

**I. CALL TO ORDER**

The special meeting of the Matanuska-Susitna Borough Assembly was held on October 26, 2010, at the Borough Assembly Chambers, 350 E. Dahlia Avenue, Palmer, Alaska. The meeting was called to order at 6 p.m. by Deputy Mayor Ronald Arvin for the purpose of holding a joint Assembly/Planning Commission meeting.

**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. Mark Ewing, Assembly District No. 4  
Ms. Cindy L. Bettine, Assembly District No. 5

Assemblymembers absent and excused were:

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

Planning Commission members present and establishing a quorum were:

Mr. Gary Foster, District 1  
Mr. David Cheezem, District 2  
Mr. Patrick Johnson, District 4  
Mr. William Bruu, District 5  
Mr. Dick Zobel, District 6  
Mr. John Anderson, District 7

Planning Commission members absent and excused were:

Mr. Mark Masteller, District 3 (*Chair*)

Staff in attendance were:

Ms. Lonnie R. McKechnie, Borough Clerk  
Ms. Elizabeth Gray, Acting Borough Manager  
Mr. Nicholas Spiropoulos, Borough Attorney  
Ms. Brenda J. Henry, Executive Assistant to the Borough Clerk  
Ms. Christine Nelson, Planning and Land Use Director  
Ms. Eileen Probasco, Chief of Planning  
Ms. Frankie Barker, Environmental Planner  
Mr. Emerson Krueger, Planner II

### **III. APPROVAL OF AGENDA**

Deputy Mayor Arvin inquired if there were any objections to removing the executive session from the agenda this evening.

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. Eileen Probasco, Chief of Planning.

### **V. AUDIENCE PARTICIPATION**

The following person spoke in opposition of Planning Commission Resolution Serial Nos. 10-31 and 10-32: Mr. Charlie Boddy, Secretary-Treasurer, Alaska Coal Association; and Ms. Deantha Crockett, Projects Coordinator with the Resource Development Council.

The following person spoke in opposition to coal mining in the Borough: Ms. Niki Taysom, Mr. Mike Gartlin, and Ms. Jennifer Charvet.

The following person spoke to concerns with the lack of water and air quality studies near coal mining: Mr. Brett Hudson.

The following persons spoke in support of Planning Commission Resolution Serial Nos. 10-031 and 10-032: Mr. Pete Praetorius, Mr. Andre Ciostek, Ms. Michelle Prevost, Mr. Kirby Spangler, Ms. Alice Kolhane, Mr. William Schmidtkunz, Ms. Karen Hopp, Ms. Aubrey Spangler, Mr. Steve Rubenstein, Ms. Wanda Phillips, Ms. Anne Creinkell, Mr. Brandon Kavalok, Mr. Gene Backus, and Ms. Jillian Morrissey.

### **VI. ITEMS OF BUSINESS**

#### **A. Platting Board Update (*Requested by Assembly*)**

Mr. Terry Nicodemus, Platting Board Chairman provided an update as to the status of vacancies on the Platting Board.

Assemblymember Bettine queried the workload of the Platting Board.

Mr. Nicodemus:

- stated that the Board is not as overwhelmed as they have been in the past;
- related that there are quite a bit of lot line configurations; and
- further added that there are a couple of larger subdivisions that will be coming before the Board.

Assemblymember Bettine queried how well Title 27 is working for Platting Board.

Mr. Nicodemus:

- stated that it is working well; and
- opined that there are some issues that still need to be addressed.

Assemblymember Ewing:

- opined that there are issues that could be adjusted in order to streamline the process for simple lot lines; and
- stated that he understands that the process can be quite complex for the public.

Mr. Nicodemus:

- noted his agreement with Assemblymember Ewing;
- stated that there is not a lot of difference between a small subdivision or to erase a lot line so far as to the process;
- noted that topographic surveys are needed at 100 feet;
- stated that to extend the topographic survey out 100 feet, triples the amount of survey work required;
- spoke to issues that made simple plats conform to State requirements;
- opined that there are steps that can be taken to streamline the process;
- spoke to inadvertent code violations that occur as a result of construction; and
- noted that other jurisdictions in Alaska are able to address a lot of things through the short-plat process.

Planning Commissioner Anderson queried if there has been any increase in development in the northern portion of the Borough.

Mr. Nicodemus stated that there has actually been a decrease.

B. Build-out Analysis Discussion to Include New Knik Middle/High School (*Requested by Assemblymember Bettine*)

Mr. Krueger:

- stated that the build-out project employee was hired to work on the suitability and alternative futures analysis on September 14, 2010;
- related that the employee is familiarizing himself with the Borough;
- further added that the employee has created a draft suitability analysis utilizing the new criteria that the Borough Area School Site Selection Committee is developing to identify suitable sites for schools;
- stated that they are ready to begin working with the School District to refine the criteria that the suitability model uses in order to rank sites;
- noted that they are starting with the Knik-Fairview community, which has been identified as the area with the most need for a middle school and a high school; and
- related that they are hopeful that once the suitability model is up to speed, to take the model and project up to 15 years out, in order to reserve land for future use.

Assemblymember Bettine queried how soon the project manager would be ready to analyze sites.

Mr. Krueger:

- stated that they will be meeting with School District staff within the next five days; and
- opined that the suitability ranking will be final shortly thereafter.

Discussion ensued regarding:

- site suitability criteria;
- adequate transportation infrastructure surrounding future school sites;
- the need to continue to coordinate with the State Department of Transportation; and
- how to weigh criteria for site selection.

Assemblymember Ewing queried if the project employee is a full-time employee.

Ms. Gray advised that he is a project employee and tenure will end upon completion of the project.

Assemblymember Ewing queried the number of full-time employees within the Planning Department.

Ms. Nelson:

- related that there are close to 27 employees in the Planning Department;
- stated that the funds for this position came from last year's budget and where unexpended funds; and
- stated that the funds were to be used last year, but that they were unable to.

Assemblymember Ewing queried the amount of the funds.

Ms. Nelson stated that it was \$185,000, for an 18-month project employee position, which also includes hardware, software, and training for the employee.

Assemblymember Bettine queried which department the employee is situated in.

Mr. Krueger stated that the project employee is with Geographic Information Systems (GIS).

Assemblymember Bettine queried if staff has all of the information regarding student density that is needed to move forward.

Mr. Krueger stated that is one of the items that is being discussed with the School District.

Assemblymember Bettine:

- opined that this is an ongoing project;
- further added that there will be a lot of future school site selection processes; and
- requested that the Planning Commission continue to make this a priority.

Deputy Mayor Arvin:

- queried if the analysis will take into account student boundary exemptions at each school;
- stated that he understands that Houston High School is under capacity and that Wasilla High School is over capacity, as there are a lot of students from Houston that go to Wasilla; and
- queried if the analysis will take that into account.

Mr. Krueger stated that they had not considered that information but will be sure to include it.

C. Fish Passage Improvement Project Update – Mr. Bill Rice (*Requested by Administration*)

Mr. Bill Rice, P.E., Hydrologist with the United State Fish and Wildlife Service, provided a presentation regarding the Fish Passage Improvement Project.

Assemblymember Bettine:

- stated that she understands that fish passage is a joint project; and
- queried if the Public Works Department shoulders the responsibility for bidding out the project.

Mr. Rice affirmed the query.

Planning Commissioner Cheezum queried if there were benchmarks for fish populations that would be associated with these types of projects.

Mr. Rice:

- advised that there are very few projects nationwide that look at the change in fish populations;
- opined that due to the large number of culverts, it would be difficult;
- stated that scientists do look at what the impact is on how fish move through culvert areas, such as at the Little Susitna;
- spoke to aquatic research being done regarding pre and post culvert replacement, which have shown notable increases on the upstream sides; and
- further added that after a season, if a change cannot be detected, this would indicate full fish passage.

Assemblymember Keogh queried who does the design engineering for culvert and bridge projects.

Mr. Rice:

- indicated that it depends on the project;
- related that he designs approximately 70 percent of them as he is a licensed engineer;
- stated that other passages have been designed by outside consultants; and
- noted that no designs have come from Borough staff.

Deputy Mayor Arvin inquired if Mr. Rice designed the Engstrom Road project.

Mr. Rice stated that he designed the internal structure of the culvert.

Deputy Mayor Arvin opined that it is an excellent project.

D. Summary of Seward Summit Results *(Requested by Administration)*

Ms. Frankie Barker provided a summary of the Seward Summit Results.

Assemblymember Keogh:

- spoke to the Kenai Peninsula Borough's property buyout project; and
- inquired if there were any such projects forth coming in the Borough.

Ms. Barker:

- stated that she is not very familiar with the Kenai project;
- noted that the Mat-Su Borough did a buyout of properties in the Sutton area in 2007;
- advised that there is one property in Sutton that is currently half in the Matanuska River; and
- related that the Borough is looking at future buyouts.

E. Options for a Process to Adopt Gravel Ordinances *(Requested by Administration)*

Planning Commissioner Zobel:

- stated that he had a previous recusal issue regarding interim materials, due to his work in the industry for a lengthy period;
- stated that he was advised by the Borough Attorney that he could not be involved in discussion of the issue; and
- queried if he understood the Borough Attorney's opinion correctly.

Mr. Spiropoulos:

- advised that only the Board of Ethics can issue a binding opinion;
- stated that if there is a conflict that the conflict does not go away simply because no action is being taken; and
- related that a conflict extends to all steps involved in the process.

Assemblymember Ewing opined that it would not be a conflict for Mr. Zobel to remain in the room and listen.

Mr. Spiropoulos:

- reiterated that only the Board of Ethics can issue a binding opinion;
- stated that traditional practice of the Borough, is that when there is a recusal, that the person leaves the room, in order to avoid appearances;
- stated that it is up to the individual to decide; and
- concluded that the Deputy Mayor can rule on if there is a conflict.

Deputy Mayor Arvin inquired if Planning Commissioner Zobel felt he had a conflict.

Planning Commissioner Zobel stated that he did feel that he had a conflict of interest.

*(Planning Commissioner Zobel exited the meeting at 7:13 p.m.)*

Mr. Krueger:

- stated that in 2005 the Assembly adopted MSB 17.28 and 17.30, which are the regulations that apply to earth materials extraction;
- related that in 2008 the Assembly requested that Administration draft legislation that addressed reclamation, mining below the water table, and a mechanism to support regulation of gravel mining;
- spoke to the numerous recommended changes that have occurred;
- related that staff has drafted potential courses of action for consideration;
- stated that the first option is to continue Assembly discussion on December 7, 2010, on the Planning Commission recommended changes;
- related that the second option is to postpone Ordinance Serial No. 10-018 indefinitely and redirect staff to develop individual ordinances amending existing code that addresses previously expressed Assembly concerns;
- stated that the third option is to postpone the ordinance indefinitely and make no changes to the existing code that applies to sand and gravel mining; and
- spoke to the Assembly being on the course of the first option.

Assemblymember Ewing:

- stated that the Assembly had decided to conduct an additional work session on the legislation on December 7;
- spoke to some of the amendments that the Assembly has made;
- noted that staff has provided the Assembly with different options; and
- opined that there needs to be another option.

Mr. Krueger:

- noted that during Assembly discussions, comments were made by the Assembly on what they would like to see with this ordinance; and
- stated that through the memorandum staff is requesting direction from the Assembly on what they can do to assist the Assembly.

Planning Commissioner Johnson inquired that if the ordinance were to be done in parts, if staff would incorporate the suggestions that were provided by the Planning Commission.

Mr. Krueger:

- stated that the changes recommended by the Planning Commission are currently before the Assembly;
- noted that the legislation will be before the Assembly on December 7, 2010; and
- stated that if there were a series of smaller ordinances rather than the larger ordinance that the current suggested language would be able to be incorporated.

Assemblymember Bettine requested a work session to be scheduled before December 7, 2010.

Discussion ensued regarding the scheduling of an Assembly work session.

Deputy Mayor Arvin:

- stated that there was majority support of the Assembly to incorporate language to address paramount issues;
- opined that it will be a function of the discussion at the next meeting to choose one of the options that Mr. Krueger spoke about; and
- further added that the document has become so onerous that it is over addressing some of the concerns noted by the public.

*(Planning Commissioner Zobel reentered the room at 7:21 p.m.)*

- F. Discussion of Planning Commission Resolutions regarding Open-Pit Mining *(Requested by Planning Commission)*
1. PC Resolution Serial No. 10-31: A RESOLUTION OF THE PLANNING COMMISSION RECOMMENDING THE ASSEMBLY ADOPT THE STATE OF PRINCIPLES FOR OPEN-PIT MINING OPERATIONS WITHIN THE MATANUSKA-SUSITNA BOROUGH, AND CREATE PROCEDURES FOR BOROUGH COMMENTS REGARDING OPEN PIT COAL MINING.
  2. PC Resolution Serial No. 10-32: A RESOLUTION OF THE PLANNING COMMISSION RECOMMENDING THE ASSEMBLY LOBBY THE ALASKA STATE LEGISLATURE FOR CHANGES IN STATE LAW WHICH WOULD CLARIFY THE BOROUGH'S LOCAL CONTROL OVER LAND USE STANDARDS RELATED TO OPEN-PIT COAL MINING AND THE TRANSPORTATION OF COAL IN THE BOROUGH.

*(The joint meeting recessed at 7:22 p.m. and reconvened at 7:35 p.m.)*

Planning Commissioner Cheezum:

- congratulated Assemblymembers Woods and Keogh on being elected and Assemblymember Arvin as being selected as Deputy Mayor;
- provided a background summary of the Borough's powers regarding open-pit mining;
- stated that it is not the intent of the Planning Commission to stop coal mining, but to lessen potential conflicts;
- noted that coal mining is part of the Borough Economic Development Plan;
- advised that nowhere in Alaska is there an open pit coal mine within a quarter-mile radius of residences;
- stated that the resolutions are intended to alleviate conflicts;
- opined that Resolution Serial No. 10-031 is an attempt to come up with principals and procedures that will provide guidelines for the Borough to provide comments to the State;
- spoke to the need to have a plan to make resource development compatible with community development;
- opined that a process needs to be developed to look at the science and find the best way to handle dust suppression; and
- related that the basis for Resolution Serial No. 10-032 is the request for the Assembly to lobby the State for changes to the Alaska Administrative Code as it relates to coal mining.

Assemblymember Bettine queried the Borough Attorney's opinion regarding the Planning

Commission resolutions.

Mr. Spiropoulos:

- advised that the Surface Coal Mining Act states that the Department of Natural Resources (DNR) has exclusive jurisdiction;
- related that strong language such as “exclusive jurisdiction” is not found in many other statutes; and
- further added that other statutes recognize the need for local control to not be diminished.

Assemblymember Bettine queried if there were a Borough-wide ordinance that regulates noise and light pollution if Usibelli would have to abide by it.

Mr. Spiropoulos:

- advised that unless DNR directed Usibelli to do so, as DNR has exclusive jurisdiction that Usibelli would not have to follow the Borough ordinance;
- stated that exclusive jurisdiction means exactly that;
- provided examples of exclusive jurisdiction;
- advised that it is an extremely narrow exclusive jurisdiction type language; and
- noted that all other types of natural resources require conditional use permits, except coal because of that language.

Assemblymember Ewing opined that the Borough is trying to supersede State powers with these resolutions, which is likely to fail.

Assemblymember Keogh:

- thanked Planning Commissioner Cheezum for constructing the resolutions;
- opined that thanks are especially due to the people that are residents of the area impacted;
- noted that those persons who spoke in opposition to the resolutions this evening are not residents of the Borough;
- further added that the majority of those in support are predominantly District One residents;
- stated that it is very likely that this project will go forward; and
- queried if the Borough Attorney had an opportunity to look at the resolutions for substantive issues.

Mr. Spiropoulos advised that the Planning Commission is requesting that the Assembly lobby the State to remove the State’s exclusive jurisdiction, which could be quite an issue.

Assemblymember Keogh queried if that is the purview of the Assembly.

Mr. Spiropoulos stated that it is up to the Assembly if they would like to proceed in this way, but he is unsure of the chances of success.

Planning Commissioner Cheezum:

- opined that the resolutions are begging documents;
- further added that the Planning Commission is requesting that the legislature give the Borough some local control; and
- stated that this is an attempt to take the small bit of authority that the Borough has to try to mitigate the impact on the community.

Discussion ensued regarding:

- resource development within the Borough;
- community impact due to coal mining;
- potential legal issues with the Planning Commission resolutions;
- lobbying the legislature for local control;
- zoning within the Borough;
- purchasing homes within mining districts;
- air quality being impacted by glacial silt being comparable to coal dust;
- appearance of being in opposition to the mining industry;
- health concerns as a result of coal mining;
- the Institute of Social and Economic Research (ISER) report; and
- the possibility of mitigating impacts to the community.

G. Planning Department Work Program *(Requested by Administration)*

Ms. Nelson provided a report regarding current and upcoming projects within the Planning Department.

Assemblymember Bettine queried how many employees are within the Permitting Center.

Ms. Nelson:

- stated that there are three full-time positions that are designated for the permit center;
- further added there are two permit technicians that were reclassified from administrative positions;
- stated that when the Permit Center took on drive way permits, utility permits and right-of-way construction permits, a right-of-way specialist came from Public Works;
- advised that there are also two 1,000 hour temporary employee positions, which are paid by Public Works in order to provide administrative support to the Permit Center;
- related that processing time for driveway permits has decreased from two months to two weeks;
- further added that the utility permit processing is up to date;
- spoke to the positive feedback from the community; and
- related that the Permit Center will be taking over the processing of Talkeetna Sewer and Water permits.

H. Wasilla Alternative Access Corridor Presentation: Tom Brigham (HDR) and Allen Kemplen (ADOT) *(Requested by Administration)*

Mr. Tom Brigham, of HDR, Inc. and Mr. Allen Kemplen, Alaska Department of Transportation

provided a presentation regarding the Wasilla Alternative Access Corridor.

Planning Commissioner Bruu noted that a Wasilla bypass has been spoken about for numerous years.

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

VOTE: The motion passed without objection.

~~VII. EXECUTIVE SESSION (for subjects that tend to prejudice the reputation and character of any person provided the person may request a public discussion.)~~

~~A. FILLING THE VACANCY OF THE BOROUGH MANAGER: REVIEW OF CANDIDATES, CANDIDATES QUALIFICATIONS, AND INTERVIEW QUESTIONS~~

*(The executive session was pulled from the agenda at the approval of the agenda and was not held.)*

## VIII. PLANNING COMMISSION, MAYOR, ASSEMBLY, AND STAFF COMMENTS

Ms. Gray stated that she enjoys working with the joint body.

Ms. McKechnie:

- spoke to the two proposed dates for a joint meeting with the Municipality of Anchorage (MOA);
- stated that the Assembly had chosen December 9, 2010;
- advised that the MOA had advised that December 9, 2010, would no longer work;
- queried if the Assembly would like to reschedule the meeting to December 6, 2010; and
- noted that the meeting would be held in Eagle River.

There was no objection noted.

Planning Commissioner Anderson stated that he enjoys the joint meetings.

Planning Commissioner Zobel:

- stated that he also enjoys the joint meetings; and
- opined that a lot was accomplished this evening.

Planning Commissioner Cheezum thanked the body for the joint discussion.

Assemblymember Keogh:

- noted that this was his first joint Assembly/Planning Commission meeting; and
- stated that he is looking forward to working with the joint body.

Assemblymember Woods stated that he is looking forward to working on economic development.

Assemblymember Ewing thanked the Planning Commission for their hard work.

Assemblymember Bettine:

- thanked the body for their hard work; and
- opined that Deputy Mayor Arvin did an outstanding job running the meeting.

## IX. ADJOURNMENT

The joint meeting adjourned at 9:59 p.m.



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RONALD ARVIN, Deputy Borough Mayor

ATTEST:



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LONNIE R. McKECHNIE, CMC, Borough Clerk

Minutes approved: 11/23/10