE OF DECLARATION OF TAKING PROCEDURES TO ACQUIRE PROPERTY INTERESTS NEEDED FOR THE BOGARD ROAD EXTENSION EAST PROJECT.

(1) IM No. 11-099

MOTION: Assemblymember Ewing moved to adopt Resolution Serial No. 11-062.

Assemblymember Ewing:

- spoke to serving on the Planning Commission when Mr. Chuck Donn was in favor of the project as he thought that a fair market value for his property would be received;
- noted that now he is hearing that tactics are being pulled on people when they buy out the property giving less than fair market value;
- stated that Mr. Donn has every right to have a current assessment performed on his property so that he can receive fair market value; and
- stated that he is voting down the legislation until he knows for a fact that people are getting fair market value for their property.

Assemblymember Colver:

- cautioned the Assembly that a transcript of this action will probably end up in a courtroom because there are nine parties present;
- noted that if the legislation passes tonight, the parties can litigate the acquisition costs;
- opined that the Assembly is not in any rush to close the door on negotiations with land owners;
- noted that more than half of the property owners have settled;
- spoke in support of granting more time to staff in order to settle;
- noted that the Assembly normally does not exercise eminent domain;

- spoke to the need to exercise eminent domain politely and gently; and
- spoke in support of postponing the legislation.

Assemblymember Woods queried the refund on the agriculture parcels.

Mr. Spiropoulos:

- noted that Assemblymember Woods query is in regards to the taking of the agriculture parcels;
- advised that the query puts him in a situation, as the question is regarding a potential liability; and
- commented that he would provide the answer directly to Assemblymember Woods in private.

Assemblymember Woods:

- stated that he thought he could relieve some public anxiety by getting the information out in the open;
- noted that when he was a farmer, he had paid seven years of back taxes on the reduced rate for the agriculture exemption;
- queried whether people with agriculture land would have to pay the difference in property tax back seven years since the Borough is taking property; and
- noted that the Borough would be paying it back for the property and not the person that the Borough is taking the land from.

Mayor DeVilbiss:

- provided a reminder that this is an ongoing negotiation process; and
- noted that the discussion was borderline quasi-judicial.

Assemblymember Keogh queried whether there are legal, project construction, or right-of-way acquisition implications should the legislation be postponed.

Mr. Sworts

- reported that staff is not under a deadline; and
- advised that should the Assembly take action tonight, it would not stop any negotiations.

Discussion ensued regarding:

- what affects postponing the legislation would have;
- the State Legislators waiting on the Borough to move forward with the right-of-way acquisition before the State funds the project funding;
- whether there is anything in the legislation that would prevent the Assembly from continuing negotiations; and
- whether appraisals were performed by a private contractor.

MOTION: Assemblymember Colver moved to postpone Resolution Serial No. 11-062 to a time certain to June 7, 2011.

Assemblymember Colver:

- noted this would allow for more negotiation time;
- opined that it is not appropriate for the Assembly to discuss values in this forum;
- stated that the Borough is not in the condemnation business;
- spoke to the need to tread lightly and have more time for negotiations; and
- spoke to the capital budget.

MOTION: Assemblymember Arvin moved to extend the meeting past 10:30 p.m. and not to exceed 11 p.m.

VOTE: The motion passed without objection.

Assemblymember Arvin:

- spoke in support of postponing the legislation;
- noted that he agrees with Assemblymember Colver's comments;
- spoke to the need for the Borough to negotiate an equitable outcome before taking drastic action.

VOTE: The motion to postpone Resolution Serial No. 11-062 passed without objection.

- b. Resolution Serial No. 11-063: A RESOLUTION AUTHORIZING THE MANAGER TO ESTABLISH A WATER RIGHTS PUBLIC AWARENESS CAMPAIGN. *(Sponsored by Assemblymember Keogh)*
- (1) IM No. 11-100

MOTION: Assemblymember Ewing moved to adopt Resolution Serial No. 11-063.

Assemblymember Ewing

- spoke in support of the legislation;
- commended Assemblymember Keogh for bringing the legislation forward; and
- opined that \$5000 to educate the public on water rights is a cheap investment in the future.

Assemblymember Arvin:

- spoke in opposition to the legislation;
- opined that this is not a good use of Borough money;
- spoke to concerns regarding having public awareness campaigns for other State laws; and
- opined that the legislation is inappropriate.

Assemblymember Keogh:

- noted that the reason he brought the legislation forward is that most of the public have very little awareness of what water rights are;
- commented that the State is the manager of water rights;
- noted that any individual in the State could acquire a water right with a simple application and submission of a well log;

- noted that when people have acquired their water rights it gives them standing should the water supply be impacted by other users;
- provided an example of water supply issues in the Point MacKenzie area;
- noted that as the Borough grows and develops, there are impacts that can happen to water; and
- stated that the point is, for relatively a few dollars, the public can find out about what it takes to acquire water rights, be better protected, and get a big bang for the buck.

Discussion ensued regarding:

- application fees;
- compromising and requesting the OIT Department to place this information on the Borough's website;
- the possibility of using a public service announcement;
- the population that would be interested in the information; and
- the need to post the information on the website rather than appropriating funds.

MOTION: Assemblymember Arvin moved to postpone Resolution Serial No. 11-063 indefinitely.

Assemblymember Arvin:

- spoke to the need to postpone the legislation indefinitely; and
- requested staff to post the information on the Borough's website.

Assemblymember Bettine noted that she would support postponing with giving direction to the Manager and to also have the Public Affairs Department look into public notices and announcements and if it could be fit into the budget, to do so.

VOTE: The motion to postpone indefinitely passed with Assemblymember Keogh opposed.

2. ASSEMBLY MEMORANDUMS

- a. AM No. 11-034: APPROVAL OF CHANGE ORDER NO. 3 TO SHANNON AND WILSON, INC., IN AN AMOUNT NOT TO EXCEED \$93,670 FOR THE MSB LANDFILL MONITORING WELLS SAMPLING AND ANALYSIS.

MOTION: Assemblymember Ewing moved to adopted AM No. 11-034.

Assemblymember Ewing:

- noted that AM No. 11-034 was pulled in error; and
- spoke in support of the legislation.

VOTE: The motion passed without objection.

Assemblymember Colver requested to take up State Redistricting.

There was no objection noted.

Ms. Pam Graham provided an explanation of the redistricting maps provided by staff.

(The meeting recessed at 10:50 p.m. and reconvened at 10:55 p.m.)

Assemblymember Bettine requested that a meeting date be set to work on the mapping.

Ms. McKechnie:

- advised that the earliest a meeting could be scheduled would be by May 10, 2011, at 3 p.m.; and
- asked the Assembly if they would like to schedule the meeting on May 10, 2011, at 3 p.m.

Assemblymember Keogh:

- stated that when the process first started, the Assembly submitted a letter suggesting that things are kept within the Borough boundaries to the extent possible;
- opined that the letter had zero effect on what was produced by the State Redistricting Board;
- spoke to the importance of submitting information sooner rather than later if the Assembly could have any impact; and
- opined that the Assembly would have zero impact with anything delivered after the fact.

Discussion ensued regarding:

- whether to schedule a meeting on May 10, 2011, at 3 p.m.; and
- whether to submit a map.

[Clerk's Note: The Assembly did not schedule a meeting or provide direction to staff, as the meeting ended at 11 p.m. and there was no motion to extend the meeting.]

XI. OTHER NEW BUSINESS

XII. RECONSIDERATION

A. ~~Ordinance Serial No. 11-036: AN ORDINANCE AMENDING TITLE 27, SUBDIVISIONS; AND MSB 18.10, POINT MACKENZIE PORT DEVELOPMENT STANDARD DISTRICT, CONCERNING SUBDIVISION REQUIREMENTS WITHIN THE PORT DISTRICT AND OTHER AREAS. (Reconsideration filed on 04/20/11 by Assemblymember Bettine)~~

1. ~~IM No. 11-032~~

(Reconsideration was not taken up and will carry forward to the May 17, 2011, regular meeting agenda.)

XIII. EXECUTIVE SESSION

(There was no executive session held.)

XIV. MAYOR AND ASSEMBLY COMMENTS

(There were no comments provided.)

XV. ADJOURNMENT

The regular meeting adjourned at 11 p.m.


LARRY DeVILBISS, Borough Mayor

ATTEST:


LONNIE R. McKECHNIE, CMC, Borough Clerk

Minutes approved: 06/07/11