

I. CALL TO ORDER

The special meeting of the Matanuska-Susitna Borough Assembly was held on July 28, 2009, at the Borough Assembly Chambers, 350 E. Dahlia Avenue, Palmer, Alaska. The meeting was called to order at 6:02 p.m. by Mayor Talis J. 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 (*arrived at 6:03 p.m.*)
- Ms. Michelle R. Church, Assembly District No. 3
- Mr. Mark Ewing, Assembly District No. 4
- Ms. Cindy L. Bettine, Assembly District No. 5 (*arrived at 6:03 p.m.*)
- Mr. Robert Wells, Assembly District No. 6
- Mr. Tom Kluberton, Assembly District No. 7 (*attended telephonically*)

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
- Mr. Dave Hanson, Economic Development Director
- Ms. Cheyenne Heindel, Financial Analyst

III. APPROVAL OF AGENDA

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

Mr. Duffy requested that Borough Space Issues be pulled from the agenda due to the sales tax discussion.

There was no objection noted.

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

IV. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Ms. Bernadette Rupright, a member of the public.

IV. ITEMS OF BUSINESS

~~A. COMMITTEE OF THE WHOLE~~

~~1. BOROUGH SPACE ISSUES~~

(Administration requested to pull this item from the agenda.)

B. Ordinance Serial No. 09-055(SUB): AN ORDINANCE AUTHORIZING THE MATANUSKA-SUSITNA BOROUGH TO ENACT AN AREAWIDE REAL PROPERTY TAX LIMIT OF 7.8 MILLS, TO ENACT AN AREAWIDE SALES TAX NOT EXCEEDING 3 PERCENT OF SALES, SERVICES, AND RENTALS WITHIN THE BOROUGH, ENACT AN AREAWIDE RESIDENTIAL REAL PROPERTY TAX EXEMPTION OF \$10,000 OF ASSESSED VALUE, PROVIDE A SUNSET OF THE PROVISION, AND TO SUBMIT THE QUESTIONS TO THE QUALIFIED VOTERS OF THE BOROUGH AT THE OCTOBER 6, 2009, REGULAR BOROUGH ELECTION. *(Sponsored by Assemblymembers Bettine and Houston)*

(1) Ordinance Serial No. 09-056: AN ORDINANCE ADOPTING MSB 3.35, A UNIFORM SALES TAX.

(a) IM No. 09-083

MOTION PENDING: Assemblymember Bettine moved to adopt Ordinance Serial Nos. 09-055(SUB) and 09-056.

MOTION: Assemblymember Houston moved a primary amendment to Ordinance Serial Nos. 09-055(SUB) and 09-056, to strike the implementation date of "January 1, 2010," and insert "July 1, 2010."

Assemblymember Ewing spoke in opposition of making any amendments without holding additional public hearings.

Assemblymember Woods:

- stated that legislation cannot be amended until after the public hearing take place and the legislation is on the floor; and
- stated that this is the appropriate time to make amendments.

Assemblymember Wells:

- noted that the Assembly has heard the public concerns on how to address this legislation; and
- stated that he has no problems with amending the legislation at this time.

Assemblymember Bettine requested to hear from the Finance Director regarding this amendment.

Ms. Clayton:

- stated that if this legislation was adopted tonight, that the mill levy that would begin on July 1, 2010 would be 7.8 mills; and
- noted that would also be the first day the sales tax would be in effect.

Assemblymember Bettine queried if anything else would need to be changed within the ordinance.

Ms. Clayton stated that as far as she was aware, nothing else within the ordinance would need to be changed.

VOTE: The primary amendment passed with Assemblymember Ewing opposed.

MOTION: Assemblymember Wells moved a primary amendment to Ordinance Serial No. 09-055(SUB), Section 3, to insert the following "to be effective on July 1, 2010" after the phrase "following" in the ballot language to read: Shall the Matanuska-Susitna Borough be authorized to adopt the following to be effective on July 1, 2010:

VOTE: The primary amendment passed without objection.

MOTION: Assemblymember Bettine moved a primary amendment to Ordinance Serial Nos. 09-055(SUB) and 09-056, to strike the residential exemption of "\$10,000" insert "\$20,000" in its place throughout the legislation.

Assemblymember Woods queried the impact the increase would have on revenues.

Ms. Clayton:

- stated that this would result in a reduction of property taxes of \$2.6 million; and
- noted that this would reduce the current overall projections by this amount.

Assemblymember Bettine queried if this means that an average home worth \$200,000 would now be assessed at \$180,000.

Ms. Clayton affirmed the query.

Assemblymember Ewing:

- stated that the assessment would stay the same, but would be subject to the exemption;
- opined that it appears as though the Assembly is attempting to make this legislation more appealing to the public without hearing further input; and
- opined that attempting to "water down" what the public spoke in opposition to, is unfair.

Assemblymember Church:

- opined that the Assembly is responding to the public comment;
- noted that she has heard from many of her constituents that they are in favor of a property tax exemption; and
- opined that a \$20,000 exemption would further benefit property owners.

Discussion ensued regarding:

- the Assembly's response to public comments; and
- property tax exemption for primary residences.

VOTE: The amendment passed with Assemblymember Ewing opposed.

MOTION: Assemblymember Houston moved a primary amendment to Ordinance Serial No. 09-056, MSB 3.35.005, to insert the words "and non-severability" to the title of read: 3.35.005, Authority and non severability.

VOTE: The motion passed without objection.

MOTION: Assemblymember Bettine moved a primary amendment to Ordinance Serial No. 09-056, MSB 3.35.090(A) and (C), by striking "or mail" and "The United States Postal Service postmark shall determine the date of filing mailed returns."

Assemblymember Ewing:

- opined that the language should, as the postmark is an indicator;
- spoke to his concerns with how efficiently the mail is delivered;
- opined that penalties within the ordinance are very severe; and
- stated that the benefit of the doubt should be given to the people.

Discussion ensued regarding postmarked dates.

WITHDRAW: Assemblymember Bettine withdrew the motion.

There was no objection.

Assemblymember Ewing queried who had provided amendments at the last minute.

Mayor Colberg advised that the amendments were provided by Administration.

Assemblymember Bettine queried if an excess sales tax revenue fund could be established.

Mr. Duffy spoke to intent language.

Discussion ensued regarding language for an excess sales tax revenue fund.

Mayor Colberg stated that part of creating a fund for excess sales tax revenues would entail creating a separate ordinance after any intent language is added to the existing ordinance.

MOTION: Assemblymember Bettine moved a primary amendment to Ordinance Serial No. 09-055(SUB), by inserting a seventh whereas clause to read: Whereas, there can be created an excess sales tax revenue fund for the purpose of accounting of all sales tax revenues received in excess of \$23 million from the borough sales tax and the disbursement from this fund shall be used to reduce the areawide real property tax mill levy in the year following the year of collection.”

Assemblymember Bettine:

- stated that Assemblymember Houston and herself have worked very hard to make this revenue neutral; and
- opined that there is not a good way to estimate what the revenue will be; and
- further added that by adding the language the tax payers can be assured that the sales tax will be used to reduce property tax.

Assemblymember Ewing:

- noted the Assembly was told at a previous meeting that a mill rate reduction would save tax payers approximately \$14 million;
- stated that an additional motion has been made that would save an additional \$2 million dollars;
- spoke to other estimates that have been provided regarding savings; and
- spoke to his concerns that the figures are not in alignment.

Discussion ensued:

- estimated sales tax projections;
- tax diversification; and
- revenue cap.

MOTION: Assemblymember Houston moved a secondary amendment to strike “23 million” and insert in its place “an amount allowed by the revenue cap” to read: Whereas, there can be created an excess sales tax revenue fund for the purpose of accounting all sales tax revenues received in excess of an amount allowed by the revenue cap from the borough sales tax and the disbursement from this fund shall be used to reduce the areawide real property tax mill levy in the year following the year of collection

(This regular meeting recessed at 7:10 p.m. and reconvened at 7:15 p.m.)

Assemblymember Ewing opined that by making so many amendments to the legislation the Assembly is getting far away from what the public had previously commented on.

VOTE: The secondary amendment passed with Assemblymember Ewing opposed.

Assemblymember Woods:

- spoke to the clear intent for excess revenue to be used to reduce property tax;
- noted that the fund could be used to reduce the burden of the cost of building roads; and
- opined that this amendment is necessary.

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

Assemblymember Bettine requested that figures be shown on what is currently collected areawide and what would be collected at 7.8 mills.

Ms. Clayton:

- stated that with the mill rate at 9.8, the figures are \$70,000,000;
- stated that with the mill rate at 7.8, the figures are \$55,000,000;
- noted that the reduction of \$20,000 exemption equates to \$5.3 million;
- stated that with the sales tax original projections the figures would be \$20,000,000;
- further added that if it is based on assessed value, it would generate an additional \$1 million to \$3 million; and
- stated that the reduction in property taxes is \$20.3 million.

Assemblymember Ewing:

- stated that the numbers that the Borough has received from the cities are hard numbers; and
- opined that the numbers from the Borough are hypothetical.

Assemblymember Bettine queried if there is a \$23,000,000 reduction in property tax, what the mill rate would need to be in order to be revenue neutral.

Ms. Clayton advised that it would need to be 7.42 mills.

MOTION: Assemblymember Bettine moved a primary amendment to Ordinance Serial Nos. 09-055(SUB) and 09-056, to strike "7.8" and insert in its place "7.3" throughout the ordinances.

Assemblymember Ewing:

- queried the legalities of what was introduced at the public hearing;
- expressed his concerns about changes being made now; and
- queried if the Borough could be subject to a law suit due to these amendments.

Mr. Spiropoulos advised that the Borough would not be subject to a law suit due to amendments.

Assemblymember Woods noted that she will object to a 7.3 mill rate amendment, due to the uncertainty of how much revenue will be generated.

MOTION: Assemblymember Houston moved a secondary amendment to strike "7.3" and insert in its place "7.42."

Assemblymember Church:

- queried if additional funds will go into a tax revenue fund to allocate to taxes the following year; and
- further queried if assessments go up if the mill rate would need to go down.

Ms. Clayton advised that the mill rate would need to go down should the assessments increase.

WITHDRAW: Assemblymember Houston withdrew the motion.

There was no objection noted.

MOTION: Assemblymember Houston moved a secondary amendment to strike "7.3" and insert in its place "7.4."

VOTE: The secondary amendment failed with Assemblymembers Houston and Woods in favor.

VOTE: The primary amendment passed with Assemblymember Ewing opposed.

MOTION: Assemblymember Bettine moved an amendment to Ordinance Serial No. 09-056 to insert a new section as MSB 3.35.195 to read as follows: In addition to any other remedies and administrative procedures provided under this chapter, the borough may file a civil action against any seller and/or buyer for recovery of any tax, unremitted tax, penalties, interest, costs, and fees, that have not been paid or remitted when due. The Borough must file any such civil action within six years of the date that such tax, unremitted tax, penalties, interest, costs, and fees were due under this chapter.

VOTE: The primary amendment passed with Assemblymember Ewing opposed.

MOTION: Assemblymember Bettine moved to amend Ordinance Serial No. 09-056, section 3.35.090(D), by striking "two years" and inserting in its place "one year" to read: The seller shall report and remit sales tax to the borough on the same basis, cash or accrual, the seller uses for reporting federal income tax. A seller reporting on the accrual basis shall be allowed a tax credit for sales tax previously paid by the seller on any sale, service or rental made on credit to the extent the seller declares such debt to be uncollectable and a bad debt for federal income tax purposes. Such bad debt credit must be claimed on a timely filed monthly sales tax report within one year from the date of sale in which the bad debt arose.

Ms. Heindel reported that this amendment was requested by the city of Wasilla in order to come into alignment with their code, as it pertains to civil remedies regarding sales tax.

VOTE: The primary amendment passed without objection.

MOTION: Assemblymember Bettine moved a primary amendment to Ordinance Serial No. 09-056, MSB 3.35.050(A)(3), by striking the first "item" in the first sentence

and inserting in its place "transaction" to read: That part of the selling price of a single transaction that exceeds \$1,000 is exempt. A single item is an item sold in a single sale consisting of integrated and interdependent component parts affixed or fitted to one another in such a manner as to produce a functional whole, including optional accessories for such items as boats, and automobiles if the accessories are useful or essential for the operation or use of the item.

Ms. Heindel reported that this amendment was requested by the cities.

VOTE: The primary amendment passed without objection.

MOTION: Assemblymember Bettine moved to amend Ordinance Serial No. 09-056, MSB 3.35.050(A)(34), by inserting the words "and satellite" after the word cable, in the first sentence to read: Purchases of utility services (other than cable and satellite television), including the installation and connection charges and fees, by an organization holding a current, valid 501(c)(3) exemption letter from the Internal Revenue Service.

Ms. Heindel advised that this was requested by the cities in order to ensure that satellite television was included.

VOTE: The primary amendment passed with Assemblymembers Wells, Houston, and Bettine opposed.

MOTION: Assemblymember Houston moved a primary amendment to Ordinance Serial No. 09-056, to renumber MSB "3.35.050(A)(30)" as MSB "3.35.050(6)" and to replace the reference of "3.35.050(A)(3)" in MSB 3.35.050(A)(5)(a) to "3.35.050(A)(6)."

Assemblymember Houston stated that he would like to see like exemptions included in the same areas within the ordinance to eliminate confusion.

VOTE: The primary amendment passed without objection.

Assemblymember Bettine:

- spoke to her concerns with the appeal language; and
- opined that an appeal should go before a board, not the administrative body.

Mr. Spiropoulos:

- advised that appeals to administrative officials are not unusual;
- noted that the Borough currently uses this process; and
- noted that should the Assembly not use the current appeal process, that there could be unintended consequences.

Assemblymember Church noted that if a member of the public is not happy with an administrative decision made by the Borough, that they are free to appeal it to the Superior Court.

VOTE: The main motion passed as amended with Assemblymembers Ewing and Kluberton opposed.

(This regular meeting recessed at 8:13 p.m. and reconvened at 8:29 p.m.)

MOTION: Assemblymember Bettine moved to suspend the rules to take up audience participation prior to Resolution Serial No. 09-076.

VOTE: The motion passed without objection.

VI. AUDIENCE PARTICIPATION

The following persons spoke in opposition of Ordinance Serial Nos. 09-055(SUB) and 09-056: Mr. Mike Madar and Ms. Debby Davis

The following persons spoke to the need to either have a sales tax or a property tax: Mr. George Meyer, Mr. James Garhart, and Mr. John Katkus.

The following persons spoke in opposition of Resolution Serial No. 09-076: Mr. Dan Kelly; and Mayor Roger Purcell, city of Houston.

- C. Resolution Serial No. 09-076: A RESOLUTION SUPPORTING THE PARKS HIGHWAY, LUCUS ROAD TO BIG LAKE ROAD FOUR-LANE UPGRADE WITH LIMITED ACCESS AND SECONDARY SIDE ROADS. *(Sponsored by Assemblymember Bettine and Kluberton).*
- a. IM No. 09-181

MOTION: Assemblymember Bettine moved to adopt Resolution Serial No. 09-076.

Assemblymember Bettine:

- stated that the Parks Highway upgrade affects two of the largest cities in the state of Alaska;
- noted her concerns with a five lane road;
- spoke to the stop and go traffic that should be eliminated;
- opined that the Assembly needs to show the public that they believe that road safety is important;
- stated that the State has just begun the public hearings on the road design;
- noted that the design is being set up to eventually accommodate frontage roads; and
- opined it is a very important project for public safety.

Assemblymember Woods queried if the connector roads that are being worked on are Borough projects.

Mr. Duffy affirmed the query.

Assemblymember Woods queried if Assemblymember Bettine intended for the State to take over the connector road projects.

Assemblymember Bettine:

- stated that this is not her intention;
- noted that the State is considering other areas that could accommodate frontage roads; and
- stated that she hopes the Borough will cooperate with the State.

Assemblymember Kluberton:

- opined that some of the audience was speaking in opposition to the road design that includes u-turn areas;
- noted that this particular design has been rejected frequently; and
- commented that it is proper to request that the road be built to high standards, as it is a major road between two of the largest cities..

Assemblymember Houston:

- queried if the Transportation Advisory Board has reviewed Resolution Serial No. 09-076; and
- queried if it was a huge divergence from the Long Range Transportation Plan.

Mr. Duffy:

- advised that the resolution is consistent with the Long Range Transportation Plan;
- stated that he is not aware if the Transportation Advisory Board has reviewed the legislation as of yet;
- opined that a five lane road could work well if it were adequately patrolled;
- further added that often with a five lane road, the center turning lane is used for a deceleration and acceleration lane; and
- stated that the Borough has expressed concerns to the State regarding a five lane road.

Discussion ensued regarding:

- concerns that the road will not be upgraded properly;
- the dangers of a five lane road;
- Borough support of the Machen Road/Museum Drive extension;
- the need to wait until after the state of Alaska has concluded the public hearings on the matter;
- the expense of a by-pass option; and
- the need for a safe corridor.

MOTION: Assemblymember Ewing moved a primary amendment to Resolution Serial No. 09-076, by inserting an additional whereas clause at the end of the resolution to read: "It is the wish of the Matanuska-Susitna Borough Assembly that the Alaska State Department of Transportation consider public input and construct the road in a manner consistent with long range transportation."

Assemblymember Kluberton:

- noted that the desire for local commerce directly conflicts with transportation needs;
- stated that it is difficult to predict the changes that will be required for an interstate highway;

- noted that even though the Parks Highway is not considered an interstate at this time, that it truly is; and
- opined that the road needs to be designed and constructed as an interstate highway.

Assemblymember Bettine:

- opined that the resolution already states that the Assembly supports constructing this road the right way; and
- spoke to the need to continue to move forward with constructing frontage roads.

Assemblymember Houston:

- noted his agreement with Assemblymember Kluberton's concerns; and
- opined that the language should be a little stronger within the Resolution, not just a whereas clause at the end of the resolution.

Assemblymember Woods:

- spoke to the need for Alaska to have its own highway transportation program;
- stated that she wished it was as easy as to state "build it right" for it to be done; and
- further added that the precise words are not as important as the roads themselves.

WITHDRAW: Assemblymember Ewing withdrew the motion.

There was no objection noted.

VOTE: The main motion passed without objection.

MOTION: Assemblymember Bettine moved to reconsider Ordinance Serial Nos. 09-055(SUB) and 09-056.

VOTE: The motion failed unanimously.

VII. MAYOR, ASSEMBLY, AND STAFF COMMENTS

Mr. Duffy:

- stated that he is working with the Denali Borough regarding setting up a joint meeting; and
- noted that he spoke with Senator Huggins and Representative Stoltze regarding a joint meeting with the Assembly sometime in October.

Assemblymember Ewing stated that unless there is a veto on the sales tax legislation that the Assembly will find out how the public feels regarding the sales tax at election time.

Assemblymember Woods:

- noted the Assembly and Borough commitment to improving tourism amenities; and
- expressed her gratitude that things are being improved for tourists.

Assemblymember Bettine:

- noted that she appreciated the Assembly's patience during the amendments requested by staff on the sales tax ordinance;
- spoke to phone calls she has been receiving from homeowners associations, within her district, regarding speed bumps;
- noted that she and her constituents are waiting to comment on the speed bump policy; and
- requested that a copy of the speed bump policy be provided to her.

Assemblymember Wells:

- stated that he would also like to review the speed bump policy;
- noted that he is pleased to move the sales tax ordinance onto the next step; and
- stated that the voters will be the ones that will ultimately decide on how to fund the Borough government.


VIII. ADJOURNMENT

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



TALIS J. COLBERG, Borough Mayor

ATTEST:



LONNIE R. McKECHNIE, CMC, Borough Clerk

Minutes approved: 08/18/09