

I. CALL TO ORDER

The regular meeting of the Matanuska-Susitna Borough Assembly was held on June 4, 2013, at the Borough School District Administration Building, 501 N. Gulkana Street, 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*)
Mr. Steve Colligan, Assembly District No. 4 (*arrived at 6:16 p.m.*)
Mr. Darcie K. Salmon, Assembly District No. 5 (*arrived at 6:26 p.m.*)
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
Mr. George Hays, Assistant Borough Manager
Mr. Nicholas Spiropoulos, Borough Attorney
Ms. Brenda J. Henry, Assistant Clerk
Ms. Lisa Richard, Assistant Borough Attorney
Ms. Cheyenne Heindel, Financial Analyst
Mr. Dave Dunivan, Borough Assessor
Ms. Shannon Post, Chief Information Officer
Mr. Dennis Brodigan, Emergency Services Director
Mr. James Jenson, Acting Public Works Director
Mr. Don Dyer, Economic Development Director
Mr. Eric Phillips, Community Development Director
Ms. Lauren Driscoll, Chief of Planning
Ms. Elaine Flagg, Micrographics Technician
Ms. Amy Bohmbach, Administrative Secretary I

III. APPROVAL OF AGENDA

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

Mr. Moosey requested to pull AM No. 13-074 completely from the agenda.

Mayor DeVilbiss queried if there was any objection.

There was no objection noted.

Assemblymember Colver stated that he would declare a conflict later in the meeting regarding AM Nos. 13-079 and 13-081.

Mayor DeVilbiss stated that those two pieces of legislation would be pulled from the consent agenda.

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

IV. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mr. Don Carney, School District Assistant Director of Operations and Maintenance.

V. MINUTES OF PRECEDING MEETINGS

(There were no minutes of preceding meetings.)

VI. REPORTS/CORRESPONDENCE

A. AGENCY REPORTS

1. Reports from cities

Wasilla City

Mr. Bert Cottle, Deputy Administrator:

- spoke to his appreciation of the Assembly for their hard work on the budget; and
- thanked the Assembly for attending the dedication of the land for the Port MacKenzie Rail Extension.

Palmer City

Mr. Doug Griffin, Mayor:

- stated that he was sorry that he was unable to attend the Port MacKenzie Rail Extension land dedication;
- spoke to his appreciation of the Assembly for their hard work on the budget;
- spoke to a meeting that had been held recently regarding the water main extension project with the Borough;
- opined that it is working well with the consideration of having the Borough manage the project; and
- spoke in support of AM Nos. 13-071, 13-072, and 13-073, which are contractual agreements with the city of Palmer for emergency services.

2. Matanuska-Susitna Borough School District

Mr. Dave Anderton, School District Director of Operations and Maintenance:

- conveyed the appreciation of the School District for the new roof repairs that are occurring throughout the School District;
- spoke to the new school construction that is occurring;
- related that school registration is already open for the next school year; and
- thanked the Assembly for their support.

B. COMMITTEE REPORTS

1. Joint Assembly/School Board Committee on School Issues

(There were no reports provided.)

2. Assembly Public Relations

(There were no reports provided.)

C. MANAGER COMMENTS

1. State/Federal Legislation
2. Strategic Planning Issues

Mr. Moosey stated that the Borough Assessor would provide a report regarding senior and disabled veteran tax exemptions.

Mr. Dunivan provided a staff report on the status of the senior and disabled veteran tax exemptions.

Assemblymember Halter:

- opined that if a senior is already receiving an exemption, that the additional exemption could be added to the current tax bill; and
- spoke to his dismay that there was a lot of hoops that had to be jumped through.

Mr. Dunivan:

- advised that they have to be processed in two different ways; and
- stated that the State exemption is mandatory and that the Borough exemption is elective.

Assemblymember Halter queried if that means that every property owner who would qualify for the exemption could elect not to take it.

Mr. Dunivan affirmed the query and advised that some have.

Discussion ensued regarding:

- the number of people who currently qualify for the elective exemption that are on the mailing list;
- that there were some residents who admitted that they did receive the application, but did not return it;
- that there were some residents who stated that they did not receive it at all;
- that staff is trying to determine why some residents did not receive the application;
- the possibility of making the Borough exemption mandatory and not elective;
- the desire of the Assembly to make it as easy as possible for qualifying residents to receive the exemption;
- that when the legislation originally brought the exemption forward, it was to be for all Borough residents, but was changed through an amendment to senior citizen and disabled verteran;
- that the Borough exemption comes through a qualifying application only, per code; and
- the possibility of having a grace period to submit the applications for exemptions.

D. ATTORNEY COMMENTS

Mr. Spiropoulos:

- spoke to the permit that was issued by the Alaska State Department of Natural Resources regarding the Port MacKenzie Rail Extension project;
- advised that he filed a motion to receive a copy of the appeal and a motion for expedited consideration, both of which were granted;
- stated that the appeal is scheduled to be taken up next week;
- noted that he is working to provide a response; and
- opined that it looks as though the decision will be in favor of the Borough, but that there is no way to know for certain until the ruling is issued.

E. CLERK COMMENTS

Ms. McKechnie:

- spoke regarding the upcoming meeting schedule;
- stated that it is not certain whether or not the Assembly will be in the new Chambers by August, therefore the locations for August meetings are listed as to be announced;
- noted that there was a request to change the June 11, 2013, special meeting to June 18, 2013, at 4p.m.; and
- queried if that was a change the Assembly would like make.

Mayor DeVilbiss queried if there was any objection.

There was no objection noted.

Ms. McKechnie:

- noted that Administration had requested to set a meeting regarding Assembly goals and priorities;
- suggested August 6, 2013, at 4 p.m.; and
- queried if that date and time would work for the Assembly.

Mayor DeVilbiss queried if there was any objection.

There was no objection noted.

Ms. McKechnie:

- spoke to the pertinent election dates included in the Clerk's Report; and
- advised that there are a number of quasi-judicial appeals occurring.

F. CITIZEN AND OTHER CORRESPONDENCE

1. MSB Board/Committee Minutes:

- a. Animal Care and Regulation Board: 06/11/12, 10/30/12, 11/19/12, 12/10/12
- b. Fairview RSA Board of Supervisors: 02/21/12, 11/13/12
- c. Local Emergency Planning Committee: 03/20/13
- d. Local Road Service Area Advisory Board of Supervisors: 03/21/13
- e. Planning Commission: 01/07/13, 02/25/13, Resolution Serial Nos. 13-01, 13-04
- f. Platting Board: 04/04/13
- g. Port Commission: 02/20/13, Resolution Serial No. 13-002
- h. Talkeetna Sewer and Water Advisory Board: 02/27/13, 03/20/13, 04/24/13
- i. Willow FSA Board of Supervisors: 02/14/13

2. Community Council Minutes:

(There were no community council minutes.)

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

G. INFORMATIONAL MEMORANDUMS

(There were no informational memorandums presented.)

VII. UNFINISHED BUSINESS

- A. Ordinance Serial No. 12-169: AN ORDINANCE AMENDING MSB 17.73, MULTIFAMILY DEVELOPMENT DESIGN STANDARDS, AND MSB 17.125.010, DEFINITIONS. *(Sponsored by Assemblymembers Salmon and Halter)*
 1. IM No. 12-258

MOTION PENDING: Assemblymember Halter moved a primary amendment to Ordinance Serial No. 12-169, as follows:

- inserting on the first page of the ordinance the following whereas clauses that read:
 - “WHEREAS, the overall goals of MSB 17.73 are to encourage the development of standards that promote quality residential housing and create an attractive, safe and healthy setting for residents;”
 - WHEREAS the proliferation of commercial developments containing substandard dwellings does not meet or encourage the goals of this ordinance;
 - WHEREAS, the Planning Commission passed Resolution 13-12 supporting amendments to MSB 17.73 – Multifamily Development Design Standards to include a density threshold and a density ceiling for substandard dwellings;
 - WHEREAS, a minor amendment is also needed to exempt the City of Houston which has obtained planning powers since MSB 17.73 was first enacted.”
- MSB 17.73.030 as follows:
 - in subsection (A), inserting the words “including substandard dwellings” after the word “development” to read: “(A) This chapter applies to all multifamily developments, including substandard dwellings, that meet or exceed the density thresholds of this chapter, regardless of the form of ownership.”
 - in subsection (B), inserting the word “Houston” after the word “cities of;”
- MSB 17.73.040 as follows:
 - by changing “threshold” to “thresholds” in order to be plural rather than singular, by striking “is” and inserting in its place “are” and inserting the word “subsections” at the end of the sentence.
 - by inserting a new (A)(2) to read: “(2) this chapter shall apply to substandard dwellings offered for compensation in the form of money, services, or barter that are constructed at a density: (a) equal to or greater than one dwelling per 40,000 square feet of lot area, calculated as .000025 multiplied by the lot area; and (b) exceeding two dwellings regardless of lot size.”
 - inserting a new (B)(2), to read: “Regardless of location substandard dwellings that are being offered for compensation in the form of money, services, or barter are subject to the following density ceilings: (a) one substandard dwelling per 40,000 square feet; or (b) two substandard dwellings, regardless of lot size.”
 - MSB 17.73.250, by inserting a definition for “substandard dwelling” to read: “Substandard Dwelling” means a structure used for human habitation (including a structure mounted on skids or wheels) which lacks one or more of the following: (a) footings, pilings, or permanent foundations, (b) water plumbed to run within the dwelling, (c) DEC approved waste water and septic systems.”

Assemblymember Halter:

- requested support of the amendment;
- noted that the Planning Commission vetted it thoroughly; and
- advised that the residents who had voiced their concerns over substandard housing were also in support of the amendment.

VOTE: The primary amendment passed without objection.

MOTION: Assemblymember Colver moved a primary amendment to Ordinance Serial No. 12-169, as follows:

- to insert the following whereas clauses in the preamble of the ordinance:
 - Whereas, developments containing substandard dwellings as defined by this chapter are often unattractive and unsightly; and
 - Whereas, developments containing substandard dwellings can negatively impact property values, and business and tourism, and harm the health, safety, and welfare of communities; and
 - Whereas, members of communities likely to be impacted should be afforded notice and opportunity to comment before such developments are approved; and
- MSB 17.73.060, by inserting a new section (E) to read: “(E) If the proposed multifamily development contains or will contain any substandard dwellings, and if the minimum criteria for a multifamily development permit are met, the Director will notify surrounding property owners in accordance with MSB 17.03, Public Notification. Within 30 days of acceptance of the completed application, the Director shall issue a decision on the application with conditions to address concerns raised by surrounding property owners within the notification area, if deemed appropriate by the Director.”

Assemblymember Colver advised that his amendment that would address the need for notification to surrounding property owners.

Assemblymember Salmon opined that the primary amendment is a redundant and unnecessary.

MOTION: Assemblymember Halter moved a secondary amendment to insert after the word “dwellings” the words “offered for commercial compensation in the form of money, services, or barter” to read: “(E) If the proposed multifamily development contains or will contain any substandard dwellings offered for commercial compensation in the form of money, services, or barter, and if the minimum criteria for a multifamily development permit are met, the Director will notify surrounding property owners in accordance with MSB 17.03, Public Notification. Within 30 days of acceptance of the completed application, the Director shall issue a decision on the application with conditions to address concerns raised by surrounding property owners within the notification area, if deemed appropriate by the Director.”

VOTE: The secondary amendment passed without objection.

VOTE: The primary amendment passed without objection.

VOTE: The main motion passed as amended without objection.

- B. Resolution Serial No. 13-056: A RESOLUTION SUPPORTING AMENDMENTS TO ALASKA STATUTE 14.11.100 THAT WILL ALLOW THE BOROUGH TO BE REIMBURSED FOR CASH PAYMENTS ON SCHOOL IMPROVEMENTS. *(Sponsored by Mayor DeVilbiss)*
1. IM No. 13-097

MOTION PENDING: Assemblymember Keogh moved to adopt Resolution Serial No. 13-056.

Assemblymember Keogh:

- noted that the School District Administration had provided comments regarding “pay-as-you-go” funding; and
- queried if the School Board had the opportunity to provide comments.

Mayor DeVilbiss stated that he was not sure.

Assemblymember Keogh:

- stated that from the contents of the packet, it would appear that they have not;
- spoke to concerns regarding “pay-as-you-go” funding for schools; and
- suggested that the legislation be postponed to the joint Assembly/School Board meeting in order to hear their opinion on the matter.

Mayor DeVilbiss noted that the Assembly did request input from the School Board and that the letter from School District Administration is what was received.

MOTION: Assemblymember Keogh moved to postpone Resolution Serial No. 13-056 to a time certain of September 10, 2013.

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

Assemblymember Colver spoke in support of the resolution.

Assemblymember Keogh:

- noted that he supports the concept of saving funds where possible; and
- spoke to concerns that it might be possible in the future to hear that there are not adequate funds to build schools when they are needed.

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

VOTE: The motion passed without objection.

VOTE: The main motion passed with Assemblymember Keogh opposed.

- C. Resolution Serial No. 13-068: A RESOLUTION URGING ALASKA'S CONGRESSIONAL DELEGATION TO PROTECT ALASKAN FAMILIES AND SUPPORT THE SAFE CHEMICALS ACT OF 2013. *(Sponsored by Assemblymember Keogh)*
1. IM No. 13-129

MOTION PENDING: Assemblymember Woods moved to adopt Resolution Serial No. 13-068.

Assemblymember Keogh:

- related that the day after the legislation was postponed, there was a significant change in the Delegation's legislation;
- advised that there was a major bipartisan compromise and agreement;
- noted that he made significant changes to the whereas clauses and to the title; and
- advised that he would be amending the resolution by substitute ordinance.

MOTION: Assemblymember Keogh moved a primary amendment to Resolution Serial No. 13-068, by substitute ordinance Resolution Serial No. 13-068 (SUB) to read:

- New title reads: A resolution of the Matanuska-Susitna Borough Assembly urging Alaska's Congressional Delegation and the United States Congress to protect Alaskan Families and pass the chemical safety improvement act of 2013.
- New body of the resolution to read:
 - Whereas, the Matanuska-Susitna Borough Assembly passed Resolution Serial No. 13-060 on May 7, 2013, urging Alaska's Congressional delegation to work to find a bipartisan solution to reform the Toxic Substance Control Act (TSCA); and
 - Whereas, in Alaska and the Arctic there is a growing incidence of chemicals found in the atmosphere; and
 - Whereas, in 2010, 336 millions of pounds of persistent, bioaccumulative, and toxic chemicals were reported as released into Alaska's air, land, and water; and
 - Whereas, Arctic people have some of the highest body levels of persistent bioaccumulative chemicals in the world; and
 - Whereas, the highest known concentrations of PBDEs (polybrominated diphenyl ethers) in human populations in the Arctic were found in women in south western Alaska; and
 - Whereas, Alaskans deserve to know that chemicals used in consumer products are safe; and
 - Whereas, tens of thousands of chemicals remain in everyday products, such as cleaners, food containers, furniture and children's products, without being tested for safety; and
 - Whereas, the Center for Disease Control and Prevention (CDC) has found 212 industrial chemicals in American's bodies, including carcinogens and other linked to cancer, birth defects and other diseases; and

- Whereas, Americans overwhelmingly support legislation to reform the Toxic Substance Control Act (TSCA); 77 percent of Americans according to a recent poll; and
- Whereas, U.S. Senate Bill 1009, the Chemical Safety Improvement Act of 2013 (the Act), will fix the core failings of TSCA and include a number of significant changes that reflected input from a broad range of stakeholders including federal agencies, state governments, the chemical industry, environmental organizations, and public health advocates; and
- Whereas, a group of nineteen Senators are cosponsoring the Act, including Senator Begich and Senator Murkowski; and
- Whereas, the Act will require all active chemicals in commerce to be evaluated for safety and labeled as either a “high” or “low” priority chemical based on potential risk to human health and environment; and
- Whereas, the Act will protect public health from unsafe chemicals by empowering the Environmental Protection Agency (EPA) to take action, ranging from labeling requirement to full phase-out or ban of a chemical; and
- Whereas, the Act will require EPA to transparently assess risk, determine safety, and apply any needed measures to manage risks; and
- Whereas, new chemicals entering the market must be screened for safety and the EPA would be given the authority to prohibit use of unsafe chemicals from entering the market; and
- Whereas, the Act will allow EPA to secure necessary health and safety information from chemical manufacturers, while directing EPA to rely first on existing information to avoid duplicative testing; and
- Whereas, the Act promotes innovation and safer chemistry by providing clear paths to getting new chemistry on the market while protecting trade secrets and intellectual property from disclosure; and
- Whereas, the Act protects children and pregnant women by requiring EPA to evaluate risks posed to women and children when evaluating the safety of a chemical; and
- Whereas, the Act gives state and municipalities a say in the prioritization, safety assessment, and the safety assessment process; and
- Whereas, the Act is supported by the American Chemistry Council, the Environmental Defense Fund, and the Safer Chemicals - Healthy Families Coalition, among others,
- Now, therefore, be it resolved, that the Matanuska-Susitna Borough Assembly urges Alaska's Congressional Delegation and the United States Congress to protect Alaskan families and pass the Chemical Safety Improvement Act of 2013.

Assemblymember Keogh noted that the amendment reflects the changes in the new Congressional Bill's title and content.

Assemblymember Colligan spoke in opposition to the amendment.

MOTION: Assemblymember Colligan moved to postpone Resolution Serial No. 13-068 indefinitely.

Assemblymember Keogh spoke in opposition to postponing indefinitely.

VOTE: The motion to postpone Resolution Serial No. 13-068 indefinitely passed with Assemblymembers Halter and Keogh opposed.

VIII. VETO

A. MOTION TO OVERRIDE ANY POSSIBLE MAYORAL VETO ON FISCAL YEAR 2014 BUDGET ITEMS (ORDINANCE SERIAL NO. 13-013)

VETO: Mayor DeVilbiss vetoed Amendment No. 41, which was to reduce mill rates for the following road service areas within District No. 7 to equal the dollar amounts in an equal offset so revenue is unchanged, but the mill rate is reduced, from Vehicle Tax Revenue as follows:

- Caswell Lakes Road Service Area fund 272 - \$11,495;
- Greater Willow Road Service Area fund 276 - \$18,755;
- Meadow Lakes Road Service Area fund 281 - \$32,570;
- Talkeetna Road Service area fund 283 - \$12,510; and
- Trapper Creek Road Service Area fund 284 - \$5,550.

[Clerk's note: There was no motion to override the Mayor veto of Amendment No. 41 and the veto stands.]

(The meeting recessed at 6:54 p.m. and reconvened at 7 p.m.)

IX. SPECIAL ORDERS

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. 13-038: AN ORDINANCE AMENDING MSB 15.39, BOARD OF ADJUSTMENT AND APPEALS. *(Sponsored by Assemblymember Colver)*

a. IM No. 13-003

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 Colver moved to adopt Ordinance Serial No. 13-038.

Assemblymember Colver:

- stated that he brought this legislation forward due to an incident last summer;
- related that an unsuccessful vendor filed an appeal against the successful vendor's administrative permit, which held up the Hatcher Pass Road and Transit Facility project for several months;
- spoke to the many people who were put out of work as a result of the appeal pending, which made the project fall behind due to the automatic stay;
- advised that the legislation would eliminate the automatic stay so that work can continue on projects, provided that a party to the appeal may request a stay;
- stated that the Hatcher Pass project was then shut down early due to the September 2012 flood event, resulting in a loss for the Borough;
- noted that the legislation will define who an interested party is and who has standing to bring an appeal before the Board of Adjustment and Appeals; and
- requested that the Attorney speak to how the process would work under the new legislation.

Mr. Spiropoulos:

- stated that code allows anyone to appeal a land use determination rendered either by the Planning Commission or Platting Board if that person appeared before either board and made written or oral comments;
- advised that the Supreme Court of Alaska ruled that standing in land use cases are handled differently in defining who has legal standing to challenge land use determinations;
- related that Griswold versus the city of Homer states that municipalities have the right to limit who has standing to bring administrative appeals regarding land use determinations;
- further related that the Supreme Court has ruled that to be considered aggrieved, one must have an actual property interest that is affected by the decision that is different from anyone else in the general public;
- advised that to have standing, one would have to show how they are different from the general public;
- stated that should the legislation be adopted, that aggrieved parties would be governmental entities, entitlement applicant, and the aggrieved party who would have to have a property interest that is affected; and
- related that the other significant part of the legislation would remove the automatic stay, but would still provide a mechanism by which a stay could be requested by an aggrieved party.

Discussion ensued regarding:

- concerns with eliminating the automatic stay;
- the way aggrieved is defined under current code;
- concerns that a person who would qualify to be an aggrieved party might not have provided testimony before a board and would lose their right to appeal; and
- the history of MSB 15.39 and frivolous appeals that were brought in the past.

MOTION: Assemblymember Keogh moved a primary amendment to Ordinance Serial No. 13-038, MSB 15.39.010, definition for “aggrieved” by striking the word “is” and inserting in its place “has been or could be” to read: “Aggrieved means that a person’s real property interest in the use, enjoyment, or value of specific real property has been or could be adversely affected by the determination being appealed. A person cannot be aggrieved for the purposes of this chapter if the person’s interest is no different from that of the general public.”

Assemblymember Arvin spoke in opposition to the primary amendment.

Assemblymember Halter spoke to concerns with narrowing the definition.

MOTION: Assemblymember Halter moved a secondary amendment by striking the words “has been” and inserting in its place “is” to read: “Aggrieved means that a person’s real property interest in the use, enjoyment, or value of specific real property is or could be adversely affected by the determination being appealed. A person cannot be aggrieved for the purposes of this chapter if the person’s interest is no different from that of the general public.”

Assemblymember Colver queried if there was a significant difference between “has been” or “is.”

Ms. Richard:

- advised that the term “could be” is the language currently used in the Supreme Court determination in the Griswold versus the city of Homer case;
- related that through discussion, it was determined that the use of “could be” or “is” is really not significant; and
- stated that if the language is changed to use “could be” that additional language should be inserted that makes it very clear that it is not intended to be theoretical and that it must be an actual interest in real property.

Discussion ensued regarding:

- that the discussion regarding the amendment would provide legislative intent;
- that current code provides for a real property interest;
- that it is impossible to legislate into the future; and
- the desire to make the legislation as clear as possible.

WITHDRAWAL: Assemblymember Halter moved to withdraw his secondary amendment.

There was no objection noted.

VOTE: The primary amendment failed with Assemblymember Keogh in support.

MOTION: Assemblymember Keogh moved a primary amendment to Ordinance Serial No. 13-038, MSB 15.39.010(A), by inserting a definition for “real property interest” to read: “Real property interest means a legal interest in land and improvements, including all possessory rights and privileges appurtenant to the property, including water rights, and including fixtures affixed to the land or improvements.”

Assemblymember Keogh stated that there is currently no definition for real property interest within MSB 15.39.

Assemblymember Arvin spoke to concerns with redundancies in the amendment.

Assemblymember Keogh advised that he is attempting to ensure that water and air rights were protected.

Discussion ensued regarding:

- that there are very few residents within the Borough that have any rights below the land surface, as most are owned by the State.
- that the definition came from within a different section of code;
- that the courts have determined what a real property interest is;
- whether or not the definition would have an impact;
- whether or not the definition needs to be specifically be included in MSB 15.39; and
- that water cannot be considered real property.

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

VOTE: The motion passed with Assemblymember Keogh opposed.

VOTE: The primary amendment failed with Assemblymember Keogh in support.

VOTE: The main motion passed with Assemblymember Keogh opposed.

2. Ordinance Serial No. 13-065: AN ORDINANCE ACCEPTING AND APPROPRIATING A FISCAL YEAR 2013 DESIGNATED LEGISLATIVE GRANT FROM GENERAL OBLIGATION BOND FUNDS IN THE AMOUNT OF \$30,000,000 FROM THE ALASKA STATE DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT FOR THE SOUTH CENTRAL RAIL EXTENSION FROM PORT MACKENZIE TO THE MAINLINE, TO FUND 490, PROJECT NO. 75001.

a. Resolution Serial No. 13-069: A RESOLUTION APPROVING THE SCOPE OF WORK AND BUDGET AND AUTHORIZING THE MANAGER TO ENTER INTO THE NECESSARY AGREEMENTS WITH THE ALASKA STATE DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT FOR THE SOUTH CENTRAL RAIL EXTENSION FROM PORT MACKENZIE TO THE MAINLINE PROJECT.

(1) IM No. 13-051

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 Salmon moved to adopt Ordinance Serial No. 13-065 and Resolution Serial No. 13-069.

Assemblymember Colver queried the administration and audit fee.

Mr. Moosey advised that it will be five percent or \$1.5 million.

VOTE: The motion passed without objection.

3. Ordinance Serial No. 13-066: AN ORDINANCE ACCEPTING AND APPROPRIATING \$50,924 FOR THE 2012 EARTHQUAKE HAZARDS REDUCTION PROGRAM FOR THE MATANUSKA-SUSITNA BOROUGH SCHOOL DISTRICT, PROJECT NO. 47510, FUND 400.
 - a. Resolution Serial No. 13-070: A RESOLUTION APPROVING THE SCOPE OF WORK AND BUDGET FOR A GRANT FROM THE ALASKA STATE DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT FOR THE 2012 EARTHQUAKE HAZARDS REDUCTION PROGRAM FOR THE MATANUSKA-SUSITNA BOROUGH SCHOOL DISTRICT, PROJECT NO. 47510, FUND 400.
 - (1) IM No. 13-117

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 Arvin moved to adopt Ordinance Serial No. 13-066 and Resolution Serial No. 13-070.

VOTE: The motion passed without objection.

4. Ordinance Serial No. 13-067: AN ORDINANCE ACCEPTING AND APPROPRIATING \$13,500,000 FOR A PORTION OF THE FISCAL YEAR 2013 DESIGNATED LEGISLATIVE GRANT PROJECTS FROM THE DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT FOR THE BOGARD ROAD EXTENSION EAST PROJECT, PROJECT NO. 35299, FUND 430.
 - a. Resolution Serial No. 13-071: A RESOLUTION APPROVING THE SCOPE OF WORK AND BUDGET FOR A PORTION OF THE FISCAL YEAR 2013 DESIGNATED LEGISLATIVE GRANT PROJECTS FROM THE ALASKA STATE DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC

DEVELOPMENT FOR THE BOGARD ROAD EXTENSION EAST PROJECT,
PROJECT NO. 35299, FUND 430.

(1) IM No. 13-118

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 Arvin moved to adopt Ordinance Serial No. 13-067 and Resolution Serial No. 13-071.

Assemblymember Halter queried when construction was expected to begin for this project.

Mr. Moosey:

- related that it is slated to begin in 2014;
- stated that the first phase is currently under way; and
- advised that Mr. Perkins will be doing a full presentation on all Borough projects at the next meeting.

VOTE: The motion passed without objection.

5. Ordinance Serial No. 13-068: AN ORDINANCE AMENDING MSB 3.38.040(A) AND SETTING THE SURCHARGE RATE FOR THE WIRELINE AND WIRELESS ENHANCED 911 SYSTEMS FOR THE PERIOD OF JULY 1, 2013, THROUGH JUNE 30, 2014. (*Sponsored by Assemblymember Colligan*)
- a. IM No. 13-119

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 Colligan moved to adopt Ordinance Serial No. 13-068.

Assemblymember Colligan:

- advised that this will raise the rate for fiscal year 2014; and
- stated that changes will also reflect the cap set by State law, which allows the Assembly to set a surcharge of up to \$2.

Assemblymember Keogh queried if there is a mandate that the surcharge must be raised that high.

Mr. Spiropoulos:

- stated that current code says that it can be set up to \$.85 by resolution;
- noted that what the legislation does is raise the cap up to \$2 and can be set by either resolution or ordinance;
- advised that the legislation would set the surcharge at \$1; and
- related that because the legislation is being changed to add “or ordinance” that the surcharge could be set through the budget process as that is done by ordinance.

Assemblymember Keogh spoke to concerns with the potential to make a huge increase in the surcharge.

MOTION: Assemblymember Keogh moved a primary amendment to Ordinance Serial No. 13-068, by striking “\$2” and inserting in its place “\$1.50.”

Assemblymember Colligan spoke in opposition to the primary amendment.

Assemblymember Colver queried if the Assembly had budgeted for \$1.

Mr. Spiropoulos affirmed the query.

Assemblymember Colver spoke in opposition to \$2.

Assemblymember Keogh:

- opined that the amendment is preventative in that it will keep the leap from being so significant next year from \$1 to \$2; and
- stated that the limit can be raised at a later date if necessary.

Assemblymember Salmon opined that it should be in alignment with State Statute and spoke in favor of \$2.

VOTE: The primary amendment failed with Assemblymembers Colver and Keogh in support.

MOTION: Assemblymember Colver moved a primary amendment to Ordinance Serial No. 13-068, by striking “\$2” and inserting in its place “\$1.”

Assemblymember Salmon spoke in opposition to the primary amendment.

VOTE: The primary amendment failed with Assemblymembers Keogh and Colver in support.

VOTE: The main motion passed without objection.

6. Ordinance Serial No. 13-069: AN ORDINANCE APPROVING A SUPPLEMENTAL APPROPRIATION OF \$7,187 OF REVENUES FROM PUBLIC DONATIONS TO THE FISCAL YEAR 2013 ANIMAL CARE AND REGULATION DIVISION

OPERATING BUDGET AND REAPPROPRIATING \$7,187 FROM THE FISCAL YEAR 2013 ANIMAL CARE AND REGULATION DIVISION OPERATING BUDGET, FUND 200, TO FUND 480, PROJECT NO. 45168, FOR TRAILERING EQUIPMENT.

a. IM No. 13-120

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. 13-069.

VOTE: The motion passed without objection.

7. Ordinance Serial No. 13-070: AN ORDINANCE ACCEPTING AND APPROPRIATING \$31,358.34 FROM THE KNIK ARM BRIDGE AND TOLL AUTHORITY TO FUND 480, PROJECT NO. 47023, FOR IMPLEMENTING MEASURES TO FACILITATE A CONSOLIDATED PERMITTING PROCESS FOR THE MATANUSKA-SUSITNA BOROUGH.

a. IM No. 13-121

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 Salmon moved to adopt Ordinance Serial No. 13-070.

Mayor DeVilbiss queried why legislation of this type continues to come back before the Assembly.

Ms. Driscoll:

- related that there were funds set aside for other work that Knik Arm and Bridge Toll Authority (KABATA) had already completed; and
- stated that the funds being appropriated today are excess funds from KABATA.

VOTE: The motion passed without objection.

8. Ordinance Serial No. 13-071: AN ORDINANCE REAPPROPRIATING \$166,235 FROM THE PLANNING AND LAND USE DEPARTMENT'S FISCAL YEAR 2013 OPERATING BUDGET, FUND 100, TO FUND 480, PROJECT NO. 45005, FOR PORT MASTER PLAN IMPLEMENTATION; PROJECT NO. 47035, POINT MACKENZIE TOWN SITE; AND PROJECT NO. 47036, MAT-SU 50TH ANNIVERSARY.

- a. Resolution Serial No. 13-072: A RESOLUTION APPROVING THE SCOPE OF WORK AND BUDGET FOR PORT MASTER PLAN IMPLEMENTATION, POINT MACKENZIE TOWN SITE, AND MAT-SU 50TH ANNIVERSARY.
(1) IM No. 13-126

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 Salmon moved to adopt Ordinance Serial No. 13-071 and Resolution Serial No. 13-072.

VOTE: The motion passed without objection.

(The meeting recessed at 8:04 p.m. and reconvened at 8:14 p.m.)

C. AUDIENCE PARTICIPATION (Three minutes per person.)

The following person thanked the Assembly for adopting the multifamily ordinance and read a statement in support of the ordinance from Mr. Hermann Spegel: Mr. Darwin Fisher.

The following person spoke to the need for a regional wastewater and septage treatment facility and to the need to secure land for such a facility: Ms. Helen Munoz.

D. CONSENT AGENDA

1. RESOLUTIONS

- a. Resolution Serial No. 13-074: A RESOLUTION APPROVING THE FINANCIAL RESPONSIBILITY FOR THE M/V SUSITNA FOR JUNE 2013.
(1) IM No. 13-130

2. ACTION MEMORANDUMS

- a. AM No. 13-063: AUTHORIZATION TO PURCHASE A ONE-YEAR EXTENDED SOFTWARE MAINTENANCE SILVER SUPPORT AGREEMENT FOR E-911 SYSTEM FROM MICRODATA IN THE AMOUNT OF \$120,586.34.
- c. AM No. 13-069: AWARD OF BID NO. 13-117B TO SHAMROCK SEPTIC, INC. IN THE CONTRACT AMOUNT NOT TO EXCEED \$280,000 FOR LEACHATE HAULING AND DISPOSAL.
- d. AM No. 13-070: APPROVAL OF THE CHANGE ORDER NO. 4 TO CONTRACT NO. 10-037 WITH ALASKA EMERGENCY MEDICAL CONSULTANTS INCREASING THE CONTRACT AMOUNT NOT TO EXCEED \$85,000 FOR FISCAL YEAR 2014 FOR MEDICAL DIRECTOR SERVICES.

- e. AM No. 13-071: AUTHORIZING THE MANAGER TO ENTER INTO AN AGREEMENT WITH THE CITY OF PALMER IN THE CONTRACT AMOUNT OF \$331,793 FOR FIRE PROTECTION SERVICES FOR THE CONTRACT PERIOD OF JULY 1, 2013, TO JUNE 30, 2014.
- f. AM No. 13-072: AUTHORIZING THE MANAGER TO ENTER INTO A CONTRACT EXTENSION WITH THE CITY OF PALMER IN THE AMOUNT OF \$50,000 FOR RESCUE SERVICES WITH THE CITY OF PALMER FOR THE CONTRACT PERIOD OF JULY 1, 2013, TO JUNE 30, 2014.
- g. AM No. 13-073: AUTHORIZING THE MANAGER TO ENTER INTO A COOPERATIVE SERVICES AGREEMENT WITH THE CITY OF PALMER IN THE AMOUNT OF \$823,036 FOR EMERGENCY 911 DISPATCH SERVICES FOR THE CONTRACT PERIOD OF JULY 1, 2013, TO JUNE 30, 2014.
- ~~h. AM No. 13-074: AWARD OF BID NO. 13-119B TO ALASKAN INDUSTRIES, INC. IN THE CONTRACT AMOUNT OF \$398,800 FOR MULTIPURPOSE ROOM FLOORING REPLACEMENT AT FIVE SCHOOLS.~~
- i. AM No. 13-076: AWARD OF BID NO. 13-127B TO VALLEY GENERAL CONTRACTING, LLC. IN THE CONTRACT AMOUNT OF \$137,605.80 FOR TRANQUILITY DRIVE IMPROVEMENTS.
- j. AM No. 13-078: AUTHORIZATION TO RENEW A 3-YEAR LICENSE AGREEMENT WITH ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE, INC. IN THE AMOUNT OF \$150,000 FOR ENTERPRISE MAPPING SOFTWARE.
- l. AM No. 13-080: AUTHORIZATION TO RENEW A 5-YEAR CONTRACT WITH NEW WORLD SYSTEMS IN THE AMOUNT OF \$472,320 FOR THE PURCHASE OF AN ENTERPRISE LICENSE AGREEMENT FOR ENTERPRISE FINANCIAL MANAGEMENT.

Ms. McKechnie read the above legislation into the record.

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

VOTE: The motion passed without objection.

- b. AM No. 13-068: APPROVAL OF CHANGE ORDER NO. 2 TO ATS ALASKA IN THE AMOUNT OF \$113,093 FOR FIRE AND SECURITY UPGRADES AT SUTTON LIBRARY AND MEADOW LAKES PUBLIC SAFETY BUILDING.

MOTION: Assemblymember Arvin moved to adopt AM No. 13-068.

Assemblymember Arvin requested a staff report.

Mr. Jenson provided a staff report.

VOTE: The motion passed without objection.

Mayor DeVilbiss requested that Assemblymember Colver declare his conflict.

CONFLICT OF INTEREST: Assemblymember Colver declared a conflict of interest regarding AM Nos. 13-079 and 13-081, as he was involved in bidding for the contracts.

RULING: Mayor DeVilbiss ruled that Assemblymember Colver had a conflict of interest and would be recused from voting on that legislation.

(Assemblymember Colver exited the meeting.)

k. AM No. 13-079: AWARD OF BID NO. 13-118B TO F-E CONTRACTING, INC. IN THE AMOUNT OF \$9,112,000 FOR MAT-SU DAY SCHOOL CONSTRUCTION.

MOTION: Assemblymember Arvin moved to adopt AM No. 13-079.

VOTE: The motion passed without objection.

m. AM No. 13-081: AWARD OF BID NO. 13-110C, TO COLLINS CONSTRUCTION INC. IN THE CONTRACT AMOUNT OF \$15,202,500 FOR VALLEY PATHWAYS SCHOOL CONSTRUCTION.

MOTION: Assemblymember Woods moved to adopt AM No. 13-081.

Assemblymember Arvin:

- spoke to a discussion regarding the Palmer water system; and
- queried the status of connecting to the city of Palmer's water system, given its close proximity to the school site.

Mr. Moosey:

- stated that Administration has been in contact and discussion with the city of Palmer concerning this issue;
- related that the City is supportive of the effort;
- advised that the City would not financially contribute;
- spoke to the property owners who have been contacted and their requests; and
- noted that Administration is working to move forward.

Assemblymember Arvin queried if the contract language has the flexibility to not award the tanks and onsite water store and to default to a water line extension if it is able to be worked out.

Mr. Moosey stated that is the direction that Administration is moving.

Assemblymember Arvin spoke to concerns with the water line extension project.

Mayor DeVilbiss queried if eminent domain could be established.

Mr. Spiropoulos advised that it would take too long.

VOTE: The motion passed without objection.

(Assemblymember Colver re-entered the meeting.)

X. NEW BUSINESS

A. INTRODUCTIONS (For public hearing – 06/18/13 and School District Administration Building)

1. Ordinance Serial No. 13-073: AN ORDINANCE EXTENDING THE TIME LIMIT FOR COMPLETION OF BOROUGH CAPITAL PROJECTS.
 - a. IM No. 13-115
2. Ordinance Serial No. 13-074: AN ORDINANCE APPROVING THE BEST INTEREST FINDING AND FARM DEVELOPMENT/CONSERVATION PLAN AND AUTHORIZING THE MANAGER TO EXECUTE A LESS THAN FAIR MARKET VALUE LEASE OF BOROUGH-OWNED REAL PROPERTY TO GREAT LAND CHRISTIAN CHURCH, FOR THE PURPOSE OF AN AGRICULTURAL EDUCATIONAL CAMP (MSB006744).
 - a. IM No. 13-127
3. Ordinance Serial No. 13-075: AN ORDINANCE APPROVING A SUPPLEMENTAL APPROPRIATION OF \$40,950 FROM THE BUTTE FIRE SERVICE AREA FUND BALANCE, FUND 251, TO THE BUTTE FIRE SERVICE AREA FISCAL YEAR 2013 OPERATING BUDGET, FUND 251, TO PROVIDE ADDITIONAL FUNDING FOR NON-EMPLOYEE COMPENSATION WAGES AND BENEFITS.
 - a. IM No. 13-132
4. Ordinance Serial No. 13-076: AN ORDINANCE ADOPTING THE FIVE-YEAR TIMBER HARVEST SCHEDULE (2013-2017) PER MSB 23.20.090.
 - a. IM No. 13-134
5. Ordinance Serial No. 13-077: AN ORDINANCE ACCEPTING AND APPROPRIATING \$20,939 FROM THE ALASKA STATE DEPARTMENT OF NATURAL RESOURCES, DIVISION OF PARKS AND OUTDOOR RECREATION, TO FUND 440, PROJECT NO. 15015, FOR THE CONSTRUCTION OF ONE MILE OF NEW TRAILS IN THE CREVASSE MORAINÉ SYSTEM.

a. Resolution Serial No. 13-075: A RESOLUTION APPROVING THE SCOPE OF WORK AND BUDGET FOR THE TRAILS IN THE CREVASSE MORAINÉ SYSTEM.

(1) IM No. 13-135

6. Ordinance Serial No. 13-078: AN ORDINANCE APPROVING THE PORT DEPARTMENT TO EXECUTE DEVELOPMENT OF LAKE LORRAINE GRAVEL PIT AT LESS THAN FAIR MARKET ROYALTY (MSB006565).

a. IM No. 13-138

7. Ordinance Serial No. 13-079: AN ORDINANCE REAPPROPRIATING A TOTAL OF \$335,000 FROM VARIOUS FISCAL YEAR 2013 OPERATING BUDGETS, ALL WITHIN FUND 100, TO FUND 435, PROJECT NO. 10063, FOR AUDIO VISUAL EQUIPMENT AND OTHER FIXTURES IN THE DOROTHY SWANDA JONES ANNEX.

a. IM No. 13-140

B. INTRODUCTIONS (For public hearing – 07/16/13 , Borough School District Administration Building)

1. Ordinance Serial No. 13-072: AN ORDINANCE CREATING FIELD OF VIEW PARK SUBDIVISION WATER LOCAL IMPROVEMENT DISTRICT NO. 476, 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.

a. IM No. 13-133

Ms. McKechnie read the above legislation into the record.

MOTION: Assemblymember Arvin moved to introduce the legislation as read into the record by the Clerk and set the public hearings for June 18, 2013, and July 16, 2013, respectively.

VOTE: The motion passed without objection.

C. MAYORAL NOMINATIONS AND APPOINTMENTS

1. VACANCY REPORT

Mayor DeVilbiss requested the following confirmations:

Historical Preservation Commission
Deborah Burlinski
Local Emergency Planning Committee
Sandra Porter, resignation

Mayor DeVilbiss made the following recommendations:

Local Emergency Planning Committee

Sandra Garley

Patrick Brown

MSB 8.32 Review Committee

Berkley Tilton

Bryan Scoresby

Corri Feige

Gary Kuhn

Mark Masteller

Willow FSA No. 35

James Huston

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

VOTE: The motion passed without objection.

D. OTHER NEW BUSINESS

(There was no other new business.)

E. REFERRALS (For referral to the Planning Commission for 90 days or other date specified by the Assembly)

(There were no referrals presented.)

XI. RECONSIDERATION

(There was no reconsideration presented.)

XII. MAYOR, ASSEMBLY, AND STAFF COMMENTS

Mr. Moosey:

- thanked the body for attending the ground breaking celebration for the Port MacKenzie Rail Extension project; and
- opined that it motivates staff to keep moving forward with these types of projects.

Assemblymember Salmon:

- thanked the body for adopting the multifamily ordinance, as it will serve Borough residents well;
- thanked Assemblymember Halter for his contributions to the ordinance;
- spoke to the ground breaking ceremony being a success and well attended by the Legislative Delegation; and
- stated that he enjoyed himself immensely.

Assemblymember Colver:

- spoke to the reasons he recused himself from legislation this evening;
- spoke to concerns with determining appropriate locations for charter schools;
- advised that he may be considering different options for charter schools to bring before the Assembly;
- stated that at the next meeting, he would be bringing forward legislation regarding grant audit and administration fees that would create a sliding scale to calculate the fee; and
- opined that there needs to be a better process to address fees.

Assemblymember Keogh spoke to his desire to see more public present at Assembly meetings.

Assemblymember Colligan spoke to concerns with five-year contracts.

Assemblymember Halter:

- spoke to his appreciation of the history of the Port MacKenzie Rail Extension;
- thanked the School District for his Susitna Valley baseball cap; and
- read a note he received from Dr. Deena Paramo.

Assemblymember Woods:

- noted that many are surprised by the rail extension project;
- spoke to the number of attendees who were very impressed by the work being done; and
- opined that it was a good experience and very worthwhile.

Assemblymember Arvin:

- related that it was nice to see Ms. Jay Nolfi present at the ceremony due to her long history of support of the project;
- opined that it was a great occasion; and
- spoke to concerns with large amounts of funds being awarded through the consent agenda without the public being able to weigh in on them.

Ms. McKechnie advised that legislation could be brought forward to move the consent agenda up on the Assembly schedule.

Mayor DeVilbiss:

- noted that he enjoyed the ground breaking ceremony;
- spoke to his surprise that the Port Director was not recognized;
- stated that he returned to town via Burma Road; and
- noted that he was surprised to see new asphalt on South Big Lake Road, due to the South Big Lake Road realignment project coming forward.

Mr. Jenson advised that the newly paved portion is State-owned road and that the alignment project is further down the road.

Mayor DeVilbiss:

- stated that he has been asked why there is a commercial opening in Upper Cook Inlet for King Salmon;
- related that as of this morning, there had only been two King Salmon that had passed the weir on the Susitna River; and
- stated that he would be contacting the Legislative Delegation to inquire why there is an opening for commercial fishing before there is escapement.

XIII. EXECUTIVE SESSION

(There was no executive session held.)

XIV. ADJOURNMENT

The regular meeting adjourned at 8:52 p.m.



LARRY DeVILBISS, Borough Mayor

ATTEST:



LONNIE R. McKECHNIE, CMC, Borough Clerk

Minutes Approved: 06/18/13