

I. CALL TO ORDER

The regular meeting of the Matanuska-Susitna Borough Assembly was held on February 3, 2015, at the Borough Assembly Chambers, 350 E. Dahlia Avenue, Palmer, Alaska. The meeting was called to order at 6 p.m. by Mayor Larry DeVilbiss.

II. ROLL CALL

Assembly members present and establishing a quorum were:

Mr. Jim Sykes, Assembly District No. 1
Mr. Matthew Beck, Assembly District No. 2
Mr. Ronald Arvin, Assembly District No. 3 (*Deputy Mayor*)
Mr. Steve Colligan, Assembly District No. 4
Mr. Dan Mayfield, Assembly District No. 5
Mr. Vern Halter, Assembly District No. 7

[Clerk's note: Assembly District No. 6 seat is vacant.]

Staff in attendance were:

Mr. George Hays, Assistant Borough Manager
Mr. Nicholas Spiropoulos, Borough Attorney
Ms. Brenda J. Henry, Assistant Clerk
Ms. Tammy Clayton, Finance Director
Mr. Terrance Dolan, Public Works Director
Mr. Dennis Brodigan, Emergency Services Director
Mr. Eric Phillips, Community Development Director
Mr. Michael Brown, Capital Projects Director
Mr. Eric Wyatt, Information Technology Director
Mr. Alex Strawn, Development Services Manager
Ms. Shannon Bodolay, Assistant Borough Attorney
Ms. Amy Bohmbach, Administrative Assistant

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 Ms. Jennifer Schmidt, Fronteras Spanish Immersion School Principal.

V. MINUTES OF PRECEDING MEETINGS

A. Regular Assembly Meeting: 01/20/15

Mayor DeVilbiss inquired if there were any corrections to the regular meeting minutes of January 20, 2015.

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

VI. REPORTS/CORRESPONDENCE

A. AGENCY REPORTS

1. Reports from cities

Palmer City

Mr. Joe Hannan, City Manager:

- thanked Mayor DeVilbiss for attending last week's Palmer City Council meeting to speak on the Alaska marijuana legalization issue;
- related that the Council is grappling with how to move forward with regulating marijuana;
- spoke to construction spending in the Borough;
- spoke to the businesses that are locating to Palmer to support construction projects; and
- invited people to attend a community meeting on February 11 at the Palmer Depot regarding the Palmer Municipal Airport Master Plan.

Wasilla City

Mayor Bert Cottle:

- spoke to the Alaska marijuana legalization initiative;
- opined that the initiative provides local governments, including incorporated cities, the power to tax and regulate the production, sale, and use of marijuana; and
- opined that the initiative prohibits the Borough from enacting areawide powers in regard to the regulation of marijuana.

2. Matanuska-Susitna Borough School District

Dr. Deena Paramo, Superintendent:

- reported that the School Board is scheduled to approve new school attendance boundaries for Joe Redington Junior/Senior High School and Dena'ina Elementary School at their next meeting;
- added that Joe Redington Junior/Senior High School is slated to open in the fall of 2015 and Dena'ina Elementary School in the fall of 2016;
- spoke to the busing schedule for Joe Redington Junior/Senior High School;
- related that the site plan for the new Iditarod school was settled on by the School Board; and
- spoke in support of Ordinance Serial Nos. 15-017, 15-018, and 15-019.

B. COMMITTEE REPORTS

1. Joint Assembly/School Board Committee on School Issues

Assemblymember Beck:

- spoke to updates the Committee received at its last meeting to include the new Iditarod school footprint and the Fronteras Spanish Immersion Charter School loan application;
- reported that school bond construction projects are on target; and
- added that the School District will be hosting several open house forums at various locations regarding the District's proposed 2016 budget.

2. Joint MSB Assembly/MOA Assembly Transportation Subcommittee

(There was no report provided.)

3. Assembly Public Relations

(There were no reports provided.)

C. MANAGER COMMENTS

1. State/Federal Legislation
2. Strategic Planning Issues

(There were no reports provided.)

3. Iditarod Elementary 95 Percent Design Presentation – McCool Carlson Green

Mr. Weir provided a presentation on the project scope, schedule, site plan, and floor plan.

D. ATTORNEY COMMENTS

Mr. Spiropoulos:

- noted that he was in Juneau this morning with Mayor DeVilbiss to testify before the House Community and Regional Affairs Committee on issues related to the legalization of marijuana in Alaska;
- added that there are issues in the law that need clarification;
- reported that he has received the legal opinion requested by Assemblymember Halter from outside counsel addressing the mayor's veto power and the votes needed to override a mayoral veto; and
- added that he will distribute the opinion to the Assembly.

E. CLERK COMMENTS

Ms. Henry:

- spoke regarding the upcoming meeting schedule; and

- related that the School District has requested that the Assembly reschedule the March 10 joint Assembly/School Board meeting to April 14 due to spring break.

There was no objection noted to rescheduling the joint Assembly/School Board meeting from March 10 to April 14, 2015.

F. CITIZEN AND OTHER CORRESPONDENCE

1. MSB Board/Committee Minutes:

- Bogard RSA No. 25 Board of Supervisors: 03/05/14, 06/04/14
- Enhanced 911 Advisory Board: 10/14/14
- Fairview RSA No. 14 Board of Supervisors: 08/25/14, Resolution Serial No. 15-01
- Greater Butte RSA No. 26 Board of Supervisors: 05/13/14, 07/10/14
- Greater Palmer Consolidated FSA Board of Supervisors: 08/12/14
- Knik RSA No. 17 Board of Supervisors: 07/16/14, 10/29/14
- Library Board: 05/17/14, 09/20/14, 10/18/14, 11/15/14
- Local Road Service Area Advisory Board of Supervisors: 10/16/14, 11/20/14
- Meadow Lakes RSA No. 27 Board of Supervisors: 08/20/14, Resolution Serial No. 15-01
- MSB Fish and Wildlife Commission: 11/20/14
- Planning Commission: Resolution Serial No. 14-31(AM)
- Port Commission: 10/20/14, 11/17/14
- South Colony RSA No. 16 Board of Supervisors: 08/13/14
- Transportation Advisory Board: 11/26/14, Resolution Serial Nos. 15-01, 15-03

2. Community Council Minutes:

- Trapper Creek Community Council: 10/16/14, 11/20/14

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

G. INFORMATIONAL MEMORANDUMS

- IM No. 15-029:** Reporting Of Conclusion Of Contract For Bid No. 13-106B To Orion Marine Contractors, Inc. For Bridge No. 1956, Sullivan Avenue Over Bodenbug Creek Replacement, For The Final Contract Amount Of \$1,489,042.91.
- IM No. 15-035:** Reporting Of Conclusion Of Contract No. 14-119B To QAP For Vine Road Upgrade, Project No. 35410, For The Final Contract Amount Of \$6,275,134.13.

The informational memorandums were presented and no comments were noted.

VII. 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. 15-013:** An Ordinance Accepting And Appropriating \$15,220.54 From Matanuska Telephone Association To Fund 440, Project No. 20323, For Upgrading And Enhancing The Telecommunications And Information Services Within The Matanuska-Susitna Library Network.
 - a. IM No. 15-021

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. 15-013.

VOTE: The motion passed without objection.

2. **Ordinance Serial No. 15-014:** An Ordinance Amending MSB 15.39.010, Definitions; Amending MSB 15.39.270, Notice Of Appeals; Form; MSB 15.39.300, Preparation Of The Record; Notice Of Hearing Date; MSB 15.39.310, Written Argument And Evidence On Appeal; MSB 15.39.320, Appeal Hearing; MSB 15.39.340, Decision; MSB 15.39.350, Judicial Review; And Adopting MSB 15.39.360 Judicial Review.
 - a. IM No. 15-023

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. 15-014.

VOTE: The motion passed without objection.

3. **Ordinance Serial No. 15-016:** An Ordinance Amending MSB 17.125, Definitions; And MSB 17.60 Conditional Uses; And Adopting MSB 17.67, Tall Structures, Including Telecommunication Facilities, Wind Energy Conversion Systems, And Other Tall Structures.
 - a. IM No. 15-024

Mayor DeVilbiss opened the public hearing.

The following persons spoke in opposition to Ordinance Serial No. 15-016: Mr. Eugene Haberman and Mr. Ken Slauson.

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

MOTION: Assemblymember Arvin moved to adopt Ordinance Serial No. 15-016.

MOTION: Assemblymember Sykes moved a primary amendment to Ordinance Serial No. 15-016, as follows:

- MSB 17.67.050(A)(5)(a), by striking the words "1200 feet" and inserting "one half-mile" in its place to read: "(a) property owners within one half-mile of the parcels under consideration for the proposed tall structure;" and
- MSB 17-67.060(A)(1)(a), by striking the words "1200 feet" and inserting "one half-mile" in its place to read: "(a) the notification area will be one half-mile."

VOTE: The primary amendment passed with Assemblymembers Colligan and Arvin opposed.

MOTION: Assemblymember Sykes moved a primary amendment to Ordinance Serial No. 15-016, as follows:

- MSB 17.67.090(A)(1), by inserting a new subparagraph two and renumbering the existing subparagraph two to three to read: (1) The equipment compound shall meet minimum setback distances from all property lines in accordance with MSB 17.55. (2) Minimum setback for the tower base shall be a distance equal to the height of the tower. (3) Setbacks shall be determined from the dimensions of the entire lot, even though the tower may be located on lease areas within the lot.

MOTION: Assemblymember Halter moved a secondary amendment to MSB 17.67.090(A)(3), by inserting the words: ", this setback requirement can be waived or modified by the Planning Commission through the Conditional Use Permit process" after the word "lot" at the end of the sentence.

MOTION: Assemblymember Beck moved to postpone Ordinance Serial No. 15-016 to a time certain of February 17, 2015.

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

VOTE: The secondary amendment failed in a tie vote with Assemblymembers Halter, Beck, and Arvin in support and Assemblymembers Mayfield, Sykes, and Colligan opposed. (Mayor DeVilbiss chose not to invoke his voting privilege.)

MOTION: Assemblymember Mayfield moved to postpone Ordinance Serial No. 15-016 to a time certain of after the remaining public hearing has concluded.

VOTE: The motion passed without objection.

(The meeting recessed at 7:18 p.m. and reconvened at 7:24 p.m.)

4. **Ordinance Serial No. 15-017:** An Ordinance Authorizing and Approving A Loan From the United States Department of Agriculture In An Amount Not To Exceed \$6,700,000 For The Purpose Of Providing For All Or A Portion Of the Cost Of Acquiring, Construction, Enlarging, Improving, And/Or Extending Fronteras Spanish Immersion Charter School.
 - a. **Ordinance Serial No. 15-018:** An Ordinance Authorizing And Approving A Lease Of Borough Property To Fronteras Spanish Immersion Charter School For A Term Of 40 Years With An Estimated Annual Payment Of \$396,000 With The Exact Terms, Conditions, And Provisions As Necessary And Advisable To Secure A Loan From The United States Department Of Agriculture And Provide For Repayment Of The Loan.
 - b. **Ordinance Serial No. 15-019:** An Ordinance Appropriating \$500,000 From The Areawide School Site Acquisition Reserve, Fund 100, To Fund 400, Project No. 40202, For Access Improvements To The Future Fronteras Spanish Immersion Charter School And To The Mat-Su Day School, And For Utilities For Fronteras Spanish Immersion Charter School. *(Sponsored By Assemblymembers Beck, and Arvin and former Assemblymember Colver)*
 - (1) IM No. 15-027
 - (2) IM No. 15-025

Mayor DeVilbiss opened the public hearing.

The following persons spoke in support of Ordinance Serial Nos. 15-017, 15-018, and 15-019: Ms. Jennifer Schmidt, Mr. Larry Macknicki, Ms. Jen Renee, Mr. Devon Wear, Ms. Heather Charton, Mr. Kerry Sanders, Ms. Tara Wreyford, Ms. Mariah Jermin, Ms. Kristen Nilsson, Ms. Sonya Cook, Mr. Chris Whittington-Evans, Ms. Raeanne Stephens, Miss Rosie Whittington-Evans, Ms. Caroline Stevens, Mr. Mike Wilson, Mr. Ben Wargo, Ms. Becca Lopez, Miss Noralee Phetphommasouk, Miss Meera Lopez, Mr. Hyrum Neilson, Mr. Filemon Etingue; and Miss Amber Lopez.

The following person expressed concern with the legislation in terms of the financial impact and risk to the Borough: Ms. Patricia Rosnel.

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

MOTION: Assemblymember Beck moved to adopt Ordinance Serial Nos. 15-017, 15-018, and 15-019.

MOTION: Assemblymember Beck moved a primary amendment to Ordinance Serial No. 15-017, by striking "\$6.7 million" and inserting "\$6.9 million" in its place throughout the legislation.

VOTE: The primary amendment passed without objection.

VOTE: The main motion passed as amended without objection.

(The meeting recessed at 8:32 p.m. and reconvened at 8:38 p.m.)

(The Assembly resumed deliberations on Ordinance Serial No. 15-016.)

MOTION: Assemblymember Arvin moved a secondary amendment to MSB 17.67.090(A)(2) by inserting a new subparagraph to read: (a) the commission or director if it is an administrative permit may reduce the setback to a distance less than the height of the tower, if the applicant demonstrates there is no risk to public health, safety, or welfare to the adjacent property owner.

VOTE: The secondary amendment passed without objection.

VOTE: The primary amendment passed as amended with Assemblymember Colligan opposed.

VOTE: The main motion passed as amended without objection.

C. AUDIENCE PARTICIPATION (Three minutes per person.)

The following person spoke regarding the immediate need for a septage treatment facility in the Borough: Ms. Helen Munoz.

The following person spoke regarding concerns with taxes: Mr. Ralph Kermit Winterrowd.

The following person spoke regarding public process and expressed concern because the Planning Commission meeting did not adjourn at midnight pursuant to Borough code: Mr. Eugene Haberman.

The following person spoke regarding concerns with access issues at the new Iditarod School: Mr. Garvan Bucaria.

The following person spoke regarding the setback requirements in Ordinance Serial No. 15-016: Mr. Ken Slauson.

D. CONSENT AGENDA

1. RESOLUTIONS

2. ACTION MEMORANDUMS

a. **AM No. 15-006:** Vacation Of A 5-Foot By 32-Foot Portion Of East Kyrok Circle Right-Of-Way Within Machetanz Ridge Subdivision, Plat 2009-76, Section 7, Township 17 North, Range 2 East, Seward Meridian.

b. **AM No. 15-009:** Award Of Bid No. 15-033B To Peak Oilfield Services, LLC. In The Amount Of \$240,955 For Talkeetna Fire Service Area Station 11-3 Drafting Tank And Water Well Installation.

- c. **AM No. 15-010:** Vacation Of A 5-Foot By 54-Foot Portion Of North Deshka Ridge Drive Right-Of-Way Within Heather Wood Subdivision, Plat 2004-96, Section 2, Township 17 North, Range 1 East, Seward Meridian.
- d. **AM No. 15-011:** Acceptance Of Retroactive And Late Filed Senior Citizen And Disabled Veteran Exemption Applications.
- e. **AM No. 15-012:** Acceptance Of Retroactive And Late Filed Senior Citizen And Disabled Veteran Exemption Applications.
- f. **AM No. 15-014:** Award Of Request For Proposal No. 15-050P To Architects Alaska, Inc. In An Amount Not To Exceed \$250,000 For School Districtwide Energy Upgrades Design.
- g. **AM No. 15-015:** Award Of Proposal No. 15-051P To PDC, Inc. Engineers In An Amount Not To Exceed \$566,000 For School Districtwide Heating, Ventilation, and Air Conditioning (HVAC) Upgrades Design.
- h. **AM No. 15-016:** Award Of Bid No. 15-086B To Bristol Prime Contractors, LLC. For The Contract Amount Of \$237,178.75 To Provide Labor, Equipment, And Materials To Reconstruct Approximately 3,483 Linear Feet Of East Mercury Avenue And North Mars Avenue.

Ms. Henry 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.

- a. **Resolution Serial No. 15-009:** A Resolution Amending The Facility Use Rate For Borough Libraries To Eliminate Any Charge For Use During Normal Business Hours. (Sponsored by Assemblymember Mayfield)
- (1) IM No. 15-032

MOTION: Assemblymember Mayfield moved to adopt Resolution Serial No. 15-009.

MOTION: Assemblymember Arvin moved a primary amendment to Resolution Serial No. 15-009, 6th whereas clause, by striking "0" and inserting "\$5" in its place to read: "Whereas, since staff is present, the building is open to the public, and heat and light are being provided anyway, the facility use fee at libraries should be set at \$5 during normal business hours."

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

VOTE: The motion to stop debate passed with Assemblymembers Colligan and Arvin opposed.

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

VOTE: The main motion passed with Assemblymembers Halter and Arvin opposed.

VIII. UNFINISHED BUSINESS

(There was no unfinished business.)

IX. VETO

(There were no vetoes presented.)

X. NEW BUSINESS

A. INTRODUCTIONS (For public hearing – 02/17/15, Assembly Chambers)

1. **Ordinance Serial No. 15-022:** An Ordinance Accepting And Appropriating The Fiscal Year 2015 Community Revenue Sharing Program Funds In The Amount Of \$424,200 To Fund 475, Project No. 47033.

a. **Resolution Serial No. 15-010:** A Resolution Approving The Scope Of Work And Budget For The Fiscal Year 2015 Community Revenue Sharing Program, Project No. 47033.

(1) IM No. 15-034

B. INTRODUCTIONS (For public hearing – 03/17/15, Assembly Chambers)

1. **Ordinance Serial No. 15-020:** An Ordinance Creating A Portion Of North Suzanna Street Natural Gas Local Improvement District No. 537, 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. 15-030

2. **Ordinance Serial No. 15-021:** An Ordinance Creating A Portion Of Wagner Subdivision Natural Gas Local Improvement District No. 556, 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. 15-031

Ms. Henry 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 February 17, 2015, and March 17, 2015, respectively.

VOTE: The motion passed without objection.

MAYORAL NOMINATIONS AND APPOINTMENTS

1. VACANCY REPORT

Mayor DeVilbiss requested the following resignation and appointments for confirmation:

Board of Equalization
William Barnes
Emergency Medical Services Board
Matt Scherrer, resignation
Health and Social Services Board
Philip Licht
MSB Fish and Wildlife Trails Advisory Board
Steve Colligan
Terry Niniger
Central Mat-Su FSA No. 130
Jimmy Jameson

MOTION: Assemblymember Arvin moved to confirm the Mayor's appointments and resignation.

VOTE: The motion passed without objection.

C. OTHER NEW BUSINESS

(There was no other new business.)

D. 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

Assemblymember Beck:

- thanked everyone for attending tonight's meeting; and
- stated that he enjoyed the evening.

Assemblymember Sykes:

- opined that Mayor DeVilbiss and Mr. Spiropoulos did a good job testifying before the House Community and Regional Affairs Committee;
- added that he also testified before the Committee;
- remarked that he hoped people would apply for the Marijuana Advisory Committee;

- opined that it appears everyone is making a good faith effort to sort out the law governing the legalization of marijuana in Alaska;
- spoke in support of the Borough working with the cities on the regulation of marijuana; and
- spoke to the role of the Borough Area School Site Selection Committee and how Borough land is disposed of.

Assemblymember Mayfield:

- spoke in support of the action taken by the Assembly on Ordinance Serial Nos. 15-017, 15-018, and 15-019;
- spoke to his tour of Joe Redington Junior/Senior High School;
- spoke to the value of investing in education;
- thanked the body for supporting the use of libraries; and
- opined that although the tall towers ordinance may need additional refinement moving forward, it is good to have an ordinance in place.

Mayor DeVilbiss commented on how beautiful the landscape is flying into Juneau.

XIII. EXECUTIVE SESSION

(There was no executive session held.)

XIV. ADJOURNMENT

The regular meeting adjourned at 9:45 p.m.



LARRY DeVILBISS, Borough Mayor

ATTEST:



LONNIE R. McKECHNIE, CMC, Borough Clerk

Minutes Approved: 02/17/15