

I. CALL TO ORDER

The special meeting of the Matanuska-Susitna Borough Assembly was held on December 7, 2011, at the Borough Assembly Chambers, 350 E. Dahlia Avenue, Palmer, Alaska. The meeting was called to order at 6 p.m. by Mayor Larry DeVilbiss for the purpose of discussing Ordinance Serial Nos. 11-144 and 11-072.

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
Mr. Jim Colver, Assembly District No. 6
Mr. Vern Halter, Assembly District No. 7

Assembly members present and establishing a quorum were:

Mr. Darcie K. Salmon, Assembly District No. 5

Staff in attendance were:

Ms. Lonnie R. McKechnie, Borough Clerk
Mr. John Moosey, Borough Manager
Mr. Nicholas Spiropoulos, Borough Attorney
Ms. Jamie Newman, Deputy Borough Clerk
Ms. Elizabeth Gray, Assistant Borough Manager
Ms. Eileen Probasco, Acting Planning and Land Use Director
Mr. Alex Strawn, Permitting Services Manager
Ms. Debby Broneske, Resource Management Specialist
Mr. Paul Hulbert, Platting Officer

III. APPROVAL OF AGENDA

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

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

IV. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mr. Jim Norcross board member of the Greater Willow Road Service Area number 20.

V. PUBLIC HEARING (Three minutes per person.)

1. Ordinance Serial No. 11-144: AN ORDINANCE ADOPTING THE FIVE-YEAR TIMBER HARVEST SCHEDULE (2011-2015) PER MSB 23.20.090.
- a. IM No. 11-231

Mayor DeVilbiss opened the public hearing.

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

MOTION: Assemblymember Halter moved to adopt Ordinance Serial No. 11-144.

Assemblymember Arvin:

- queried as to the reason the volume is twenty percent of what the Natural Resource Plan calls out in timber harvest;
- remarked that the Borough completed an extensive and detailed process to identify what is sustainable allowable timber cut; and
- spoke in support of following the sustainable commercial timber harvest as determined through the extensive review process.

Ms. Broneske:

- reported that harvest units were drafted based on comments from the public;
- remarked that loggers and other interested persons were contacted to request timber sales nominations; and
- further remarked that no nominations were submitted.

Assemblymember Halter

- reported that he attended many meetings related to timber sales; and
- affirmed that the public comments from those meetings support smaller operations suited for local and family owned businesses.

Discussion ensued regarding:

- commercial use and personal use of timber;
- creating opportunity for harvest extraction;
- market conditions and demand for timber extraction;
- revisiting this subject in relation to economic development;
- potential development of Borough-owned land;
- litigation cases related to timber harvest sales;
- the need to move forward with personal use;
- the level of staff and resources to run the timber harvest project; s
- solicitations the Borough has received;
- sawmills in the Valley in need of wood;
- what the Borough classifies as a larger operation;
- the public comments that were received; and
- the need to take action on the legislation and the timeframe to bring back for discussion.

MOTION: Assemblymember Halter moved a primary amendment to Ordinance Serial No. 11-144, by inserting the following throughout the plan as determined appropriate by staff: "All commercial timber and personal use firewood sales be eliminated from the Rabideaux Creek and Parks Highway Natural Resource Management Units. These units in combination are to be dedicated as a Susitna Valley High School fuel wood forest to supply the anticipated fuel wood needs of the Susitna Valley High School wood heat project. Future sales within both of these units will only be conducted within the scope of harvest and business plan, which will be developed specifically for the Susitna Valley High School wood heat project."

Assemblymember Halter:

- noted that the primary amendment was drafted by Borough staff; and
- remarked that the sales are intended for commercial purposes.

Assemblymember Arvin remarked that although he supports the primary amendment, it further reduces the annual harvest target.

VOTE: The primary amendment passed without objection.

Assemblymember Arvin requested that wood on Borough-owned land be made available to the public for personal use.

There was no objection noted.

VOTE: The main motion passed as amended without objection.

(The meeting recessed at 7:03 p.m. and reconvened at 7:14 p.m.)

MOTION: Assemblymember Woods moved to suspend the rules to take audience participation prior to Ordinance Serial No. 11-072.

VOTE: The motion passed without objection.

The following person spoke in favor of Ordinance Serial No. 11-072: Mr. Dan Adcock.

The following persons spoke in opposition to Ordinance Serial No. 11-072 without further amendment: Mr. Jim Norcross; Mr. Butch Moore; Ms. Terry Snyder; and Mr. Ed McCain.

The following noted his availability to answer questions in regard to Ordinance Serial No. 11-072: Mr. Pio Contini

VI. UNFINISHED BUSINESS

1. Ordinance Serial No. 11-072: AN ORDINANCE REPEALING MSB TITLE 27 AND ADOPTING MSB TITLE 16, SUBDIVISIONS.
 - a. IM No. 11-122

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

MOTION: Assemblymember Colver moved a primary amendment to Ordinance Serial No. 11-072, as follows:

- MSB 16.05.005 DEFINITION OF TERMS

“Preliminary plat” means a map or delineated representation of a tract or parcel [OR] of land showing the prominent features of a proposed subdivision of such land submitted to an approving authority for the purpose of preliminary consideration.

“Useable septic area” means:

(10) Subsection (1) of this definition may be changed to a minimum of six feet below surface if the following criterion is met.

(1) There are special considerations which would preclude reasonably creating useable area by placing suitable fill to provide eight feet water table clearance;

(2) Soil types meet the requirements given under [27.20.060 AREA (1)(C)] **MSB 16.20.280(A)(1)(c)** ;

- MSB 16.15.015 PRELIMINARY PLAT

(C) Preliminary plat approval; effect and duration.

The effect of the approval of the preliminary plat is as follows:

(3) Where a subdivider intends to develop a subdivision in phases, approval of the preliminary plat shall be conditioned upon the subdivider’s compliance with a phased development master plan prepared by a subdivider and approved by the platting board ...

(a) Providing that any plat, (master plans for phased development, abbreviated plats, regular plats) approved under provisions of the former Title 16 and Title 27 shall be granted an extension ... This five year extension is in addition to all previously granted extensions and starts ...

- 16.15.021 PUBLIC USE EASEMENT ACCEPTANCE PROCEDURE

(A) Prior to acceptance by the borough and recordation, the [APPLICANT] **offeror** of a public use easement shall submit a legal description of the proposed easement together with a drawing depicting the location of the proposed easement. If the proposed easement is in the form of a metes and bounds description, the description shall be submitted under the seal of a registered land surveyor ...

(B) The legal description shall be reviewed for accuracy and completeness. If discrepancies are found, the [APPLICANT] **offeror** shall be notified of the discrepancies and shall resubmit the application for approval.

(C) The [APPLICANT] offeror shall prove [TO THE REASONABLE SATISFACTION OF THE PUBLIC WORKS DIRECTOR] that the public use easement is in a practical location where construction is feasible. The [PETITIONER] **offeror** shall not be required to submit road designs.

(D) If road construction is proposed, the [APPLICANT] **offeror** shall demonstrate [TO THE PUBLIC WORKS DIRECTOR] that the physical road is feasible within the public use easement and that all approvals required from

federal, state, and borough and other regulatory agencies have been issued or final recording will be contingent upon other permits and approvals.

(F) It is the responsibility of the [APPLICANT] **offeror** to pay all applicable fees.

- 16.15.022 WAIVERS.

(A) Those portions of this title specifically addressing the preparation, submission for approval and recording of a plat shall not apply to waiver subdivisions for which the preparation, submission for approval and recording of a plat has been waived, upon proof that:

(1) the applicant for approval of the plat waiver proves [TO THE REASONABLE SATISFACTION OF THE PUBLIC WORKS DIRECTOR] that the road utilized for access meets the following minimum requirements, unless the state or local government has accepted responsibility for construction and maintenance:

- 16.15.035 VACATIONS.

(A) All applicants and actions for vacations shall conform to A.S. 29.40.120 through A.S. 29.40.160.

(C) Title to a vacated area shall be determined as follows:

(2) If the borough or city acquired the vacated area for legal consideration or by express dedication to and acceptance by the borough or city other than as a prerequisite to plat approval, the fair market appraised value of the vacated area shall be deposited with the [PLANNING COMMISSION] **platting authority** before the final act of vacation, to be paid over to the borough or city upon final vacation.

(D) A decision to grant a vacation is not effective unless approved by the city council if the vacated area is a street or public land of a city, or by the assembly in other cases. The platting board shall immediately give notice to the council or assembly of a vacation which is approved. The council or assembly shall have 30 calendar days from the date of the notice to either consent to the vacation **or veto it** [WHICH FAILS SHALL CONSTITUTE A VETO].

- 16.15.045 PLAT APPROVAL.

(A) An application for plat approval shall be submitted with plat copies as needed, with the following data and appropriate fees:

(1) topographic maps of the proposed subdivision and the area, which adequately display surrounding development of the proposed subdivision boundaries (minimum of 50 feet from proposed boundary) to a scale of one inch equals 200 feet or one inch equals 100 feet, which includes the following information:

(b) contour intervals of five feet if the ground slope is less than 10 percent, [AND 10 FEET IF THE GROUND SLOPE IS LESS THAN 10 PERCENT,] and 10 feet if the ground slope is greater than 10 percent.

- 16.15.051 FINAL PLAT; SUBMITTED.

(O) All adjoining properties shall be identified, and where the adjoining properties are a part of a recorded subdivision, the name of that subdivision and the plat number shall be shown. [IF THE SUBDIVISION AND THE PLAT NUMBER SHALL BE SHOWN.] . .

- 16.15.053 FINAL PLAT; CERTIFICATES.

(D) Planning and land use director's certificate. A certificate of approval for signature by the planning and land use director shall be substantially in a form as follows:

"I certify that this subdivision plan has been found to comply with the land subdivision regulations of the Matanuska-Susitna Borough, and that the plat **has been approved by the platting authority by plat** resolution number _____, dated _____ 20____, and that this plat has been approved for recording in the office of the recorder in the _____ district in which the plat is located.

_____, 20 ____

Planning and Land Use Director

ATTEST:

[(E) CERTIFICATION OF APPROVAL. A CERTIFICATE OF APPROVAL FROM THE STATE OF ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION SHALL BE IN A FORM REQUIRED BY CURRENT DEPARTMENT OF ENVIRONMENT CONSERVATION REGULATIONS.]

- 16.15.065 WAIVER OF STANDARDS FOR RESUBDIVISION OF SUBSTANDARD LOTS.

(A) The standards applicable to the subdivision of land may be waived by the platting officer for the resubdivision of substandard lots if the following conditions are met:

(2) because of separate ownership[S], unavailability of sufficient additional land and similar reasons, it is not reasonable to require the replat of the lot in a manner that will bring the lot into conformance with all the requirements **applicable** [APPLICATION] to the replat;

(5) overall, the benefits to the public from the reduction or elimination of the prohibited conditions would outweigh the disadvantages of any increase in the number or extent of prohibited conditions. The creation of a new condition that **violates** [VIOLATED] the applicable provisions of borough code, or expansion of an existing condition, is strongly discouraged and shall be permitted only for compelling reasons.

- 16.15.070 RIGHT-OF-WAY ACQUISITION PLATS.

(D) Action. Actions necessary prior to approval of a final plat include:

(6) All decisions of the platting officer under this section are final unless appealed to the platting board **under MSB 16.35.003** [WITHIN 15 DAYS].

(7) No parcel, other than a parcel of record, may be acquired for right-of-way purposes until a preliminary plat of [OR] the parcel has received final approval.

(8) Unless otherwise agreed to in writing by the platting officer, all monumentation, remonumentation, right-of-way alignment and reconstruction and other requirements of the platting officer or of this title shall be met before approval of the final plat unless it is clearly impractical or legally impossible to accomplish prior to final plat approval [,. **Any action required as a condition of final plat approval,** but not to be accomplished prior to the approval, shall be completed under the terms and conditions as are set out in writing by the platting officer.

- 16.20.050 REDUCTION OR WAIVER OF ROAD CONSTRUCTION.

(A) The platting board may waive . . .

(1) The platting board shall consider the following and make findings regarding the same in its decision to approve, deny, or reduce the requirements of MSB 16.20.100, 16.20.120, and 16.20.140[.];

(d) whether the proposed subdivision is accessed by a road listed in the Matanuska-Susitna Borough Comprehensive Development Plan **or Long Range Transportation Plan**; [TRANSPORTATION;]

(B) The platting board may waive or reduce the requirements for road construction . . .

(1) The platting board shall consider **and make** [MAKING] findings regarding the criteria specified in subsection (A)(1) of this section in its decision to approve, deny, or reduce the requirements of MSB 16.20.100, 16.20.120, and 16.20.140.

- 16.20.100 ACCESS REQUIRED

(A) There shall be legal and physical road access provided to all subdivisions and to all lots within subdivisions, except as allowed by subsection (B) and any other exemption within this title.

(B) Upon finding that no practical means of providing road access to a proposed subdivision exists and upon a showing that permanent public access by air, water or railroad is both practical and feasible, the platting board shall waive the road requirements of subsection (A). If other **than** road access is approved, the mode of access shall be noted on the plat.

- 16.20.280 AREA

(A) Unless designated otherwise by another authority having jurisdiction, minimum lot sizes shall be as follows:

(1) Except as allowed under paragraph (2), (3), and (4) of this subsection, all lots . . .

(a) Water table and ability of soils to accept effluent shall be determined by a number of borings or test holes sufficient to indicate subsurface conditions over the entire area of the subdivision. All of the borings and test holes shall be located within the perimeter of the proposed subdivision. Borings and test holes must have the following minimum depths below the ground surface[;]

(f) the platting authority shall exempt the submission requirements of **MSB 16.15.045(A)(2)**[MSB 27.15.050(A)(1) AND (2)] for purposes of fulfilling useable area requirements for subdivisions of land where:

(i) the subdivision has a minimum lot size of 9.183 acres or 400,000 square feet, and a letter is provided by a civil engineer that a septic disposal system is constructible; or

(ii) the existing subdivision was previously approved by the Alaska State Department of Environmental Conservation or by the borough after July 1, 1996, and the proposed subdivision action is limited to elimination of lot lines or moving one or more lot lines a distance a distance of 10 feet or less; or

(iii) an Alaska registered engineer submits a certified report verifying useable area on each lot for a waiver of requirement **MSB 16.15.045(A)(2)** [MSB 27.20.050(A)(2)]; or

(iv) an engineer or land surveyor submits a detailed topographic narrative for a waiver of **MSB 16.15.045(A)(1)** [MSB 27.20.050(A)(1)];

(2) Lots containing at least 20,000 square feet but less than 40,000 square feet must be serviced by an approved public or community water or public or community septic system. The platting authority may approve lots having at least 20,000 square feet, provided each lot is serviced by an approved public or community water system or public or community wastewater system.

- 16.20.300 LOT AND BLOCK DESIGN.

(A) For rural districts, the length of a block shall be not less than 400 feet, no more than 3,000 feet, or less than 800 feet along collector or arterial roads.

(D) Flag lots are allowed with a maximum pole length of 1,320 feet. Pole portion width must be a minimum of 30 feet wide [FLAG LOTS]. The [S]ixty foot road frontage requirement [ON A FLAG LOT] does not apply to flag lots. The flag pole portion does not count in the width to length ratio.

- 16.25.015 EXISTING PLATS VALIDATED.

(A) All plats recorded pursuant to any law in force prior to September 5, 1988, and not subsequently vacated are hereby validated, notwithstanding irregularities, and given the same legal status of those plats [RECORDER] recorded under this title.

- 16.55.010 SUBDIVISION AGREEMENT REQUIRED

(C) Contents of agreement. The subdivision agreement shall include, but need not be limited to, the following provisions:

(10) where the subdivision is within the regulatory floodway, a provision requiring the subdivider to submit certification of floodproofing, information on the elevation of the lowest habitable floor and information on the elevation to which the structure is floodproof for each building or structure to be constructed [CONSTRUED] as part of the subdivision agreement;

(11) a provision that all work shall be performed pursuant to Matanuska-Susitna Borough specifications [APPLICATOINS] for subdivision improvements or, where city specifications are applicable, city specifications for such improvements;

Assemblymember Colver noted the primary amendment was drafted by Mr. Spiropoulos to correct apparent misspellings, omissions, or grammatical errors.

VOTE: The primary amendment passed without objection.

MOTION: Assemblymember Colver moved to a primary amendment to Ordinance Serial No. 11-072, as follows:

- 16.05.030 PENALTIES AND REMEDIES

(A) The owner or agent of the owner of land who publicly offers by any means to sell, transfer, or who sells or enters into a contract to sell land in a subdivision before a plat of the subdivision has been prepared, approved and filed in accordance with this title, is guilty of an infraction [MISDEMEANOR], and upon conviction is punishable by a fine of not more than \$500 dollars for each lot or parcel offered for sale.

- 16.10.055 CONFLICT OF INTEREST; EX PARTE CONTACT

(B) Board members shall be impartial in all administrative decisions, both in fact and in appearance. No board member may receive or otherwise engage in ex

parte contact with the applicant or appellant, or other parties interested in the application or appeal, or members of the public, concerning the application or appeal or issues presented in an application or notice of appeal, either before the hearing or during any period of time the matter is submitted for decision or subject to reconsideration. [THIS SECTION SHALL NOT PREVENT BOARD MEMBERS FROM DISCUSSING AN APPLICATION OR APPEAL AMONG THEMSELVES, OR PROHIBIT COMMUNICATION BETWEEN BOROUGH STAFF AND BOARD MEMBERS WHERE THE STAFF MEMBERS OR MEMBERS OF AN ORGANIZATION WHICH IN ITS OWN NAME HAS BECOME AN ACTIVE PARTY TO AN APPLICATION OR APPEAL.]

- 16.15.012 FORTY-ACRE EXEMPTION

(A) Purpose clause. The purpose of this section is to allow the land owner to divide large parcels of land by document in an expedited manner.

(B) Exemptions. The [PLANNING DIRECTOR] **Platting Officer** shall exempt parcels from the provisions of this title where all the following conditions are met:

(C) Exemption document. The document exempting a parcel from the provisions of this title shall be reviewed by the platting officer. The [PLANNING DIRECTOR] **Platting Officer** shall approve the exemption if the exemption meets the conditions of this subsection and shall be issued within 10 days. Upon approval of the document, the [PLANNING DIRECTOR] **Platting Officer** shall execute the approved document and it shall be affixed with the platting board seal. It is the responsibility of the applicant to pay all appropriate fees and record the document.

- 16.15.015 PRELIMINARY PLAT

(A) Contents: All plats, maps, drawings or other illustrations required for conceptual review under these regulations shall show the following:

(17) 100-year floodplain, when available from the Federal Emergency Management Agency (FEMA) and **all information required under MSB 17.29.160 General Standards for Flood Hazard Reduction, when required;**

(C) *Preliminary plat approval; effect and duration.* The effect of the approval of the preliminary plat is as follows:

(2) Approval of a preliminary plat expires 72 months after the date of the written notice of platting board action, ...

An appeal from the decision of the platting authority regarding preliminary plat approval shall be made within **the time specified under MSB 15.39.150 Appeals; Commencement.** [15 DAYS OF THE WRITTEN NOTICE.]

(3) Where a subdivider intends to develop a subdivision in phases, approval of the preliminary plat shall be conditioned upon the subdivider's compliance with a phased development master plan prepared by the subdivider and approved by the platting board. ... An appeal from the decision of the platting board regarding master plan approval shall be taken within the time specified under MSB 15.39.150 Appeals; Commencement. [15 DAYS OF THE WRITTEN NOTIFICATION.]

- 16.15.032 Elimination or Modification of Utility, Drainage, Sanitation, and Screening Easements

[(C) THE DECISION OF THE PLATTING OFFICER IN THE MATTER IS FINAL UNLESS APPEALED TO THE PLATTING BOARD WITHIN 15 DAYS.]

[(E) THE APPLICANT MAY APPEAL THE DECISION OF THE PLATTING BOARD TO THE BOARD OF ADJUSTMENT AND APPEALS IN ACCORDANCE WITH TITLE 15.]

- 16.15.045 Plat Approval

(A) An application for plat approval shall be submitted with plat copies as needed, with the following data and appropriate fees:

(1) topographic maps of the proposed subdivision and the area, which adequately display surrounding development of the proposed subdivision boundaries (minimum of 50 feet from proposed boundary) to a scale of one inch equals 200 feet or one inch equals 100 feet, which includes the following information:

(d) the location of water bodies and drainage courses, including the location of FEMA mapped special flood hazard areas, **and flood hazard information required under MSB 17.29.160 General Standards for Flood Hazard Reduction, when required.**

[(3) ALL PERMITS AND APPROVALS REQUIRED FROM FEDERAL, STATE AND BOROUGH REGULATORY AGENCIES APPLICABLE TO THE PROPERTY.]

- 16.15.052 Final Plat; Plat Note

(B) Flood hazard area identification. All lots, blocks, tracts or parcels affected by the flood plain regulations adopted by the borough shall be noted on the face of the plat. The notification shall be a written statement, stating the affected lots, blocks, and tracts by description and the reports and date of the reports and date of the report[S AND DATE OF THE REPORTS] used to make the determination of the flood plain. A flood hazard area, if identified, shall be labeled "Flood Hazard Area" in one-inch high letters. The base flood elevation and flood plain shall be shown as **required by MSB 17.29.160 General Standards for Flood Hazard Reduction** [BE SHOWN AS MAPPED BY FEMA].

- MSB 16.15.054(H) Final Plat; Surveyor Requirements

(H) Exemption. A subdivision plat, the sole purpose of which is to eliminate lot lines between lots under common ownership, shall be exempt from the survey and monumentation requirements of this section. The platting officer shall review and adjudicate lot line elimination plat[S] administratively. **A public hearing shall be held for lot line elimination plats. Public notice shall be provided as required by MSB 16.10.065 Notice; Public Hearing for actions requiring a public hearing.**

- 16.20.060 Dedication to Public

(C) Roads shall be dedicated for access to all lots within the subdivision and parcels of land adjacent to the subdivision. Dedications shall be sufficient to carry all traffic generated by the subdivision and to provide residential [AND COLLECTOR] rights-of-way for projected traffic through the subdivision. [DEDICATIONS SHALL INCLUDE ANY ARTERIAL AND COLLECTOR ROADS IDENTIFIED IN THE OFFICIAL STREETS AND HIGHWAYS PLAN.]

Assemblymember Colver:

- remarked that the primary amendment differs slightly from “Memorandum 2” dated November 2, 1011, from Mr. Spiropoulos; and
- further remarked that the primary amendment omits language that is policy driven, as well as incorporates language to correct technical errors or omissions.

Assemblymember Keogh asked if the primary amendment was vetted by Mr. Spiropoulos.

Mr. Spiropoulos:

- clarified that the primary amendment differs from “Memorandum 2” by omitting amendment to MSB 16.15.005, General Administration, that would, if adopted, create additional platting decisions subject to administrative appeal to the Board of Adjustments and Appeals, as well as language related to the topic of flood hazard; and
- affirmed that omitting the language is a policy decision with legal implications.

Assemblymember Colver:

- noted that it is the duty of the Platting Officer to determine if an application for preliminary plat meets code; and
- spoke in support of the Platting Officer submitting all comments received from the public to the Platting Board in regard to an application for preliminary plat.

Discussion ensued regarding appealable decisions to the Platting Board.

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

MOTION: Assemblymember Colver moved a primary amendment to Ordinance Serial No. 11-072, MSB 16.10.060(E) by replacing subsection (E) as follows: “(E) The platting board or the platting officer shall not approve an application where it finds that the property that is the subject of the application currently is in violation of this title, any condition of approval of a variance, subdivision plat or other land use entitlement granted under this title, or the terms of any other agreement with the borough, unless the conditions of approval resolve the violation, excepting that where multiple violations exist and the platting action is remedying one or more of these violations. This section shall not apply to a legal non-conforming use.”

Assemblymember Colver:

- spoke in support of the primary amendment; and
- remarked that the primary amendment incorporates aspects of Title 27 into Title 16.

MOTION: Assemblymember Halter moved to suspend the rules to allow testimony from Mr. Hulbert in regard to the proposed amendment.

VOTE: The motion passed without objection.

Mr. Hulbert spoke in support of the proposed amendment.

VOTE: The primary amendment passed without objection.

MOTION: Assemblymember Colver moved a primary amendment to Ordinance Serial No. 11-072, MSB 16.20.055, by inserting a new subsection (C) to read as follows: (C) DNR Remote Recreational Projects. The purpose of this section is to specify the legal and physical access requirements for parcels created under the Alaska Department of Natural (DNR) Resource Remote Recreational Land Disposal Programs(s) and only these standards shall apply. This program typically consists of large staking area of state land where selected entrants stake their own parcel within the staking area which is subsequently surveyed and conveyed to the entrants by the State.

(1) Preliminary Plat Approval. The DNR shall submit a preliminary plat application to the platting officer for review and approval by the platting board containing the following:

- (a) boundary of the proposed staking area;
- (b) proposed external winter and summer access, vehicle parking and staging areas to the staking area;
- (c) the maximum number of proposed parcels;
- (d) identify a proposed main trail or means of access through the staking area from the access point or points;
- (i) if a trail is the main access within the staking area it shall be within a 60 foot wide right-of-way and not to exceed a grade of fifteen percent.

(2) Final Plat Submittal and Approval.

- (a) the final plat for this section shall conform with provisions of MSB 16.15.034;
- (b) the final location of the main trail or access through the staking area may be adjusted by the petitioner from the location shown on the preliminary plat;
- (c) add a plat note: 1) the borough is not responsible for maintenance or upgrades of any access improvements to parcels created under this provision.

(3) Re-platting Remote Recreational Parcels. The provisions of this section shall apply to the subdivision of parcels created under DNR land disposal programs including Remote Parcel, Open to Entry (AS 38.05.077), Homesteads (AS 38.09) and Remote Recreational land programs which occurred before and after enactment of this code provision.

- (a) Said parcels may be subdivided into not more than 3 lots with each having a minimum lot size of approximately 2.5 acres (plus or minus .5 acres).
- (b) Lots created herein are exempt from other legal and physical access provisions contained within this code.
- (c) A note shall be placed on the plat that wastewater disposal systems shall comply with ADEC regulations.

Assemblymember Colver:

- explained the intent of the primary amendment is intended to provide access requirements for parcels created under the Alaska Department of Natural resource Remote Recreational Land Disposal program; and
- expressed support in providing a code provision to allow property owners an opportunity to subdivide remote parcels to pass along to heirs as requested by constituents.

Assemblymember Arvin spoke to concerns regarding future growth in remote subdivisions.

Assemblymember Halter:

- spoke to concerns regarding trail grade; and
- expressed concern with regard to the sprawl of winter trails in summer months.

Discussion ensued regarding:

- the size of parcels that may be subdivided in remote areas;
- access issues into remote parcels;
- whether serial waivers apply;
- the unintended consequences of waiving Borough road construction standards in relation to remote recreational parcels; and
- standards for the development of remote recreational parcels created under the Alaska Department of Natural Resources Remote Recreational Land Disposal programs.

MOTION: Assemblymember Keogh moved a secondary amendment to (C)(3)(a) by striking the lot size of “2” and inserting the lot size of “10.”

(The meeting recessed at 9:10 p.m. and reconvened at 9:20 p.m.)

Assemblymember Arvin:

- spoke in opposition to the secondary amendment;
- noted that he supports increasing the size of parcels to be subdivided; and
- questioned limiting the rights of property owners in relation to subdividing large parcels of land.

VOTE The secondary amendment failed with Assemblymember Keogh in favor.

MOTION: Assemblymember Arvin moved a secondary amendment to (C)(3)(a), to strike the words “2 acres” and insert in its place “approximately 2.5 acres (plus or minus .5 acres),” to read: said parcels may be subdivided to not more than 3 lots with each having a minimum lot size of approximately 2.5 acres (plus or minus .5 acres).

VOTE: The secondary amendment passed without objection.

MOTION Assemblymember Arvin moved a secondary amendment to (C)(1)(b) by inserting the word “or” after the word “and” to read: “proposed external winter and/or summer access, vehicle parking and staging areas to the staking area;”

VOTE: The secondary amendment passed without objection.

MOTION: Assemblymember Arvin moved a secondary amendment to (C)(1)(d)(i) by striking the words “and not exceed a grade of fifteen percent” after the word “right-of-way” to read: “if a trail is the main access within the staking area it shall be within a 60’ wide right-of way.”

VOTE: The secondary amendment passed without objection.

VOTE: The primary amendment passed without objection.

MOTION: Assemblymember Colver moved a primary amendment to Ordinance Serial No. 11-072, MSB 16.20.050, Reduction or Waiver of Road Construction, in its entirety.

VOTE: The primary amendment passed without objection.

MOTION: Assemblymember Colver moved a primary amendment to Ordinance Serial No. 11-072, MSB 16.20.055, by inserting a new subsection (B) to read as follows: “(B) Remote Subdivision Access. The purpose of this subsection is to allow for recreational use and subdivision of lands where road access to a proposed remote subdivision is not practicable given the size of the subdivision, the cost of subdividing, assessed value of the property and the cost of providing access due to the location, topographical constraints, terrain, and it is not the desire of the subdivider to have road access, and proposes access is via trails, creeks, rivers, or lakes by snowmobile, on-foot, skis, dog team, off-road vehicle, boat or airplane. The following legal and physical access requirements apply: (1) legal access shall be provided for internal roads or trails to all parcels, and internal roads shall be a minimum of 60 feet wide. Legal access can be provided for by plat or by a recorded public use easement document, or other public access easement such as a section line easement; (2) External legal access to a remote subdivision can be provided by any of the following and shall be a minimum of 100 feet wide for terrestrial access to accommodate reroutes of trails within the right-of-way or easement, excepting that for subdivisions of 10 lots or less may be 60 feet wide; (a) a navigable waterway; (b) a float plane accessible lake; (c) an airstrip as approved by applicable agencies including FAA, DOT or other agencies; where an airstrip is used, a plat note shall be added that no maintenance or upgrades will be provided by the borough. (3) Private Property Rights. Access routes shall not trespass upon private lands, and shall avoid conflicts with adjoining and nearby private properties. (4) Sufficient land area shall be dedicated for parking at the permanent public access point unless the applicant demonstrates that it is unnecessary to serve the proposed subdivision. Physical improvement shall be made to a required parking area to handle the average number of vehicles using the area at one time, to include clearing and grubbing, a base constructed of suitable soils, and grading and drainage improvements as necessary. (5) Physical Access. (a) Internal access roads or trails shall be constructible. Internal and external physical trail access shall meet the following minimum standards: (i) a minimum of 10 feet wide; (ii) avoid wetlands where possible; (ii) be cleared and grubbed; (iii) have hardened surface with a minimum of one foot thick gravel base or use existing soils where suitable as determined by an engineer; (iv) be shaped to drain; (v) provide drainage improvements such as culverts for water crossings and make grading improvements to avoid ponding in low areas: (aa) when transiting across unavoidable natural features where improvements will be continually inundated by natural forces, a subdivider will not be required as a

condition of plat approval to provide improvements that cannot be permanent due to natural circumstances. However, a subdivider must demonstrate why such areas are unavoidable given the size of the subdivision, the expected disruption to access, and the cost of avoiding such disruption. Except that disruption which is expected to be so frequent as to render the access unusable for any significant part of a season will not be allowed; (bb) where trails encounter large water crossings such as creeks and rivers and it is not feasible to install culverts or construct a bridge, an open water crossing will be allowed provided that it is approved by the agencies having jurisdiction over the waterway and stream bank stabilization improvements are installed where needed; (vi) for transit across wetland or marshy conditions installation of approved matting shall be allowed to be substituted for a hardened surface as specified above. (6) All subdivisions under this section shall have a plat note which reads: the borough is not responsible for maintenance or upgrades of any access improvements to lots or parcels created under this provision.”

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

VOTE: The motion failed with Assemblymembers Keogh, Arvin, and Halter opposed and Assemblymembers Woods, Colligan, and Colver in favor. (Tie vote.) The motion failed with Mayor DeVilbiss invoking his voting privilege in the negative.

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

VOTE: The motion to suspend the rules passed without objection.

MOTION: Assemblymember Halter moved a secondary amendment to MSB 16.20.055(B) by inserting the words “for parcels outside of a road service area” after the word “Access” and to insert the words “outside of road service areas” after the word “land” to read: “(B) Remote Subdivision Access for Parcels Outside of a Road Service Area. The purpose of this subsection is to allow for recreational use and subdivision of lands outside of road service areas where road access to a proposed remote subdivision is not practicable given the size of the subdivision, the cost of subdividing, assessed value of the property and the cost of providing access due to the location, topographical constraints, terrain, and it is not the desire of the subdivider to have road access, and proposes access is via trails, creeks, rivers, or lakes by snowmobile, on-foot, skis, dog team, off-road vehicle, boat or airplane. The following legal and physical access requirements apply:”

MOTION: Assemblymember Colver moved to postpone Ordinance Serial No. 11-072 to a time certain of December 20, 2011, at 3:30 p.m.

VOTE: The motion to postpone passed without objection.

VIII. MAYOR, ASSEMBLY, AND STAFF COMMENTS

Mr. Moosey spoke to bids received on the next phase rail project.

Ms. McKechnie spoke to the cancellation of food and entertainment scheduled for the joint Assembly/School Board meeting on December 13, 2011, due to scheduling conflicts.

MOTION: Assemblymember Arvin moved to cancel the joint Assembly/School Board meeting scheduled to take place on December 13, 2011.

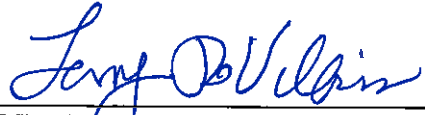
Assemblymember Arvin noted he agreed to Chair the December 13, meeting because students were scheduled to perform.

Assemblymember Keogh expressed disappointment in canceling the joint meeting as there is legislation slated for introduction.

VOTE The motion passed with Assemblymember Keogh opposed.

IX. ADJOURNMENT

The meeting adjourned at 10:10 p.m.


LARRY DeVILBISS, Borough Mayor

ATTEST:


LONNIE R. McKECHNIE, CMC, Borough Clerk

Minutes Approved: 01/17/12