

I. CALL TO ORDER

The regular meeting of the Matanuska-Susitna Borough Assembly was held on May 18, 2010, at the Borough Assembly Chambers, 350 E. Dahlia Avenue, Palmer, Alaska. The meeting was called to order at 6 p.m. by Mayor Talis Colberg.

II. ROLL CALL

Assembly members present and establishing a quorum were:

Ms. Lynne Woods, Assembly District No. 1 (*Deputy Mayor*)
Mr. Ronald Arvin, Assembly District No. 3
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

Assembly members absent and excused:

Mr. Pete Houston, Assembly District No. 2

Staff in attendance were:

Ms. Lonnie R. McKechnie, Borough Clerk
Mr. John Duffy, Borough Manager
Ms. Elizabeth Gray, Assistant Borough Manager
Mr. Nicholas Spiropoulos, Borough Attorney
Ms. Brenda J. Henry, Executive Assistant to the Borough Clerk
Ms. Tammy Clayton, Finance Director
Ms. Shaune O'Neil, Public Works Director
Ms. Christine Nelson, Planning and Land Use Director
Mr. Dennis Brodigan, Emergency Services Director
Ms. Linda Brenner, Community Development Director
Ms. Patty Sullivan, Public Affairs Director
Mr. Dave Hanson, Economic Development Director
Mr. Russ Krafft, Purchasing Officer

III. APPROVAL OF AGENDA

Mayor Colberg 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. George Troxel, Matanuska-Susitna Borough School District Superintendent.

V. MINUTES OF PRECEDING MEETINGS

- A. Special Assembly Meeting: 04/10/10
- B. Regular Assembly Meeting: 04/20/10

Mayor Colberg inquired if there were any corrections to the special meeting minutes of April 10, 2010, or the regular meeting minutes of April 20, 2010.

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

VI. REPORTS/CORRESPONDENCE

A. AGENCY REPORTS

- 1. Reports from cities

(There were no reports provided.)

- 2. Matanuska-Susitna Borough School District

Mr. Troxel:

- introduced Dr. Kenneth Burnley, who is the new incoming School District Superintendent;
- spoke to Dr. Burnley's former service at the Fairbanks School District; and
- stated that Dr. Burnley comes from Detroit, Michigan.

Dr. Burnley:

- thanked that Assembly for welcoming him;
- stated that his family is happy to be back in Alaska;
- stated that he understands that he needs to become familiar with the people of the Borough and what their issues are; and
- noted that he is looking forward to working with the School District.

B. COMMITTEE REPORTS

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

(There was no report provided.)

- 2. Assembly Public Relations

Assemblymember Ewing:

- stated that he is resigning from the Local Emergency Planning Committee; and
- asked the Assembly to support his resignation.

C. MANAGER COMMENTS

1. State/Federal Legislation
2. Strategic Planning Issues

Mr. Duffy:

- spoke to research that was requested regarding the ramifications of mining and exploration work at Wishbone hill;
- noted that one of the questions was whether the Borough can intercede on mining and exploration activities;
- advised that Mr. Spiropoulos is preparing a memorandum in this regard;
- noted that it is not legally defensible;
- related that the Borough is preempted by State and Federal authority regarding mining activities;
- stated that the Army Corp of Engineers is dumping what is dredged from in front of the Port of Anchorage in front of the Port MacKenzie shoal;
- noted that Administration will be asking if the dredged material could be deposited elsewhere; and
- added that it does not have a huge impact on Port MacKenzie, as it is a deep water port.

Assemblymember Bettine queried if there was a letter coming forward from any of the Borough's boards or commissions requesting that the Assembly regulate the mining of Wish Bone Hill through the road lease.

Mr. Duffy:

- stated that he has not had opportunity to read the letter;
- further added that he would recommend that the Assembly not regulate the mining industry through a road lease; and
- stated that he does not think that it would be legally defensible.

Assemblymember Halter queried when the memorandum from the Law Department would be coming forward.

Mr. Spiropoulos:

- stated that he is preparing a legal memorandum for the Assembly, which is an in depth analysis of the issues that play into preemption;
- related that the Planning Commission and the Real Property Asset Management Board have requested a copy;
- requested direction on whether or not he should provide them a copy;
- related that the board's are going to recommend that the Assembly propose operational limitations;

- noted that as Mr. Duffy stated, it is not legally defensible; and
- advised that if the Assembly should try to regulate mining through a property lease, the appropriate remedy is to terminate the lease.

Discussion ensued regarding:

- legal memorandum coming forward from the Law Department; and
- the reasons that it is inappropriate to regulate the mining industry through a property lease.

A. ATTORNEY COMMENTS

Mr. Spiropoulos:

- stated that there is no need to conduct the executive session on the agenda, as there is no new information to share with the Assembly; and
- further added that it would be appropriate to continue it to the next agenda if the Assembly would like, as the budget deliberations are continuing after this meeting.

B. CLERK COMMENTS

Ms. McKechnie:

- spoke regarding the upcoming meeting schedule; and
- reminded the Assembly that Ms. Marino and herself will be out of the office next week.

Assemblymember Woods queried the status of the request to have a joint meeting with the Municipality of Anchorage.

Ms. McKechnie:

- stated that there was prior discussion regarding conducting the joint meeting at the Port; and
- related that she would work with the Anchorage Clerk in order to determine a time that both bodies are available.

Discussion ensued regarding days the Assembly members would be available in June for a joint meeting.

C. CITIZEN AND OTHER CORRESPONDENCE

1. MSB Board/Committee Minutes:
 - a. Caswell FSA: 01/13/10
 - b. Parks, Recreation, and Trails Advisory Board: 01/25/10
 - c. Platting Board: 03/04/10, 03/18/10, 04/01/10
 - d. Wasilla-Lakes FSA: 01/25/10
 - e. West Lakes FSA: 01/11/10

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

D. INFORMATIONAL MEMORANDUMS

(There were no informational memorandums presented.)

IX. NEW BUSINESS

A. INTRODUCTION (For public hearing – 06/10/10, 7 p.m., Borough Assembly Chambers)

1. Ordinance Serial No. 10-045: AN ORDINANCE ACCEPTING AND APPROPRIATING \$714,500 AND \$48,000 GRANT FUNDS FROM THE UNITED STATES DEPARTMENT OF AGRICULTURE RURAL DEVELOPMENT (USDA) TO FUND 415, FOR THE TALKEETNA PUBLIC WATER SYSTEM IMPROVEMENTS, PROJECT NO. 25037.
 - a. Resolution Serial No. 10-040: A RESOLUTION APPROVING THE SCOPE OF WORK AND BUDGET FOR THE TALKEETNA PUBLIC WATER SYSTEM IMPROVEMENTS, PROJECT NO. 25037.
 - (1) IM No. 10-079
2. Resolution Serial No. 10-039: A RESOLUTION PLACING BEFORE THE VOTERS AT THE REGULAR ELECTION OF OCTOBER 5, 2010, THE QUESTION OF SHOULD THE MANAGER FORM OF GOVERNMENT FOR THE MATANUSKA-SUSITNA BOROUGH BE REPEALED. *(Sponsored by Assemblymember Ewing)*
 - (1) IM No. 10-086

Ms. McKechnie read the above legislation into the record.

MOTION: Assemblymember Woods moved to introduce the legislation as read into the record by the Clerk and set the public hearings for June 1, 2010.

VOTE: The motion passed without objection.

B. MAYORAL NOMINATIONS AND APPOINTMENTS

1. VACANCY REPORT

Mayor Colberg requested the following confirmations:

Board of Equalization

Daniel “Kevin” Crozier

Citizens Advisory Committee on the Goose Creek Correctional Center

Wilma Gonzales

Emergency Medical Services Board

Tami Floyd

Paul Gavell, resignation

Enhanced 911 Advisory Board

Carl Hereford

Local Emergency Planning Committee
Mark Ewing, resignation

Parks, Recreation, and Trails Advisory Board
David Noland

Mayor Colberg made the following recommendations:

Animal Care and Regulation Board
Sabrieta Holland

Emergency Medical Services Board
Jeanne Lewis

Parks, Recreation, and Trails Advisory Board
Darrell Harrell
James Skinner

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

VOTE: The motion passed without objection.

VIII. UNFINISHED BUSINESS

A. Ordinance Serial No. 10-017: AN ORDINANCE ESTABLISHING A WASILLA DEVELOPMENT STANDARDS DISTRICT, AND AMENDING MSB 27.10.065, MSB 27.15.020, AND MSB 27.15.130 TO APPLY THE DESIGN AND CONSTRUCTION STANDARDS ADOPTED IN THE DEVELOPMENT STANDARDS DISTRICT TO PRELIMINARY AND FINAL PLATS OF PROPERTY LOCATED IN THE DEVELOPMENT STANDARDS DISTRICT.

(1) IM No. 10-029

(2) IM No. 10-040

MOTION PENDING: Assemblymember Ewing moved to adopt Ordinance Serial No. 10-017.

Assemblymember Ewing:

- noted that the city of Wasilla was suppose to be at this evenings meeting to participate in the discussion but that they are not present ; and
- related that he would like representatives from the city of Wasilla to be present when this legislation is discussed.

MOTION: Assemblymember Ewing moved to postpone Ordinance Serial No., 10-017 to a time certain of June 15, 2010.

VOTE: The motion passed without objection.

Assemblymember Colver requested that Mr. Yoder from the city of Wasilla be present at the June 15, 2010, regular meeting to discuss this issue.

- B. Ordinance Serial No. 10-030: AN ORDINANCE APPROVING THE LEASE DISPOSAL AT LESS THAN FAIR MARKET VALUE OF THE REAL PROPERTY LEGALLY DESCRIBED AS TRACT 3, POINT MACK SUBDIVISION PHASE 1, FOR THE FUTURE CONSTRUCTION AND OPERATION OF A WATER AND WASTEWATER FACILITY SITE TO SERVICE GOOSE CREEK CORRECTIONAL CENTER AND TO RECLASSIFY TRACT 3 AS RESERVED USE LANDS.

(1) IM No. 10-047

Mr. Krafft provided a staff report.

MOTION: Assemblymember Bettine moved to adopt Ordinance Serial No. 10-030.

Mr. Spiropoulos:

- spoke to being involved with the purchasing officer regarding a staff amendment;
- noted that staff agreed that a two year lease at less than fair market value is being recommended; and
- stated that this amendment is a result of discussions with the Assembly.

MOTION: Assemblymember Bettine moved a primary amendment to Ordinance Serial No. 10-030, by striking references to the “fourteen year lease” and inserting in its place “two years” and to require an adjustment to rent commencement by striking “2025” and inserting in its place “2012” throughout the document.

MOTION: Assemblymember Colver moved a secondary amendment to initiate the contract for fair market value lease.

Discussion ensued regarding a fair market value versus a less than fair market value lease.

VOTE: The secondary amendment failed with Assemblymember Colver in support.

VOTE: The primary amendment passed without objection.

VOTE: The main motion passed as amended without objection.

(The regular meeting recessed at 6:51 p.m. and reconvened at 7:01p.m.)

VII. 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. 10-044: AN ORDINANCE APPROVING AN APPROPRIATION OF \$100,000 FROM GREATER WILLOW ROAD SERVICE AREA NO. 20 FUND BALANCE, FUND 276, TO FUND 410, PROJECT NO. 30042, FOR GREATER WILLOW ROAD SERVICE AREA NO. 20 CAPITAL PROJECTS.
 - a. IM No. 10-078

Ms. O'Neill provided a staff report.

Mayor Colberg 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. 10-044.

VOTE: The motion passed without objection.

C. AUDIENCE PARTICIPATION (Three minutes per person.)

The following person spoke to concerns with teachers having to be part of the union to have their contract negotiated with the School District: Ms. Micky Tayson.

The following persons spoke against the proposed lease for Usibelli Coal Mine: Mr. Andre Chostick, Ms. Alice Chostick, Ms. Judy Donegan, Mr. Kirby Spangler, Ms. Krista Masiolick, Ms. Sue Wilsey, Ms. Michelle Crevoix, Ms. Jennifer Charvet, Ms. Jeffrie Lisa Charvet, Ms. Karen Hopp, Mr. Pete Pretorious, Ms. Ellen Van DeViss, Ms. Sandy Hoeft, Ms. Jessica Winnestaffer, Mr. Gene Backus, and Mr. Bill Stokes.

The following person spoke in support of Resolution Serial No. 10-039: Ms. Jennie Bettine.

The following person spoke regarding the recommendations forwarded by the Commission on Salaries and Emoluments, in support of a strong mayor form of government, and Animal Care and Regulation Board revisions to Title 24: Mr. John Wood.

The following person spoke in support of full funding for the School District and to scholarships provided by the Classified Employees Association: Mr. Rick Byrnes, President, Classified Employees Association.

The following person spoke in support of full funding for the School District: Ms. Jill Showman, President, Mat-Su Education Association.

The following person spoke in support of the Usibelli Coal Mine Lease and to concerns regarding the Rail Extension Project: Mr. Stephen Stoll.

D. CONSENT AGENDA (Resolution Serial No. 10-038 and AM No. 10-040 were pulled from the consent agenda and addressed separately. *See pp. 9-11*)

1. RESOLUTIONS

a. Resolution Serial No. 10-037: A RESOLUTION APPROVING THE AMENDED SCOPE OF WORK FOR FISH AND WILDLIFE FISH PASSAGE PROJECT MANAGEMENT, PROJECT NO. 30093, TO ALLOW FOR HIRING ON CALL CIVIL ENGINEERING CONSTRUCTION INSPECTOR INTERNS.

(1) IM No. 10-082

2. ASSEMBLY MEMORANDUMS

a. AM No. 10-035: ACCEPTANCE OF LATE FILED AND RETROACTIVE SENIOR CITIZEN AND DISABLED VETERAN EXEMPTION APPLICATIONS.

b. AM No. 10-036: AWARD OF BID NO. 10-084 TO WESTERN CONSTRUCTION AND EQUIPMENT LLC, FOR ENGSTROM ROAD UPGRADES IN THE CONTRACT AMOUNT OF \$764,749.97.

c. AM No. 10-037: AUTHORIZATION TO AMEND CONTRACT NO. 07-184 WITH MIKUNDA COTTRELL AND COMPANY FOR OPTION YEARS ONE AND TWO, IN THE TOTAL AMOUNT OF \$272,500, TO PROVIDE AUDIT SERVICES FOR THE MATANUSKA-SUSITNA BOROUGH AND THE MATANUSKA-SUSITNA SCHOOL DISTRICT.

d. AM No. 10-038: AWARD OF BID NO. 10-082 TO WESTERN CONSTRUCTION AND EQUIPMENT, LLC, FOR THE GRANTHAM ROAD BRIDGE CONSTRUCTION IN THE CONTRACT AMOUNT OF \$282,348.

e. AM No. 10-039: AWARD OF BID NO. 10-079 TO WESTERN CONSTRUCTION AND EQUIPMENT, LLC, FOR THE EDGERTON PARKS ROAD CULVERT REPLACEMENT PROJECT IN THE CONTRACT AMOUNT OF \$262,202.19.

Ms. McKechnie read the above legislation into the record.

MOTION: Assemblymember Woods moved to approve the consent agenda as read into the record by the Clerk.

VOTE: The motion passed without objection.

b. Resolution Serial No. 10-038: A RESOLUTION APPROVING THE AMENDED BUDGET FOR THE AGRICULTURAL PROCESSING AND PRODUCT DEVELOPMENT CENTER, PROJECT NO. 10171.

(1) IM No. 10-083

Ms. Gray provided a staff report.

MOTION: Assemblymember Halter moved to adopt Resolution Serial No. 10-038.

Assemblymember Halter advised that he would like to see the legislation referred to the Planning Commission, in order to have a comprehensive review of the legislation.

Mr. Duffy stated that there are time limitations on this legislation and that it has to move forward by the Fall.

Discussion ensued regarding whether or not to refer the legislation to the Planning Commission.

MOTION: Assemblymember Ewing moved to refer Resolution Serial No. 10-038 to the Planning Commission being due back to the Assembly on July 20, 2010.

WITHDRAWN: Assemblymember Ewing moved to withdraw his motion.

There was no objection noted.

Discussion ensued regarding:

- cost of the entire project;
- maintenance and operation of the facility being undecided;
- the limited earmark capacity;
- possibility of involving the School District; and
- the need for a business model for this project.

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

VOTE: The motion passed without objection.

VOTE: The main motion passed without objection.

- f. AM No. 10-040: UPDATED AGREEMENT REGARDING AWARD OF PROPOSAL NO. 09-151 TO VALLEY UTILITIES, LLC, FOR THE DESIGN, BUILD, OPERATE AND FINANCE OF A WATER AND WASTEWATER FACILITY TO SUPPORT THE GOOSE CREEK CORRECTIONAL CENTER

MOTION: Assemblymember Colver moved to adopt AM No. 10-040.

Assemblymember Colver:

- stated that he does not support this legislation; and
- opined that the bid process is flawed.

Assemblymember Ewing:

- opined that if the Assembly does not adopt this legislation that the Borough will be taken to task; and
- noted that the procurement process may be flawed, but the Assembly needs to move forward with the project.

Assemblymember Halter queried if there was a novation agreement.

Mr. Krafft:

- stated that the State has a similar procurement process as the Borough;
- related that the State is allowed to enter into a contract if it was competitively bid and awarded through another municipality;
- stated that the State wants to work directly with Valley Utilities, LLC;
- stated that a draft novation agreement has been sent to the State;
- further added that the Borough has been so wrapped up in the lease agreement that it has not been possible to move forward with novation;
- stated that the process will be to sign the agreement and then move forward;
- noted that all parties want the novation; and
- stated that if the Borough does not, that the State will have to start all over from ground zero, and would lose the construction season.

Discussion ensued regarding the novation process.

VOTE: The motion passed with Assemblymember Colver opposed.

C. OTHER NEW BUSINESS

X. RECONSIDERATION

(There were no reconsiderations presented.)

XI. VETO

A. MOTION TO OVERRIDE ANY POSSIBLE MAYORAL VETO ON FISCAL YEAR 2011 BUDGET ITEMS (ORDINANCE SERIAL NO. 10-010)

(There were no vetoes heard.)

XII. EXECUTIVE SESSION *(for matters, the immediate public knowledge of which would clearly have an adverse effect upon the finance of the Borough and matters which by law, municipal charter, or ordinance are required to be confidential.)*

A. Krause Litigation

Assemblymember Woods requested that the executive session be carried forward to the June 1, 2010, regular meeting agenda.

There was no objection noted.

XIII. MAYOR AND ASSEMBLY COMMENTS

(There were no comments provided.)

XIV. ADJOURNMENT

The regular meeting adjourned at 8:22 p.m.

ATTEST:



TALIS J. COLBERG, Borough Mayor



LONNIE R. McKECHNIE, CMC, Borough Clerk

Minutes approved: 06/15/10