I. CALL TO ORDER

The regular meeting of the Matanuska-Susitna Borough Assembly was held on June 15, 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. Pete Houston, Assembly District No. 2
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

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. Patty Sullivan, Public Affairs Director
Mr. Dave Hanson, Economic Development Director

III. APPROVAL OF AGENDA

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

MOTION: Assemblymember Colver moved to suspend the rules to take up Resolution Serial No. 10-046 prior to 7 p.m.

VOTE: The motion failed with Assemblymembers Colver, Houston, Halter and Woods in support.

MOTION: Assemblymember Bettine moved to suspend the rules and to take up Ordinance Serial No. 10-042 immediately following the pledge of allegiance.

VOTE: The motion passed with Assemblymember Houston opposed.

MOTION: Assemblymember Arvin moved to continue the discussion regarding Ordinance Serial No. 10-042 immediately following the public hearings, should the discussion not be concluded by 7 p.m.

VOTE: The motion passed without objection.

VOTE: The agenda was approved as amended without objection.

IV. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mr. George Troxel, Matanuska-Susitna Borough School District Superintendent.

IX. UNFINISHED BUSINESS *(unfinished business was also heard later on the agenda. See page 20.)*

MOTION PENDING: Assemblymember Woods moved to adopt Ordinance Serial No. 10-042.

A. Ordinance Serial No. 10-042: AN ORDINANCE AUTHORIZING A FAIR MARKET VALUE LEASE OF BOROUGH-OWNED REAL PROPERTY TO PROVIDE LEGAL ACCESS TO USIBELLI COAL MINE, INC., FOR CONSTRUCTION OF AN ACCESS/COAL HAUL ROAD AND RELATED SAFETY STRUCTURES FOR FUTURE COAL EXTRACTION FROM THE WISHBONE HILL COAL MINE.

1. IM No. 10-075

MOTION: Assemblymember Woods moved a primary amendment to the lease to add $0.05 per ton for coal transported across Borough land.

Assemblymember Bettine:
- spoke to the coal tax in Healy;
- opined that it is a good idea;
- stated that she would be more interested in discussing this under separate legislation; and
- spoke to concerns that the tax might move coal transport to other roads within the Borough.

Assemblymember Arvin queried if there had been a discussion with Usibelli Coal Mine with regard to $0.05 per ton.

Assemblymember Woods:
- stated that she had not; and
- related that the amount being proposed is what is charged in Healy.

Assemblymember Halter:
- commented that he was in support of the primary amendment; and
- stated that should the amendment pass, he would like to see the money be escrowed for the benefit of the residents of the area.

Assemblymember Colver:
- opined that it would be difficult to pass an areawide severance tax;
- queried whether this would be a lease payment or a tax; and
- queried if it would be a debit to the fair market value of the lease.

Assemblymember Woods:
- stated that it would be a lease payment; and
- further added that it would not be a debit.

Assemblymember Ewing:
- opined that the Borough cannot charge people to do exploration work; and
- opined that the Assembly is only approving a pioneer road for exploration.

Assemblymember Woods:
- stated that the pioneer road is already being built;
- noted that a new lease is being approved;
- related that if Usibelli never mines coal, they would not be charged the coal tax; and
- opined that the new lease is more comprehensive.

Assemblymember Halter:
- stated that as he understands the legislation, the Assembly is working on a new lease for a new term; and
- related that the pioneer road can be built under the old lease.

VOTE: The primary amendment failed with Assemblymembers Houston, Halter and Woods in support.

MOTION: Assemblymember Halter moved a primary amendment to the lease agreement, Section 4, Authorized Activities, by removing "Amended Exhibit A" and replacing it with the "Original Exhibit A."

Assemblymember Colver opined that there should be an amendment that states that the road must be paved.

Assemblymember Halter related that the "Original Exhibit A" clearly states that the road must be paved.

Assemblymember Arvin queried if the purpose of the amendment is for dust control.

Assemblymember Halter:
- stated that it would aid in dust control;
- noted that eventually the road will be the responsibility of the Borough; and
- opined that it would be nice to have it paved prior to that occurring.

MOTION: Assemblymember Colver moved a secondary amendment to add at the end of Section 4, Authorized Activities, the following: "Effective date of paving will be at such time when commercial quantities of product are being trucked across the leased property."

VOTE: The secondary amendment passed without objection.

VOTE: The primary amendment passed as amended without objection.

MOTION: Assemblymember Arvin moved a primary amendment to the lease agreement to insert a Section 4(b), Authorized Activities, to read: "Any truck carrying cargo across the leased land shall have a cover sufficient to eliminate the escape of coal dust," and in Section 17, Supervision, to insert the following sentence at the end of the section: "Usibelli Coal Mine will take all reasonable steps to monitor or verify that any truck carrying cargo on the leased property has a cover sufficient to eliminate the escape of coal dust."

MOTION: Assemblymember Colver moved a secondary amendment to insert "entirely" before the word "eliminate" in Section 4(b) to read: "Any truck carrying cargo across the leased land shall have a cover sufficient to entirely eliminate the escape of coal dust."

VOTE: The secondary amendment passed without objection.

VOTE: The primary amendment passed as amended without objection.

MOTION: Assemblymember Colver moved a primary amendment to the lease agreement, Section 4, Authorized Activities, to insert the sentence to read: "For trucks carrying cargo across the leased land the leasee shall design and construct a facility to clean the tires of the vehicles before the exit the lease and enter the highway."

Assemblymember Colver:
- spoke to storm water protection plans;
- stated that it is common to require companies to clean their tires when entering and exiting a site where there is a lot of dust; and
- stated that this is a fairly common practice in relation to storm water protection.

Assemblymember Arvin:
- advised that Usibelli is obligated under the surface mine permit to ensure none of the coal leaves state property;
- opined that it might be a jurisdictional issue; and
- further added that he does not think the Assembly should weigh in on this issue.

Mr. Spiropoulos:
- advised that the Borough cannot regulate coal mining activities;
- further added the Borough can impose commercial lease conditions; and
- stated that the Borough has the right to request that the tires be cleaned.

Assemblymember Houston:
- stated the Borough has no enforcement authority regarding State property: and
- noted that the Borough does not want coal dust to leave the mining area.

MOTION: Assemblymember Houston moved a secondary amendment to strike the word "exit" and insert in its place "enter" to read: "For trucks carrying cargo across the leased land the leasee shall design and construct a facility to clean the tires of vehicles before they enter the lease and enter the highway."

VOTE: The secondary amendment passed with Assemblymembers Halter, Ewing, and Bettine opposed.

MOTION: Assemblymember Colver moved a secondary amendment to strike the words "and enter the highway" to read: "For trucks carrying cargo across the leased land the leasee shall design and construct a facility to clean the tires of vehicles before they enter the lease property."

VOTE: The secondary amendment passed without objection.

VOTE: The primary amendment passed as amended without objection.

Assemblymember Woods queried if the insurance regarding property damage would cover spills and contamination.

Ms. Clayton stated that the insurance does not.

MOTION: Assemblymember Woods moved primary amendment to the lease agreement, Exhibit B, Insurance, to require pollution insurance in the amount of $1,000,000.

VOTE: The primary amendment passed without objection.

MOTION: Assemblymember Bettine moved a primary amendment to the lease agreement, Section 19, Assignment/Subleasing of the Lease, by striking the section in its entirety and inserting the following: "This lease may not be assigned or subleased without permission of the Borough Manager and approval of the Borough Assembly. Assignment and sublease shall be in writing and shall be subject to the terms and conditions of the original lease."

Assemblymember Halter:
- opined that the lease should not be sublet without approval of the Assembly; and
- noted his support of the amendment.

VOTE: The primary amendment passed without objection.

(Discussion of Ordinance Serial No. 10-042 was taken back up after the public hearings. See page 11)

B. PUBLIC HEARINGS (Three minutes per person.)

1. Ordinance Serial No. 10-046: AN ORDINANCE APPROVING THE REAPPROPRIATION OF $185,000 FROM THE PLANNING AND LAND USE DEPARTMENT, FUND 100, TO FUND 480, PROJECT NO. 47009, FOR A BUILD-OUT AND LAND SUSTAINABILITY ANALYSIS PROJECT EMPLOYEE. *(Sponsored by Assemblymember Bettine)*

a. IM No. 10-026

Ms. Nelson provided a staff report.

Mayor Colberg opened the public hearing.

The following person spoke in support of Ordinance Serial No. 10-046: Mr. Allen Kemplen, Planner III for the Alaska State Department of Transportation and Public Facilities; and Mr. Don Carney, Operations and Maintenance Assistant Director for the School District.

The following person spoke in opposition to Ordinance Serial No. 10-046: Ms. Nicki Taysom.

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

MOTION: Assemblymember Bettine moved to adopt Ordinance Serial No. 10-046.

Assemblymember Bettine:
- noted that the Assembly had been previously given a presentation on the Build-Out Analysis;
- commented that this would be beneficial for the Borough School Site Selection Committee; and
- stated that by not contracting the work, the staff will have the opportunity to learn more on how it works.

VOTE: The motion passed without objection.

2. Ordinance Serial No. 10-047: AN ORDINANCE EXTENDING THE TIME LIMIT FOR COMPLETION OF BOROUGH CAPITAL PROJECTS.
a. IM No. 10-087

Ms. O'Neil 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 Woods moved to adopt Ordinance Serial No. 10-047.

VOTE: The motion passed without objection.

3. Ordinance Serial No. 10-048: AN ORDINANCE ACCEPTING, APPROPRIATING AN ADDITIONAL $108,500 FROM THE UNITED STATES FISH AND WILDLIFE SERVICE FOR THE BRYANT ROAD AT ANNA LAKE PROJECT FISH PASSAGE IMPROVEMENT PROJECT, PROJECT NO. 30100, FUND 410.
a. Resolution Serial No. 10-041: A RESOLUTION APPROVING AN ADDITIONAL $108,500 FROM THE UNITED STATES FISH AND WILDLIFE SERVICE AND THE AMENDED BUDGET FOR THE BRYANT ROAD AT ANNA LAKE FISH PASSAGE IMPROVEMENT PROJECT, PROJECT NO. 30100.
(1) IM No. 10-088
(2) AM No. 10-042: AWARD OF BID NO. 10-083, TO AMAQ, CORPORATION FOR THE ANNA LAKE AT BRYANT ROAD CULVERT REPLACEMENT PROJECT IN THE CONTRACT AMOUNT OF $169,500.

Ms. O'Neil provided a staff report.

Mayor Colberg opened the public hearing.

The following person spoke in opposition to Ordinance Serial No. 10-048, Resolution Serial No. 10-041 and AM No. 10-042: Ms. Nicki Taysom.

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

MOTION: Assemblymember Bettine moved to adopt Ordinance Serial No. 10-048, Resolution Serial No. 10-041, and AM No. 10-042.

VOTE: The motion passed without objection.

4. Ordinance Serial No. 10-049: AN ORDINANCE REAPPROPRIATING $66,521 FROM PLANNING DIVISION'S FISCAL YEAR 2010 OPERATING BUDGET, FUND 100, TO FUND 480, PROJECT NO. 45052, FOR THE MAT-SU COMMUNITY SURVEY; PROJECT NO. 20381, FOR WATER QUALITY PROTECTION; $4,650 FROM PLANNING ADMINISTRATION DIVISION'S FISCAL YEAR 2010 OPERATING BUDGET, FUND 100, TO FUND 480, PROJECT NO. 47021, FOR THE BOARD OF FISHERIES PROPOSALS; $15,000 FROM CULTURAL RESOURCE DIVISION'S FISCAL YEAR 2010 OPERATING BUDGET, FUND 100, TO FUND 480, PROJECT NO. 20376, FOR THE HISTORIC SURVEY CITY OF WASILLA SITES; AND $17,000 FROM THE PUBLIC WORKS ADMINISTRATION DIVISION FISCAL YEAR 2010 OPERATING BUDGET, FUND 100, TO FUND 480, PROJECT NO. 20381, FOR WATER QUALITY PROTECTION.

a. Resolution Serial No. 10-042: A RESOLUTION APPROVING THE SCOPE OF WORK AND BUDGET FOR THE MAT-SU COMMUNITY SURVEY, THE WATER QUALITY PROTECTION, THE BOARD OF FISHERIES PROPOSALS, AND THE HISTORIC SURVEY CITY OF WASILLA SITES.

   (1) IM No. 10-094

Ms. Nelson 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 Woods moved to adopt Ordinance Serial No. 10-049 and Resolution Serial No. 10-042.

VOTE: The motion passed without objection.

Assemblymember Halter requested to take public hearings nos. five and eight together.

There was no objection noted.

5. Ordinance Serial No. 10-050: AN ORDINANCE AMENDING MSB 5.25.059, TO ANNEX PROPERTY IN THE WILLOW-FISHHOOK ROAD AREA INTO THE WILLOW FIRE SERVICE AREA NO. 35, WITHOUT THE PLACEMENT OF THE QUESTION ON THE BALLOT, PER MSB 5.20.005(G).

a. Resolution Serial No. 10-043: A RESOLUTION FINDING THE ANNEXATION OF A PROPERTY OM THE WILLOW-FISHHOOK ROAD AREA INTO THE WILLOW FIRE SERVICE AREA NO. 35 SERVES THE PUBLIC INTEREST WITHOUT THE PLACEMENT OF THE QUESTION ON THE BALLOT, PER MSB 5.20.005(G).

(1) IM No. 10-095

8. Ordinance Serial No. 10-053: AN ORDINANCE AMENDING MSB 5.25.059, TO ANNEX PROPERTY IN THE WILLOW CREST SUBDIVISION AREA (6336000L007, 6336000L008, 636000L009) INTO THE WILLOW FIRE SERVICE AREA NO. 35 WITHOUT PLACING THE QUESTION ON THE BALLOT AND FINDING THAT THE ANNEXATION SERVES THE PUBLIC INTEREST WITHOUT THE CIRCULATION OF A PETITION. *(Sponsored by Assemblymember Halter)*

a. IM No. 10-100

Ms. McKechnie provided a staff report.

Mayor Colberg opened the public hearing.

The following person spoke in support of Ordinance serial No. 10-053: Mr. David Korpi.

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

MOTION: Assemblymember Halter moved to adopt Ordinance Serial Nos. 10-050 and 10-053.

VOTE: The motion passed without objection.

6. Ordinance Serial No. 10-051: AN ORDINANCE AMENDING MSB 5.25.142, TO ANNEX PROPERTIES IN AND AROUND THE AURORA LANE AREA INTO THE GREATER PALMER FIRE SERVICE AREA NO. 132, WITHOUT THE PLACEMENT OF THE QUESTION ON THE BALLOT, PER MSB 5.20.005(G).

a. Resolution Serial No. 10-044: A RESOLUTION FINDING THE ANNEXATION OF PROPERTIES LOCATED IN THE AURORA LANE AREA INTO THE GREATER PALMER FIRE SERVICE AREA NO. 132 SERVES THE PUBLIC INTEREST WITHOUT THE PLACEMENT OF THE QUESTION ON THE BALLOT *(Sponsored by Assemblymember Woods)*

(1) IM No. 10-096

Ms. McKechnie provided a staff report.

Mayor Colberg opened the public hearing.

The following person spoke in support of Ordinance Serial No. 10-051 and Resolution Serial No. 10-044: Mr. Larry DeVilbiss, former Assembly member.

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

MOTION: Assemblymember Woods moved to adopt Ordinance Serial No. 10-051 and Resolution Serial No. 10-044.

VOTE: The motion passed without objection.

7. Ordinance Serial No. 10-052: AN ORDINANCE ADOPTING MSB 2.70.140(E), PLACING RESTRICTIONS UPON CERTAIN EMPLOYEES WHO TERMINATE EMPLOYMENT WITH THE BOROUGH FROM PROVIDING FUTURE SERVICE TO THE BOROUGH. *(Sponsored by Assemblymember Colver)*

a. IM No. 10-099

Assemblymember Colver provided a report in support of the legislation.

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 Colver moved to adopt Ordinance Serial No. 10-052.

MOTION: Assemblymember Colver moved a primary amendment to Ordinance Serial No. 10-052, MSB 2.70.140(E), by striking subsection two in its entirety, which reads: "be employed by a contractor or subcontractor where the entity provides goods or services to the Borough in excess of $300,000 annually."

VOTE: The primary amendment passed without objection.

MOTION: Assemblymember Colver moved a primary amendment to Ordinance Serial No. 10-052, MSB 2.70.140 (E) (1) by striking "three years" and inserting "two years" to read: "Upon terminating Borough employment, for a period of two years the Borough Manager, all department directors and all division managers may not."

Assemblymember Ewing opined that two years is not long enough.

MOTION: Assemblymember Ewing moved a secondary amendment by striking "two years" and inserting "five years."

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

MOTION: Assemblymember Bettine moved a secondary amendment by striking "two years" and inserting "six months."

VOTE: The secondary amendment failed with Assemblymembers Houston, Woods, and Bettine in support.

VOTE: The primary amendment passed without objection.

Discussion ensued regarding the ethics code changes from the Board of Ethics.

VOTE: The main motion passed as amended with Assemblymembers Bettine and Houston opposed.

(The regular meeting recessed at 8:02 p.m. and reconvened at 8:16 p.m.)

MOTION: Houston moved to suspend the rules to take up Resolution Serial No. 10-046 and AM No. 10-043 prior to continuing discussions on Ordinance Serial No. 10-042.

VOTE: The motion failed with Assemblymembers Houston and Halter in support.

(Discussion regarding Ordinance Serial No. 10-042 continued.)

MOTION: Assemblymember Bettine moved a primary amendment to the lease agreement, Section 4, Authorized Activities, to insert the following sentences at the end of the section to read: "Strict compliance with all of the requirements of Section 4 and Original Exhibit "A" are material provisions of the lease. In the event of a breach of any provision of Section 4 or Original Exhibit "A", the provisions of Section 21 shall apply."

VOTE: The primary amendment passed without objection.

MOTION: Assemblymember Bettine moved a primary amendment to the lease agreement, Section 4, Authorized Activities, by inserting (c) to read: "Prior to construction of the road authorized under this lease, a traffic impact analysis relating to the impact of coal hauling vehicles entering the public roadways from the lease property shall be performed by Usibelli Coal Mine (UCM), at its sole expense, and a copy delivered to the Borough. The recommendations of the traffic impact analysis shall be implemented by UCM, at its sole expense, prior to the commandment of hauling any amount of coal across the lease property."

Assemblymember Bettine stated that the public has stated concerns regarding the impacts.

Assemblymember Houston queried if the amendment would encompass the entire road.

Assemblymember Bettine:
- stated that it would be only what the Alaska State Department of Transportation requires;
- stated that the requirements for driveway permits would be put in the hands of the Borough with this amendment; and
- opined that it meets the concerns of the citizens.

Assemblymember Colver:
- opined that a traffic impact analysis could be very broad;
- stated that giving permission to do whatever is stated in the analysis is dangerous when the Borough has no idea what it might say; and
- opined that the amendment should be narrowed down.

MOTION: Assemblymember Colver moved a secondary amendment to insert the word "if" after the comma, insert the word "is" after the word "lease," strike the words "property shall be" and to strike the rest of the paragraph after "at its sole expense", and insert "it shall be delivered to the Borough" in its place to read: "Prior to construction of the road authorized under this lease, if a traffic impact analysis relating to the impact of coal hauling vehicles entering the public roadways from the lease is performed by Usibelli Coal Mine, at its sole expense, a copy shall be delivered to the Borough."

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

VOTE: The primary amendment failed with Assemblymembers Houston, Bettine and Woods in support.

MOTION: Assemblymember Halter moved a primary amendment to the lease agreement, Section 3, Term, by striking "June 1, 2035" and inserting in its place "June 1, 2020."

Assemblymember Woods:
- noted that she is in favor of shortening the lease; and
- opined that if Usibelli does not mine, then a better use for the land may be found.

Assemblymember Arvin:
- opined that this issue is about economic productivity of the operation;
- related that the equipment for mining is very expensive;
- spoke to concerns with increasing production costs, which could cause the project to unravel; and
- opined that a 25-year time line provides the community a time certain for the life of the project.

Assemblymember Halter opined that it would be appropriate for the Assembly to review the lease in intervals.

Assemblymember Houston:
- stated that the decision to mine has not yet been made;
- noted his concerns that the lease is being renewed when the prior lease has not expired;
- opined that there are more compatible uses for the land according to the comprehensive plan; and
- queried why there has not been a competitive process for awarding the lease.

Mr. Spiropoulos:
- stated that this lease does not require a competitive process and does not fall under the purchasing code;
- advised that Title 23 specifically addresses the acquisition and disposal of any interest of Borough-owned property for a term of years;

- advised that there is a provision of state law that requires that real property and personal property are treated differently;
- further added that Title 23 says that the Borough may dispose of any interest of property by direct negotiation or application; and
- stated that this is what is occurring with the lease.

Assemblymember Woods queried if there is a way to establish a certain performance.

Assemblymember Ewing:
- spoke to the Assembly's experience with large projects being vast; and
- spoke to concerns with limitations of a timeline would place more trucks on the road.

Assemblymember Halter:
- stated that if the Assembly does not approve the new lease, there is still five years left on it;
- stated that if the new lease is approved, the old lease terminates; and
- queried if the new lease would supersede the old lease.

Mr. Spiropoulos stated that the new lease will execute on the day it is signed and the old lease will no longer be valid.

Discussion ensued regarding:
- the possibility of establishing performance measures; and
- concerns with shortening the time frame of the lease.

WITHDRAWAL: Assemblymember Halter moved to withdraw his primary amendment.

There was no objection noted.

MOTION: Assemblymember Halter moved a primary amendment to the lease agreement, Section 3, Term, by striking "June 1, 2035" and inserting in its place "June 1, 2025."

VOTE: The primary amendment failed with Assemblymembers Houston, Halter and Woods in support.

MOTION: Assemblymember Colver moved a primary amendment to the lease agreement, Section 3, Term, as follows:

- to insert the following at the end of the second paragraph: "Any renewal must be approved by the Borough Assembly; to read: "Leasee may apply for renewal of like terms and shall give notice to the Borough Manager of intent to seek renewal of this lease no later than 180 days before expiration. The leasee shall provide 180 days notice prior to any relinquishments, abandonment, or other termination of this lease. Any renewal must be approved by the Borough Assembly;" and
- and in the third paragraph to strike "Borough Manager" and insert in its place "Borough Assembly" to read: "The Borough Assembly and the

leasee may mutually agree to a renewal of the lease for additional periods of up to 10 years each, so long as the leasee is in full compliance with all the terms of this lease and all state, federal, and local laws related to the authorized activities of this lease."

VOTE: The primary amendment passed without objection.

Assemblymember Houston opined that this ordinance should be postponed indefinitely.

MOTION: Assemblymember Houston moved to postpone Ordinance Serial No. 10-042 indefinitely.

VOTE: The motion to postpone indefinitely failed with Houston in support.

Assemblymember Colver:
- stated that the Assembly has learned a lot through this process;
- related that he is happy that it is an Alaskan company, with Alaskan interests;
- stated that he wants Usibelli to be good neighbors;
- noted that he expects Usibelli to work with the community in order to lessen impacts;
- stated that the Assembly has no authority to regulate mining; and
- spoke to his support of the legislation.

Assemblymember Bettine:
- commented that she wished the Assembly could control more of the mining that may occur; and
- requested that the Manager write a letter informing Usibelli that the Borough is hopeful that they will mitigate as much of the problems as possible.

Assemblymember Woods:
- related that there has not been a day in the last two and half months that she has not talked about coal;
- advised that many people in the community are friends and neighbors that she has known for years;
- stated that there are supporters of both sides of the issue in her district;
- noted that choosing a route has been an issue from the beginning of the project;
- related that she is not pleased with the possible negative impacts; and
- stated that she is hopeful that it will all work out in the end.

Assemblymember Ewing:
- stated that it is not up to the Borough whether or not Usibelli can mine coal;
- spoke to the route being the safest possible route with the least impact on the community; and
- stated that he would like the community to understand that the Borough is not going to stand in the way of potential jobs.

Assemblymember Arvin:

- opined that the Assembly will look back and know that this was a good decision; and
- stated that if he did not believe it could be done without affecting the environment that we would not be supporting the legislation.

VOTE: The main motion passed as amended with Assemblymember Houston opposed.

C. AUDIENCE PARTICIPATION (Three minutes per person.)

The following persons spoke in support of the land lease for Usibelli Coal Mine: Mr. Patrick Falon; Ms. Ingrid Shaginoff; Ms. Lori Hobbs; Mr. Shane Linse; Mr. Dane Crowley; Mr. Mike Piekarski; Mr. Rob Brown, Usibelli Coal Mine representative; and Mr. Rick Dilley, owner of Cozy Coal.

The following person spoke to concerns regarding the Alaska Railroad lease on East Sandy Road and in support of the Usibelli Coal Mine lease: Ms. Claudia Dolphi.

The following persons spoke in opposition of the lease for Usibelli Coal Mine and to concerns with amendments to the agenda: Ms. Nicky Taysom and Mr. Warren Keogh.

(The regular meeting recessed at 9:18 p.m. and reconvened at 9:30 p.m.)

The following persons spoke in opposition of the land lease for Usibelli Coal Mine: Ms. Wanda Phillips; Ms. Bonnie Zirkel; Ms. Lisa Wade, Health and social services director for Chickaloon Tribe; Ms. Shawna Larson; Mr. Andre Ciostek; and Mr. Jeremiah Millen,

The following persons spoke in support of the lease for Usibelli Coal Mine: Mr. Larry DeVilbiss, former Assembly member;

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

VOTE: The motion passed without objection.

The following persons spoke in opposition of the land lease for Usibelli Coal Mine: Mr. Brian Winestaffer, Ms. Allie Barker, Mr. Jed Workman, Ms. Kathy Rambow, Mr. Henry Raymond, Ms. Jillian Morrisey, Ms. Jessica Winestaffer, Ms. Alice Kohane, Mr. Pete Praetorius, Mr. Tim Leach, Mr. Kirby Spangler, and Mr. Gene Backus,

The following persons spoke in support of the Birchtree Charter School site selection: Ms. Lori Berrigan, Academic Policy Chair for Birchtree Charter School; Ms. Laura Sampson; Ms. Donna Levesque; Ms. Tanya Bell; and Ms. Kathy Lee.

The following person spoke in support of the Usibelli Coal Mine land lease: Mr. Steve Denton, representative from Usibelli Coal Mine; and Mr. Marcus Reem.

The following person spoke to concerns with the Usibelli Coal Mine lease: Ms. Julia Fotnick.

The following person spoke in opposition to Ordinance Serial No. 10-017: Ms. Dianne Woodruff.

D. CONSENT AGENDA (Resolution Serial No. 10-045 and AM Nos. 10-047, 10-059 and 10-060, were pulled from the consent agenda and addressed separately. *See pp. 18*-20)

1. RESOLUTIONS

b. Resolution Serial No. 10-046: A RESOLUTION FOR THE SELECTION OF A SITE FOR THE BIRCHTREE CHARTER SCHOOL.

(1) IM No. 10-098

c. Resolution Serial No. 10-047: A RESOLUTION APPROVING THE AMENDED BUDGET FOR THE PORT MACKENZIE BARGE DOCK EXPANSION, PROJECT NO. 70008 IN THE AMOUNT OF $95,160.

(1) IM No. 10-108

d. Resolution Serial No. 10-049: A RESOLUTION SUPPORTING THE NORTH AMERICAN INSTITUTE'S EFFORTS WITH THEIR SAFETY AND ENVIRONMENTAL EDUCATION PROGRAMS. *(Sponsored by Assemblymember Bettine)*

(1) IM No. 10-112

2. ASSEMBLY MEMORANDUMS

a. AM No. 10-043: AUTHORIZATION FOR THE BOROUGH MANAGER TO EXTEND THE EXISTING AGREEMENT WITH THE MATANUSKA-SUSITNA CONVENTION AND VISITORS BUREAU TO JUNE 30, 2011, IN AN AMOUNT OF $585,000.

c. AM No. 10-048: APPROVAL OF CHANGE ORDER NO. 1 TO CONTRACT NO. 10-037 IN THE CONTRACT AMOUNT NOT TO EXCEED $85,000 FOR THE EXTENSION OF THE DEPARTMENT OF EMERGENCY SERVICES MEDICAL DIRECTOR FOR FISCAL YEAR 2011.

d. AM No. 10-049: APPROVAL OF CHANGE ORDER NO. 1 TO YLVISAKER LAND SERVICES IN THE AMOUNT NOT TO EXCEED $66,000 FOR A ONE-YEAR EXTENSION OF REAL ESTATE ACQUISITION SERVICES.

e. AM No. 10-051: ACCEPTANCE OF LATE FILED AND RETROACTIVE SENIOR CITIZEN AND DISABLED VETERAN EXEMPTION APPLICATIONS.

f. AM No. 10-053: AWARD OF BID NO. 10-099 TO KOPPERUD TRANSPORTATION INC., IN THE ANNUAL AMOUNT NOT TO EXCEED $61,719.28, FOR THE NORTH COLONY ROAD SERVICE AREA NO. 23 ANNUAL ROAD MAINTENANCE.

g. AM No. 10-054: AWARD OF BID NO. 10-097 TO TEW'S INC., IN THE ANNUAL AMOUNT NOT TO EXCEED $410,270.08 FOR THE MEADOW LAKES ROAD SERVICE AREA NO. 27 ANNUAL ROAD MAINTENANCE.

h. AM No. 10-055: AWARD OF BID NO. 10-098 TO TEW'S INC., IN THE ANNUAL AMOUNT NOT TO EXCEED $342,867.96 FOR THE BOGARD ROAD SERVICE AREA NO. 25 ANNUAL ROAD MAINTENANCE

i. AM No. 10-056: AWARD OF BID NO. 10-100 TO WM CONTRACTING, INC., IN THE ANNUAL AMOUNT NOT TO EXCEED $181,179 FOR THE MIDWAY ROAD SERVICE AREA NO. 9 ANNUAL ROAD MAINTENANCE,

j. AM No. 10-057: AWARD OF BID NO. 10-095 TO SWALLING CONSTRUCTION COMPANY, INC., IN THE CONTRACT AMOUNT OF $992,800 FOR PROJECT NO. 35014, BRIDGE REPLACEMENTS.

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.

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

VOTE: The motion passed without objection.

a. Resolution Serial No. 10-045: A RESOLUTION SETTING THE SURCHARGE FOR THE WIRELINE AND WIRELESS ENHANCED 911 SYSTEMS FOR THE PERIOD OF JULY 1, 2010, THROUGH JUNE 30, 2011.

(1) IM No. 10-093

MOTION: Assemblymember Ewing moved to adopt Resolution Serial No. 10-045

Assemblymember Ewing:

- spoke to a reverse 911 call he received regarding a missing child;
- noted his displeasure that he never received a return call notifying him that the child had been found;
- opined that the system is flawed and does not require any further upgrades; and
- requested that Mr. Brodigan come forward and speak to the legislation.

Mr. Brodigan:

- stated that reverse 911 call came from the Alaska State Department of Public Safety and not the Borough;
- advised that the intent of the E911 system in the Borough will include return calls;
- stated that the E911 Advisory Board has requested the surcharge remain for at least one more year; and
- noted that there is no way to foresee what costs will arise.

VOTE: The motion passed with Assemblymember Ewing opposed.

b. AM No. 10-047: AWARD OF PROPOSAL NO. 10-060 TO THE CITY OF PALMER FOR 911 DISPATCH SERVICES FOR AN AMOUNT NOT TO EXCEED $768,018 FOR FISCAL YEAR 2011.

MOTION: Assemblymember Ewing moved to adopt AM No. 10-047.

Assemblymember Ewing requested that Mr. Brodigan speak to the legislation.

Mr. Brodigan:

- spoke to the volume of emergency calls that come into dispatch;
- stated that it is not only emergency calls that dispatch handles;
- further added that dispatchers assist fire chiefs in setting up incident commands;
- noted that the work volume and amount of effort is more than can be calculated;
- advised that the proposal did go out for bid statewide; however, the city of Palmer was the only bidder.

VOTE: The motion passed without objection.

k. AM No. 10-059: AWARD OF BID NO. 10-101 TO ATS ALASKA, INC., IN THE CONTRACT AMOUNT OF $5,813,100 FOR THE SCHOOL DISTRICT'S SAFETY AND SECURITY UPGRADES TECHNOLOGY SECURITY PACKAGE, WITH A CONTRACT AMENDMENT LIMIT OF FIVE PERCENT OF ORIGINAL AWARD.

MOTION: Assemblymember Colver moved to adopt AM No. 10-059.

Assemblymember Colver queried if there had been a bid protest filed this contract.

Mr. Spiropoulos:

- stated that a bid protest was received; and
- further added that it was denied by the Purchasing Officer.

Assemblymember Colver stated that he had concerns regarding the five percent change order.

Assemblymember Ewing stated that he would like to see the bid documents.

MOTION: Assemblymember Ewing moved to postpone AM No. 10-059 to a time certain of June 22, 2010.

Assemblymember Arvin queried the time line.

Ms. O'Neil stated that the bulk of the work is scheduled to be performed during the summer, while school is out.

VOTE: The motion failed with Assemblymembers Colver, Ewing and Arvin in support.

MOTION: Assemblymember Colver moved a primary amendment to AM No. 10-059 to strike the reference to the "five percent change order authority."

VOTE: The primary amendment passed without objection.

VOTE: The main motion as amended passed with Assemblymembers Colver, Ewing, and Arvin opposed.

1. AM No. 10-060: AWARD OF BID NO. 10-096 TO GRANITE CONSTRUCTION COMPANY IN THE CONTRACT AMOUNT OF $1,180,000 FOR THE COTTONWOOD CREEK ELEMENTARY SCHOOL SITE CIRCULATION AND SECURITY IMPROVEMENTS.

MOTION: Assemblymember Woods moved to adopt AM No. 10-060.

Mr. Duffy stated that staff has advised that the legislation will require an amendment to strike Line Item 2B, the loop driveway and to reduce the contract amount to $990,000.

MOTION: Assemblymember Woods moved a primary amendment to AM No. 10-060 to strike Line Item 2B, loop drive way and to reduce the contract amount to $990,000.

Ms. O'Neil:
- related that after the documentation for the legislation was prepared, that staff decided there is a portion of the loop road that would be more practical to not construct;
- further added the funds could be better used on other projects; and
- apologized that she was not able to amend the legislation prior to submission to the Assembly.

VOTE: The primary amendment passed without objection.

VOTE: The main motion as amended passed without objection.

V. MINUTES OF PRECEDING MEETINGS

B. Special Assembly Meeting: 05/06/10
C. Special Assembly Meeting: 05/10/10

D. Special Assembly Meeting: 05/11/10
E. Special Assembly Meeting: 05/12/10
F. Special Assembly Meeting: 05/18/10
G. Regular Assembly Meeting: 05/18/10

Mayor Colberg inquired if there were any corrections to the special meeting minutes of May 6, 2010, May 10, 2010, May 11, 2010, May 12, 2010, May 18, 2010, or the regular meeting minutes of May 18, 2010.

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

VI. SPECIAL ORDERS OF THE DAY

A. Presentation of the Borough Seal to John Duffy, Borough Manager

Mr. Duffy stated that it is an honor and a pleasure to work with the Assembly.

Mayor Colberg:
- stated that it is his distinct pleasure to present the seal to Mr. Duffy;
- related that Mr. Duffy is an incredibly interesting person;
- further added that he has enjoyed working with him;
- stated that Mr. Duffy is accomplished at making things happen for the Borough;
- spoke to the many large projects that have moved forward because of his efforts; and
- thanked him for his service to the Borough.

VII. REPORTS/CORRESPONDENCE

A. AGENCY REPORTS

1. Reports from cities

(There were no reports provided.)

2. Matanuska-Susitna Borough School District

(There was no report provided.)

3. Mat-Su Convention and Visitors Bureau – Ms. Bonnie Quill

(There was no report provided.)

B. COMMITTEE REPORTS

1. Joint Assembly/School Board Committee on School Issues

(There was no report provided.)

2. Assembly Public Relations

(There were no reports provided.)

C. MANAGER COMMENTS

1. State/Federal Legislation

2. Strategic Planning Issues

(There was no report provided.)

D. ATTORNEY COMMENTS

Mr. Spiropoulos:
- stated that the novation agreement with the State for the prison has been signed;
- further added that Valley Utilities, LLC., has also signed the agreement;
- advised that the agreement is now with the Department of Corrections Commissioner for signature; and
- advised that the responsibility for managing the construction should be with the State soon, if not already.

E. CLERK COMMENTS

Ms. McKechnie:
- spoke regarding the upcoming meeting schedule;
- spoke to the tides affecting the possibility of the Anchorage Assembly crossing the arm for the joint meeting at the Port on July 19, 2009, at 4 p.m.; and
- queried if the Assembly would like to move forward with the meeting or reschedule it to a different location than the port.

[Clerk's note: The Assembly decided to have the Clerk find a location other than the Port for the joint meeting.]

Ms. McKechnie queried if the Assembly would like to set a meeting to review the applications for the manager position and discuss the interview questions.
Assemblymember Bettine opined the Assembly should move forward with reviewing the application as soon as possible.

Assemblymember Arvin opined that they should wait until they have all of the applications.

Ms. McKechnie advised that she could bring back the scheduling of this meeting on June 22, 2010.

There was no objection noted.

Assemblymember Colver:

- spoke to the legislation that may be coming forward on June 22, 2010, regarding Wasilla High School; and
- opined it is important to move forward in order to not hold up construction of the project.

F. CITIZEN AND OTHER CORRESPONDENCE

1. MSB Board/Committee Minutes:
a. Aviation Advisory Board: 03/11/10
b. Greater Butte RSA No. 26: 01/14/10
c. Library Board: 03/20/10
d. Platting Board: 12/03/09, 04/15/10
e. West Lakes FSA No. 136: 03/16/10

2. Community Council Correspondence:
a. Meadow Lakes Community Council: 02/10/10
b. South Knik River Community Council: 01/21/10, 02/18/10, 03/18/10

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

H. INFORMATIONAL MEMORANDUMS

1. IM No. 10-101: AN INFORMATIONAL MEMORANDUM PROVIDING THE MONTHLY REPORTING OF AMENDED CONTRACTS AND NEW AWARDS UNDER $100,000, ALONG WITH SOLE SOURCE PROCUREMENTS, FOR THE PERIOD OF MARCH 1, 2010, TO MAY 31, 2010.

The informational memorandum was presented and no comments were noted.

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

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

(There were no persons to be heard.)

(Unfinished Business continued.)

IX. UNFINISHED BUSINESS

B. 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 stated that after discussion with Mr. Marvin Yoder from the city of Wasilla, he will request that this legislation be postponed.

MOTION: Assemblymember Ewing moved to postpone Ordinance Serial No. 10-017 to a time certain of August 17, 2010.

VOTE: The motion to postpone to a time certain of August 17, 2010, passed without objection.

X. NEW BUSINESS

A. INTRODUCTION (For public hearing – 07/20/10, 7 p.m., Borough Assembly Chambers)

1. Ordinance Serial No. 10-054: AN ORDINANCE AMENDING MSB 3.08, PURCHASING PROCEDURES; TO REQUIRE ASSEMBLY APPROVAL OF ALL CONTRACTS OVER $25,000. *(Sponsored by Assemblymember Arvin)*

a. IM No. 10-102

2. Ordinance Serial No. 10-055: AN ORDINANCE PROVIDING FOR THE SALE OF CERTAIN BOROUGHWIDE REAL PROPERTY ACQUIRED THROUGH TAX FORECLOSURE FOR DELINQUENT REAL PROPERTY TAXES, YEARS 2003 AND 2004 AND PRIOR, AND NOT NEEDED FOR PUBLIC PURPOSE.

a. IM No. 10-109

3. Ordinance Serial No. 10-056: AN ORDINANCE ACCEPTING, APPROPRIATING, AND APPROVING THE SCOPE OF WORK AND BUDGET FOR A $40,630 UNITED STATES DEPARTMENT OF HOMELAND SECURITY ASSISTANCE TO FIREFIGHTERS GRANT AND REQUESTING A REAPPROPRIATION FOR THE REQUIRED MATCHING FUNDS IN THE AMOUNT OF $2,138 FROM THE CASWELL LAKES FIRE SERVICE AREA FISCAL YEAR 2011 OPERATING BUDGET, FUND 248, TO PROJECT NO. 45252, FUND 405, TO PURCHASE PERSONAL PROTECTIVE EQUIPMENT AND SELF CONTAINED BREATHING APPARATUS.

a. Resolution Serial No. 10-048: A RESOLUTION APPROVING THE SCOPE OF WORK AND BUDGET FOR THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY ASSISTANCE TO FIREFIGHTERS GRANT FOR THE CASWELL LAKES FIRE SERVICE AREA, PROJECT NO. 45252, FUND 405, TO PURCHASE PERSONAL PROTECTIVE EQUIPMENT AND SELF CONTAINED BREATHING APPARATUS.

(1) IM No. 10-110

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 July 20, 2010.

VOTE: The motion passed without objection.

B. MAYORAL NOMINATIONS AND APPOINTMENTS

1. VACANCY REPORT

Mayor Colberg requested the following confirmations:

Aviation Advisory Board
Nicholas Cassara, Resignation
Emergency Medical Services Board
Gordon Butt, Resignation
Paul Gavell
Local Emergency Planning Committee
Greg Wood, Resignation

Mayor Colberg made the following recommendations:

Emergency Medical Services Board
Rebecca Frey
Talkeetna Sewer & Water Service Area No. 36
Terrence Mangione

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

VOTE: The motion passed without objection.

C. OTHER NEW BUSINESS

XI. RECONSIDERATION

(There were no reconsiderations presented.)

XII. VETO

(There were no vetoes presented.)

XIII. EXECUTIVE SESSION

(There was no executive session held.)

XIV. MAYOR AND ASSEMBLY COMMENTS