

I. CALL TO ORDER

The regular meeting of the Matanuska-Susitna Borough Assembly was held on November 1, 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.

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*) (*attended telephonically*)
- Mr. Steve Colligan, Assembly District No. 4
- Mr. Darcie K. Salmon, Assembly District No. 5
- Mr. Jim Colver, Assembly District No. 6
- Mr. Vern Halter, Assembly District No. 7

Staff in attendance were:

- Ms. Lonnie R. McKechnie, Borough Clerk
- Mr. John Moosey, Borough Manager
- Ms. Elizabeth Gray, Assistant Borough Manager
- Mr. Nicholas Spiropoulos, Borough Attorney
- Ms. Jamie Newman, Deputy Borough Clerk
- Ms. Tammy Clayton, Finance Director
- Ms. Eileen Probasco, Acting Planning and Land Use Director
- Mr. Dennis Brodigan, Emergency Services Director
- Ms. Patty Sullivan, Public Affairs Director
- Mr. Alex Strawn, Permitting Services Manager

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 Assemblymember Steve Colligan.

V. MINUTES OF PRECEDING MEETINGS

- A. Special Assembly Meeting: 09/20/11
- B. Regular Assembly Meeting: 09/20/11
- C. Special Assembly Meeting: 09/29/11

Mayor DeVilbiss inquired if there were any corrections to the special meeting minutes of September 20, 2011, the regular meeting minutes of September 20, 2011, or the special meeting minutes of September 29, 2011.

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

VI. REPORTS/CORRESPONDENCE

A. AGENCY REPORTS

1. Reports from cities

Wasilla City

Mr. Bert Cottle, City of Wasilla Deputy Administrator:

- reported that the public notices regarding the transfer of Lake Lucille park are currently being published in the newspaper;
- noted that the train to Fairbanks for the Alaska Municipal League Conference is scheduled to depart from the Wasilla Depot on Sunday, November 6, 2011, at 8:15 a.m.;
- stated that a resolution supporting the expansion of the Wasilla Library will be coming forward to the Assembly; and
- welcomed newly elected Assemblymembers Colligan and Salmon.

2. Matanuska-Susitna Borough School District

(There was no report provided.)

B. COMMITTEE REPORTS

1. Joint Assembly/School Board Committee on School Issues

Assemblymember Colver reported that the next meeting is scheduled to take place on Monday, November 7, 2011.

2. Assembly Public Relations

Assemblymember Keogh:

- reported that he recently met with officials from the Alaska State Department of Natural Resources (DNR) regarding a letter sent to the Assembly approximately 10 months ago related to the Wishbone Hill mine;
- noted that he spoke with DNR in his personal capacity and not on behalf of the Assembly;
- reported that he asked DNR if they would be willing to meet with the project developer and concerned citizens regarding environmental impacts from the mine in an effort to find consensus; and
- announced the Sutton Library recently received \$60,000 in donations.

Mayor DeVilbiss reported he is scheduled to appear on the talk radio programs Home Town Alaska and the Glen Beigel Show.

Assemblymember Woods reported that he recently met with officials from the City of Palmer and the School District to discuss support for field improvements for recreational activities such as football and soccer.

C. MANAGER COMMENTS

1. State/Federal Legislation

Mr. Moosey:

- requested confirmation from the Assembly in scheduling a joint Assembly/State Legislative Delegation meeting;
- disclosed that Resolution Serial No. 11-132, incorrectly stated that the Borough is applying for a grant in the amount of 2.6 million, however, the eligibility threshold is 2.8 million;
- noted legislation to modify the grant amount will be presented to the Assembly, however staff is applying for the 2.8 million pending Assembly approval;
- reported he met with Senator Huggins to discuss legislative priorities; and
- stated Mr. Alex Strawn, Permitting Services Manager, is present to talk about a letter to property owners within designated Special Flood Hazard Areas.

Mr. Strawn provided a report on the letter that residents received in the special flood hazard area.

Assemblymember Colligan:

- spoke about technical challenges faced by the Borough related to mapping flood areas; and
- talked about the difficulty of meeting national flood plain mapping standards in Alaska due to a lack of data.

Discussion ensued regarding the application and implementation of national flood hazard development standards within the Borough.

Assemblymember Arvin requested an update on the Transportation Investment Generating Economic Recovery (TIGER) grant for the ferry landing.

Ms. Probasco advised that staff worked on the TIGER grant through the weekend and that it was submitted on Sunday.

2. Strategic Planning Issues

(There were no comments provided)

D. ATTORNEY COMMENTS

Mr. Spiropoulos:

- announced that the Borough is heading toward settlement in the land fill cell-three litigation case;
- reported the Petersburg plaintiffs in the redistricting case have moved for summary judgment as to House District 38;
- stated it appears Fairbanks is seeking to have their claims dismissed in the redistricting case;
- expressed concern with the delegation of taxing powers to a Regional Transportation Authority (RTA) as drafted in Senate Bill 152;
- suggested that Senate Bill 152 conflicts with state law; and
- noted the intent of the Assembly was to establish the RTA as an independent legal entity not supported by a governmental entity.

E. CLERK COMMENTS

Ms. McKechnie:

- spoke in regard to the upcoming Assembly meeting schedule;
- reported Ms. Sharon Huckins will serve as acting clerk during her attendance at the Alaska Association of Municipal Clerks conference in Fairbanks; and
- noted the 2012 Assembly meeting schedule will be coming forward for consideration on November 15, 2011.

F. CITIZEN AND OTHER CORRESPONDENCE

1. MSB Board/Committee Minutes:
 - a. Caswell FSA Board of Supervisors: 08/10/11
 - b. Citizens Advisory Committee on the Goose Creek Correctional Center: 01/05/11
 - c. Enhanced 911 Advisory Board: 04/12/11
 - d. Mayor's Blue Ribbon Sportsmen's Committee: 07/21/11
 - e. Platting Board: 07/28/11, 08/04/11, 08/18/11
 - f. Port Commission: 08/15/11, Resolution Serial No. 11-009, 11-010
 - g. Talkeetna Sewer and Water Advisory Board: 08/03/11
 - h. Wasilla-Lakes FSA Board of Supervisors: 08/08/11
 - i. West Lake FSA Board of Supervisors: 01/03/11, 05/09/11
2. Community Council Correspondence:
 - a. Chickaloon Community Council: 06/08/11

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

Assemblymember Salmon asked for clarification on the Board/Committee minutes in terms of length, content, and timeliness to the Assembly.

Ms. McKechnie:

- reported that numerous Borough boards and commissions do not have support staff to prepare meeting minutes;
- noted that some boards and commissions do not meet more than twice per year;

- clarified that at the direction of the Assembly draft minuets are not presented in the Assembly meeting packet to ensure accurate reporting; and
- spoke about proactive measures to ensure the timely submission of minutes.

G. INFORMATIONAL MEMORANDUMS

1. IM No. 11-248: MEETING PROTOCOL WHEN THE DEPUTY MAYOR IS NOT PHYSICALLY PRESENT.

The informational memorandum was presented and no comments were noted.

Mayor DeVilbiss:

- affirmed that Assemblymember Salmon will serve as deputy mayor in the absence of Deputy Mayor Arvin; and
- noted that the Policies and Procedures of the Assembly and Mayor will be presented to the Assembly on November 15, 2011; and
- encouraged a thorough review of the document.

VII. UNFINISHED BUSINESS

- A. Ordinance Serial No. 11-078: AN ORDINANCE AMENDING THE “OPERATING RULES, RATES, AND PROCEDURES FOR THE SUPPLY OF PUBLIC SEWER AND WATER SYSTEMS IN TALKEETNA, ALASKA,” BY INCREASING THE RATES FOR MONTHLY WATER AND SEWER CHARGES AND INTERRUPTED SERVICES FEES.
1. IM No. 11-133

MOTION PENDING: Assembly Member Halter moved to adopt Ordinance Serial No. 11-078. *(Motion on the floor from the July 19, 2011, Regular Meeting.)*

Assemblymember Halter:

- spoke about the financial impact to customers as a result of the rate increase averaging \$44 per month;
- reported that residents are concerned with their ability to absorb the increase; and
- expressed opposition to the legislation without alternatives from staff in regard to service area expansion and the number of people paying into the water and sewer service area.

Assemblymember Keogh asked for a historical overview of the Talkeetna sewer and water system.

Assemblymember Colver queried as to the amount of debt to be retired as a result of the proposed rate increase.

Ms. Clayton advised that there are three loans with the total amount outstanding of \$141,500.

Discussion ensued regarding:

- the possibility of a capital appropriation; and
- the need to find a solution to the issue.

MOTION: Assemblymember Halter moved to postpone Ordinance Serial No. 11-078 to a time certain of December 20, 2011, and to request staff to come back with a plan to retire the debt and to broaden the number of people paying into the service area.

VOTE: The motion passed without objection.

B. Resolution Serial No. 11-134: A RESOLUTION APPROVING FEDERAL PRIORITIES FOR THE MATANUSKA-SUSITNA BOROUGH FOR THE CALENDAR YEAR 2012

1. IM No. 11-237

MOTION PENDING: Assembly Member Keogh moved to adopt Ordinance Serial No. 11-134. (*Motion on the floor from the October 18, 2011, Regular Meeting.*)

Mr. Moosey:

- requested that the Port MacKenzie Rail Extension Project be deleted from the federal priorities list; and
- expressed concern that should the federal government provide funding that more requirements would be placed on the project and slow it down.

MOTION: Assemblymember Keogh moved a primary amendment to strike the “Port MacKenzie Rail Extension” in the amount of “\$60 million” from the list of capitol priorities.

MOTION: Assembly Member Arvin moved a secondary amendment to reinsert the “Port MacKenzie Rail Extension Project” under legislative priorities without the dollar amount.

VOTE: The secondary amendment passed without objection.

VOTE: The primary amendment passed without objection.

VOTE: The main motion as amended passed without objection.

(The regular meeting recessed at 7:07 p.m. and reconvened at 7:17 p.m.)

VIII. VETO

(There were no vetoes presented.)

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

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. 11-074: AN ORDINANCE AMENDING MSB 17.60.010; REPEALING SECTION 17.60.140, TALL STRUCTURES, INCLUDING BUT NOT LIMITED TO, TOWERS, TOWER FARMS, TOWER ROUTES, AND TOWER SERVICE AREA GRIDS; AMENDING 17.125, DEFINITIONS; AND ADOPTING MSB 17.66, TALL STRUCTURES, INCLUDING TELECOMMUNICATION FACILITIES, WIND ENERGY CONVERSION SYSTEMS, AND OTHER TALL STRUCTURES.
 - a. Resolution Serial No. 11-083: A RESOLUTION ESTABLISHING FEES FOR 17.66, TALL STRUCTURES, INCLUDING TELECOMMUNICATION FACILITIES, WIND ENERGY CONVERSION SYSTEMS, AND OTHER TALL STRUCTURES.
 - (1) IM No. 11-074

CONFLICT OF INTEREST: Assemblymember Colver declared a conflict of interest noting GCI is a client in his surveying business and correspondence from GCI was received requesting changes to the legislation.

RULING: Mayor DeVilbiss ruled that Assemblymember Cover had a conflict of interest and would be recused from voting on the issue.

(Assemblymember Cover exited the meeting at 7:19 p.m.)

Mayor DeVilbiss opened the public hearing.

The following persons spoke in opposition to Ordinance Serial No. 11-074 if it applied to ham radio operators: Mr. Pat Brown, Board Member of Mat-Su Amateur Radio Association; Mr. John Mears; Mr. Ken Slauson; Mr. George Strother; Mr. Steve Tully; Mr. Scott Steward; Mr. Doug Glenn; Mr. Mark Allen, Mr. Don Bush, Mr. Jim Sykes; Mr. Terry Clark; and Mr. Marvin Yoder.

The following person spoke to being on the Towers Working Group and requested further refinement of the legislation: Mr. Rod Ewing.

The following person spoke to promoting co-location on towers and the need to provide an expedited path for carriers to build tall towers: Mr. Martin Weinstein, In-house Counsel for GCI.

The following person spoke in favor of the public process that was used in drafting the legislation and in opposition to the legislation as it is currently written: Mr. John Klapperich.

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

MOTION: Assemblymember Salmon moved to adopt Ordinance Serial No. 11-074 and Resolution Serial No. 11-083.

MOTION: Assemblymember Halter moved a primary amendment to exempt amateur radio towers entirely from the legislation as adopted in Planning Commission Resolution 10-36.

Mayor DeVilbiss queried whether the exemption of the ham operators was inadvertently left out of the legislation.

Mr. Strawn:

- advised that the Planning Commission did recommend that amateur radio towers be exempt; and
- recommended should the Assembly decide to exempt amateur radio towers to use the language that the Planning Commission used in their resolution, as it is in multiple parts of the ordinance.

Assemblymember Arvin:

- expressed frustration with staff not following the direction of the Assembly which was to exempt amateur radio operation from the proposed legislation; and
- spoke in support of the proposed amendment.

Mr. Strawn:

- advised that there was discussion with the formal Planning Director and it was directed that the language stay in the legislation;
- noted that this would apply to few amateur radio tower;
- advised that at the time it was viewed as a life safety issue; and
- stated at the time it was a different Assembly who felt there was a need for structural setback and protecting neighboring property owners.

Assemblymember Salmon expressed concern with staff incorporating language into the legislation contrary to recommendations of the Towers Working Group.

VOTE: The primary amendment passed without objection.

MOTION: Assemblymember Keogh moved a primary amendment as requested by staff to Section 3, as follows:

- MSB 17.66.030(A)(5)(b), insert the word “upland” before the word “boundary;”
- MSB 17.66.040(E), insert the letter “s” at the end of the word “permit;”
- MSB 17.66.130(A), strike the “(1)” that is blank;

- MSB 17.66.150, strike “(B) and (C)” and insert the wording under “(A)” to read: The provisions of MSB 15.39 govern appeals from a decision of the commission, of a director, and of a directors enforcement action; and
- MSB 16.66.160, by replacing the following:
 - “(G)” with the letter “(F);”
 - “(H)” with the letter “(G);”
 - “(I)” with the letter “(H);”
 - “(M)” with the letter “(I);” and
 - “(N)” with the letter “(J).”

VOTE: The primary amendment passed without objection.

Assemblymember Colligan:

- asked what issues in addition to setback and view shed compelled the legislation;
- noted that more tall towers equate to less overall towers; and
- opined that protecting view shed does not necessarily outweigh the public’s need for reliable communication.

MOTION: Assemblymember Arvin moved a primary amendment to strike Section 3 in its entirety as follows:

17.66.010 PURPOSE AND INTENT

(A) The purpose of this chapter is to establish regulations for the siting of telecommunication facilities, Wind Energy Conversion Systems (WECS), and other tall structures.

(B) It is the intent of the borough to enable the orderly build-out of wireless telecommunication infrastructure, WECS, and other tall structures while promoting the health, safety, and general welfare of the public by:

- (1) facilitating the organized deployment of wireless telecommunication networks;
- (2) minimizing the overall number of future towers within the borough by encouraging the collocation of telecommunication equipment on existing and future structures;
- (3) encouraging potential applicants for new tall structures to involve citizens early in the process so that concerns can be mitigated prior to application for permits;
- (4) requiring consideration of and compatibility with the goals and objectives of the Borough-Wide Comprehensive Plan and other applicable regulations.
- (5) minimizing potential hazards associated with tall structures;
- (6) encouraging the placement of tall structures in a manner that minimizes the negative effects on the visual and scenic resources of all surrounding properties;

17.66.020 APPLICABILITY

(A) This chapter applies to all private and public lands in the borough except within the incorporated city limits of Houston, Palmer, and Wasilla.

(B) The requirements of this chapter shall supersede the tall structure requirements of special land use districts within the borough, except that special land use districts may provide additional regulations for:

- (1) a reduced height at which a permit is required under this chapter;
- (2) vegetative screening and other camouflage techniques;
- (3) the color of tall structures;
- (4) tower type (monopole, lattice, guyed);
- (5) lighting requirements that are not in conflict with requirements of the Federal Aviation Administration; and
- (6) increased setbacks.

(C) This chapter shall apply to all tall structures taller than 85 feet including but not limited to:

- (1) amateur radio towers;
- (2) broadcast facilities;
- (3) telecommunication towers;
- (4) wind energy conversion systems;
- (5) tall structures as defined by MSB 17.125.

(D) Permits are required prior to construction of all new tall structures except as allowed by MSB 17.66.170 Repair and Replacement.

(E) Permits under this chapter shall not be approved unless the applicant has provided evidence demonstrating that the proposal conforms to the applicable provisions of this chapter.

(F) This chapter does not regulate the removal or reorientation of equipment (including lines and antennae) on a telecommunication facility.

17.66.030 EXEMPTIONS

(A) The following items are exempt from the provisions of this chapter:

(1) Temporary tall structures, including but not limited to drilling derricks and construction cranes which are utilized on active construction projects or are on site less than 180 calendar days total within a consecutive 12-month period and are not intended to routinely reoccur on the same site.

(2) Temporary telecommunication facilities, upon the declaration of a state of emergency by federal, state, or local government. Such facilities must comply with all federal and state requirements. Temporary telecommunication facilities may be exempt from the provisions of this chapter up to 12 months after the duration of the state of emergency. An additional extension, no longer than 12 months, may be granted by the director upon written request and determination that the telecommunication facilities continues to be necessary for post-emergency operations.

(3) Temporary telecommunication facilities constructed for the purposes of providing coverage of a special event such as news coverage or sporting event, except that such facilities must comply with all federal and state requirements. Said telecommunication facilities are exempt from the provisions of this chapter up to 15 calendar days prior to the event and an additional 15 days after the duration of the special event.

(4) Essential service utilities as defined by MSB 17.05.

(5) Tall structures within the boundaries of industrial districts designated by borough code that are both:

(a) less than 205 feet in height; and

(b) located more than one-half mile from the outer boundary of the district.

(6) Lighting support structures less than 185 feet in height that are constructed for the Alaska Department of Transportation, are located within a right of way, and are used exclusively for illuminating major arterials and highways.

(7) Amateur radio towers in existence prior to July 26, 2001.

17.66.040 GENERAL PERMIT PROCESS FOR TALL STRUCTURES

(A) For all permits under this chapter, the director may reject any application that fails to meet the requirements of this chapter. The rejection shall be issued, in writing, within 15 calendar days of receipt of an application under this chapter and shall state the deficient items.

(1) Upon determination of a complete application, the director shall notify surrounding property owners in accordance with MSB 17.03, except that:

(a) the notification area will be one-half mile;

(b) if applicable, the notification shall include all individuals who were notified of, or submitted comments at the community meeting required by MSB 17.66.050(B)(2).

(B) In granting or denying a permit for a new tall structure, written findings of fact and determinations of law shall be issued and shall include conditions as deemed appropriate to protect the public health, safety or general welfare. Conditions set by the commission for a conditional use permit or by the director for administrative permits may include but are not limited to the following:

(1) height limitations;

(2) increased height or structural capacity of a proposed tower to accommodate future collocation;

(3) mitigation of drainage concerns;

(4) setbacks;

(5) tower type (monopole, lattice, guyed);

(6) color;

(7) landscaping;

(9) parking;

(10) screening;

(11) signage;

(12) lighting to be installed and maintained in accordance with Federal Aviation Administration AC 70/7460-1;

(13) visual impacts.

(C) Within six months of a tall structure being constructed, an as-built drawing, stamped or sealed by a registered professional land surveyor licensed in accordance with 12 AAC 36, shall be submitted to the department indicating the location of the tall structure, access, fencing, property lines and lease boundaries.

(D) For conditional use permits reviewed by the commission:

(1) a public hearing shall be held by the commission within 60 calendar days of receipt of a complete application;

(2) the commission shall render a decision within 30 calendar days from the close of public hearing.

(E) For administrative permit reviewed by the Director, a decision granting or denying the permit shall be made within 60 days of receipt of a complete application.

17.66.050 PRE-APPLICATION REQUIREMENTS FOR NEW TALL STRUCTURES

(A) A new tall structure requires a pre-application conference with department staff to discuss the proposal.

(1) Staff shall schedule a meeting to take place within 10 calendar days of submittal of a complete pre-application meeting form.

(2) The form shall include:

(a) A description of the type of service the proposal is intended to provide;

(b) a map that displays the search ring;

(c) a map displaying the gap in service that is intended to be covered by the proposal;

(d) parcels within the search ring under consideration;

(e) potential tower height at each parcel or geographic area under consideration;

(3) The purpose of the pre-application conference is for the applicant to discuss with staff the proposed development and for staff to inform the applicant of the borough's development policies, permit requirements, additional pre-application requirements, encourage co-location, and discuss any additional requirements related to the application.

(4) The pre-application conference is not an acceptance of the potential applicant's proposal. No proceeding under this section binds the planning commission or borough staff in their review of any proposal or relieves a potential applicant of the responsibility of becoming independently familiar with the procedures and standards for approval of an application.

(B) Subsequent to the pre-application conference but prior to application for a new telecommunication tower, the potential applicant shall:

(1) mail a notice, via certified mail, to all other wireless service providers licensed to provide service within the borough. The notice shall include the following:

(a) location of the proposed telecommunication facility;

(b) height of proposed tower or towers;

(c) type of service the telecommunication facility will provide;

(d) a request for other wireless service providers to notify borough staff of the need for placing their antenna on the proposed facility;

(e) a time limit of not less than 20 calendar days to respond.

(2) Hold at least one community meeting after the required pre-application meeting.

(a) The meeting shall be held at the nearest facility where community council meetings are regularly scheduled. If the facility is not available, the nearest available public facility that is capable of seating a minimum of 20 people shall be utilized;

(b) the meeting shall be held at least 21 calendar days after mailing of the notification;

(c) the meeting shall be scheduled to last a minimum of three hours and shall not start prior to 5:00 p.m.;

(d) notification of the meeting shall, at a minimum, include the following:

(i) legal description and map of the general parcel, or parcels, within the coverage area under consideration for the telecommunication facility;

(ii) description of the proposed development including height, design, lighting, potential access to the site and proposed service;

(iii) date, time, and location of informational meeting;

(iv) contact name, telephone number, and address of applicant; and

(v) comment form created by the borough that has a comment submittal deadline and provides options for submitting comments.

(c) At a minimum, the notification area for the meeting shall include the following:

(i) property owners within one-half mile of the parcels under consideration for the proposed tall structure;

(ii) the nearest community council and any community council whose boundary is within one-half mile of the parcels under consideration for the tall structure; and

(iii) other interested parties who have requested that they be placed on the interested parties notification list maintained by the department.

(3) prepare a written report summarizing the results of the community meeting that includes the following information:

(a) dates and locations of all meetings where citizens were invited to discuss the potential applicant's proposal;

(b) content, dates mailed, and numbers of mailings, including letters, meeting notices, newsletters and other publications;

(c) sign-in sheet(s) used at the meeting, that includes places for names, addresses, phone numbers and other contact information such as e-mail addresses;

(d) a list of residents, property owners, and interested parties who have requested in writing that they be kept informed of the proposed development through notices, newsletters, or other written materials; and

(e) the number of people who attended meetings.

(f) copies of written comments received at the meeting;

(g) a certificate of mailing identifying all who were notified of the meeting;

(h) a written summary that addresses the following:

(i) the substance of the public's written concerns, issues, and problems;

(ii) how the applicant has addressed, or intends to address, concerns, issues and problems expressed during the process; and

(iii) concerns, issues, and problems the applicant has not addressed or does not intend to address and why.

17.66.060 GENERAL APPLICATION REQUIREMENTS FOR NEW TALL STRUCTURES

(A) An application for a conditional use or administrative permit to construct a new tall structure may be initiated by a property owner or the owner's authorized agent and shall include:

(1) completed application form provided by the department and signed by the property owner and the applicant;

(2) fee in the amount designated in MSB 17.99;

(3) citizen participation report in accordance with MSB 17.66.050(B)(3);

(4) a certified site plan, drawn to scale, which clearly indicates:

(a) all property lines and the lease area;

(b) location of existing structures on the parcel;

(c) location of proposed tall structures and their fall radius;

(d) means of access;

(e) proposed fencing;

(f) adjacent public easements and rights-of-way;

(g) location of all above ground utility lines and structures within the fall radius;

(h) existing and proposed topographical features within 200 feet of the tall structure or any area outside the 200 feet radius that may be graded or modified. Contours shall be:

(i) a scale of one inch equals 50 feet (1"=50'), or more detailed;

(ii) 2-foot intervals, if average grade is less than 10 percent; and

(iii) 4-foot intervals if grade is greater than 10 percent.

(h) points where site drainage could exit the parcel or is within 200 feet of a stream, lake, or drainage corridor;

(i) proposed drainage control systems, for improved or new access roads;

(5) description of the tall structure's potential impacts on the visual and scenic resources of all surrounding properties. The description shall be supplemented by:

(a) a minimum of four photographs with scaled simulations of the proposed tall structure, taken from the nearest public rights-of-way or

property line, each facing different boundaries of the subject parcel, that show the greatest visible portion of the tall structure;

(i) the requirement for a photographic simulation may be waived if no right-of-way or property line exists within one-half mile of an aspect of the subject parcel.

(b) a map indicating the location of the photographs and distance from the points at which the photographs were taken to the proposed site.

(6) copy of a determination of no hazard to air navigation from the Federal Aviation Administration.

17.66.070 ADDITIONAL APPLICATION REQUIREMENTS FOR NEW TELECOMMUNICATION TOWERS

(A) The requirements of this section are in addition to the general application requirements for tall structures required by MSB 17.66.060.

(B) A statement and supporting documents demonstrating that the requested height is the minimum height necessary to meet the applicants needs. For broadcast facilities, documentation shall include a copy of Federal Communications Commission Form 351/352 Construction Permit or application for Construction Permit and Federal Aviation Administration Form 7460/2 to be considered prima facie evidence of the tower height required for the broadcast facility.

(C) If breakpoint technology is intended to be utilized, a written statement specifying the height at which the engineered structural weakness will be located;

(D) If the tower is to be built such that the fall radius intersects a property line, the following shall be stamped or sealed by a professional engineer licensed in accordance with 12 AAC 36 and provided to the department prior to final issuance of a permit:

(1) engineered foundation and structural plans that meet or exceeds International Building Code standards for wind speed, snow load, and earthquake standards for the region; and

(2) a statement that the proposed loading capacity of the tower is compliant with the most current version of EIA/TIA 222 as defined by MSB 17.125.

(E) For towers that qualify for an administrative permit in accordance with MSB 17.66.080, the required site plan shall show individual portions of the lease area that are designated for each provider intending to place equipment on the tower.

17.66.080 CRITERIA TO QUALIFY FOR AN ADMINISTRATIVE PERMIT

(A) To qualify for an administrative permit for a new telecommunication tower, the applicant shall provide a letter of intent signed by additional providers for collocation for a minimum of five years, and for collocation of a minimum of:

(1) tower height up to 125 feet in height with one additional carrier; or

(2) tower height up to 145 feet in height with two additional carriers.

(B) Administrative permits under this section shall be in accordance with all requirements for new tall structures under this chapter except that a decision granting or denying a permit shall be made by the director.

17.66.090 APPLICATION REQUIREMENTS FOR A CONDITIONAL USE PERMIT

(A) Applications for new telecommunication towers, but excluding broadcast facilities, and towers that qualify for an administrative permit in accordance with MSB 17.66.080, shall include the following:

(1) a report and supporting technical data demonstrating that all less intrusive sites that are potentially available and technically feasible including but not limited to antenna attachments and collocations, have been examined, and found unacceptable. The report and technical data shall include but not be limited to:

(a) a list of all telecommunication facilities within five miles of the proposed site;

(b) documentation demonstrating that the applicant has explored collocation possibilities on all existing tall structures located within two miles of the proposed telecommunication facility but was unable to because:

(i) existing tall structures do not meet the applicant's engineering requirements; or

(ii) existing tall structures do not have adequate space; or

(iii) existing tall structures do not have sufficient structural integrity to support the applicant's proposed antennas and related equipment; or

(iv) the owner of the tall structure has indicated that there is no lease space available; or

(v) other limiting factors that render existing telecommunication facilities unsuitable.

(c) a statement of compliance with all Federal Communications Commission rules regarding interference of other radio services and human exposure to radio frequency energy.

(d) Technical data included in the report regarding service gaps or service expansions that are addressed by the proposed telecommunication facility shall be certified by a registered professional engineer or other qualified professional, and shall include accompanying maps and calculations demonstrating the need for the proposed telecommunication facility and the projected coverage of the proposed facility.

17.66.100 STANDARDS FOR APPROVAL OF NEW TALL STRUCTURES

(A) A permit for a new tall structure may only be approved if it meets the requirements of this section in addition to any other applicable standards required by this chapter.

(B) In granting or denying a permit, the commission or director shall make findings that the applicant has demonstrated that:

(1) To the extent that is technically feasible and potentially available, location of the new tall structure is such that the tall structure's negative effects on the visual and scenic resources of all surrounding properties have been minimized.

(2) Visibility of tall structures from public parks, trails, and water bodies have been minimized to the extent that is technically feasible and potentially available.

(3) Surrounding topography, vegetation, and structures have been utilized, to the extent feasible, to minimize the tall structure's potential negative effects on the visual and scenic resources of all surrounding properties.

(4) The proposed development does not interfere with the approaches to any existing airport or airfield that are identified in the MSB Regional Aviation System Plan or by the Alaska State Aviation System Plan.

(5) All applicable operational standards of this chapter have been or will be met upon construction and operation.

17.66.110 STANDARDS FOR COMMISSION APPROVAL OF NEW TELECOMMUNICATION TOWERS

(A) In addition to the standards for approval of new tall structures required by MSB 17.66.100, the commission shall develop findings that the applicant demonstrated:

(1) the gap in service cannot be remedied by any less intrusive sites that are potentially available and technically feasible including but not limited to collocation or attachment on existing structures;

(2) the gap in service cannot be remedied by increasing the height of an existing tower; and

(3) the operation standards required by MSB 17.66.120 and MSB 17.66.130 have been or will be met as a result of the permit being granted.

17.66.120 OPERATION STANDARDS FOR NEW TALL STRUCTURES

(A) The following standards shall apply to all new tall structures regulated under this chapter:

(1) Tall structures shall comply with setback requirements specified in MSB 17.55 except that a 25-foot separation shall be maintained from any side or rear lot line. If the front lot line is not adjacent to a public right-of-way, then the front line setback shall be 25 feet.

(a) When determining setbacks for towers, the setback shall be measured from the outer edge of the tower base.

(b) Guys, guy anchors, and accessory facilities shall meet setback requirements specified in MSB 17.55.

(c) Setbacks shall be determined from the dimensions of the entire lot, even though the tall structures may be located on lease areas within the lots.

(3) Stormwater resulting from the tall structure and related improvements shall be contained within the subject parcel.

(4) For towers that are built such that the fall radius intersects a property line, a maintenance and condition report based on an on-site inspection signed by a professional engineer licensed in accordance with 12 AAC 36 shall be submitted to the department at least as frequent as every three years for guyed towers and once every five years for self-supporting towers.

(5) Adequate vehicle parking shall be provided on the subject property, outside of public use easements and rights-of-way to enable emergency vehicle access.

(a) no more than two spaces per provider shall be required.

17.66.130 ADDITIONAL OPERATION STANDARDS FOR TELECOMMUNICATION TOWERS

(A) The following requirements apply to all new and existing telecommunication towers regulated under this chapter:

(1) Signs advertising the tower owner and carriers on the tower may be posted at the equipment compound, otherwise signage shall be limited to what is required by this section and any other information required by government regulation.

(2) The following signage shall be visibly posted at the equipment compound:

(a) informational signs for the purpose of identifying the tower such as the antenna structure registration number required by the Federal Communications Commission, as well as the party responsible for the operation and maintenance of the facility;

(b) if more than 220 volts are necessary for the operation of the facility, warning signs shall be located at the base of the facility and shall display in large, bold, high contrast letters the following: "HIGH VOLTAGE – DANGER"; and

(c) a 24-hour emergency contact number.

(3) A fence or wall not less than eight feet in height with a secured gate shall be maintained around the base of the tower.

(B) The following requirements shall apply to all new telecommunication towers regulated under this chapter:

(1) Climbing access to towers shall be limited by installation and maintenance of a tower climbing apparatus no lower than 12 feet from the ground.

(2) Fencing, vegetation, or topography shall be maintained in a manner that continuously obscures the equipment compound from the view of any adjacent property or right-of-way.

(C) The commission or director may waive fencing requirements of this section based upon findings of fact that construction and maintenance of a fence or wall is unreasonable, unnecessary, or impracticable because of topography, environmental conditions, or limited access.

(D) For towers that received an administrative permit under MSB 17.66.080:

(1) towers shall have the structural and space capacity to accommodate the number of carriers specified in the application;

(2) the lease area shall be adequate to accommodate the number of carriers specified in the application and anticipated future collocations;

(3) adequate power supply shall be installed to accommodate the number of carriers specified in the application.

17.66.140 ADDITIONAL OPERATION STANDARDS FOR WIND ENERGY CONVERSION SYSTEMS

(A) In addition to the operation standards for new tall structures required by MSB 17.66.120, the following standards shall apply to Wind Energy Conversion Systems (WECS):

(1) WECS shall be equipped with an automatic overspeed control device designed to protect the system from sustaining structural failure such as splintered or thrown blades and the overturning or breaking of towers due to an uncontrolled condition brought on by high winds; and

(2) WECS shall have a manually operable method that assures the WECS can be brought to a safe condition in high winds. Acceptable methods include mechanical or hydraulic brakes or tailvane deflection systems which turn the rotor out of the wind.

17.66.150 APPEAL PROCEDURE

(A) The provisions of MSB 15.39 govern appeals from a decision of the commission;

(B) of a director decision; and

(C) of a director enforcement action

17.66.160 NETWORK IMPROVEMENT PERMIT

(A) A network improvement permit allows previously permitted telecommunication towers or towers with legal nonconforming status to be replaced or modified in a manner that increases the overall height of the existing tower by up to 20 feet, not to exceed a total height of 145 feet.

(B) In order to qualify for a network improvement permit the applicant shall demonstrate that granting the permit will have the effect of reducing the overall number of existing or potential telecommunication towers within the borough through increased potential for collocation or improved network functionality.

(C) Granting of a network improvement permit shall not result in additional lighting, or change the type of lighting.

(D) The base of a replacement tower may be located no farther than 50 feet from the base of the original tower. The original tower shall be removed within 90 calendar days upon completion of construction of the replacement tower.

(E) Telecommunication towers shall be not be granted a network improvement permit more than once.

(G) Application for a network improvement permit shall include the following:

(1) application form signed by the property owner and applicant;

(2) a written statement demonstrating how the increase in height will reduce the overall number of existing or potential towers within the borough through collocation or improved network functionality;

(3) a description of the proposed modifications to the telecommunication tower, including height, type, and lighting of the new or modified structure;

(4) a copy of a determination of no hazard to air navigation from the Federal Aviation Administration;

(5) a certified site plan, drawn to scale, which clearly indicates:

(a) property lines and lease areas;

(b) location of all existing and proposed structures on the property;

(c) means of access;

- (d) existing and proposed fencing;
- (e) adjacent public easements and rights-of-way.

(H) In granting a network improvement permit, the director shall make the following findings:

- (1) that the proposed structure either:
 - (a) conforms to the setback requirements of this chapter; or
 - (b) is positioned so that new setbacks are equal to or greater than the current setbacks of the existing tall structure.
- (2) that the proposal meets all requirements of this section;
- (3) that the proposed development does not interfere with the approaches to any existing airport or airfield that is identified in the MSB Regional Aviation System Plan or by the Alaska State Aviation System Plan.

(I) If the proposed tall structure is to be built such that the fall radius intersects a property line, the following shall be stamped or sealed by a professional engineer licensed in accordance with 12 AAC 36 and provided to the department within 60 days of issuance of a permit:

- (1) foundation and structural plans;
- (2) a statement that the proposed structure meets or exceeds International Building Code standards for wind speed, snow load, and earthquake standards for the region; and
- (3) a statement prepared that the proposed loading capacity of the tower is compliant with the most current version of EIA/TIA 222 as defined by MSB 17.125.

(M) Tall structures granted a permit under this section shall conform with the operation standards described by MSB 17.66.120.

(N) Replacements or modifications of a tower that are in accordance with this section are not subject to application or pre-application requirements required for a new tower under this chapter.

17.66.170 NEW AMATEUR RADIO TOWERS

(A) New amateur radio towers taller than 85 feet shall only be subject to the provisions of this section and MSB Code 17.66.120 Operation standards for new tall structures.

(B) New amateur radio towers taller than 85 feet requires submittal of the following to the department:

- (1) A mandatory land use permit in accordance with MSB Code 17.02.
- (2) The following shall be submitted if the amateur radio tower is to be constructed such that the fall radius intersects a property line:
 - (a) Engineered foundation and structural plans and a statement by a professional engineer licensed in accordance with 12 AAC 36 that the proposed structure meets or exceeds International Building Code standards for wind speed, snow load, and earthquake standards for the region.

- (b) A stamped or sealed statement prepared by a registered professional engineer licensed in accordance with 12 AAC 36 that the proposed loading capacity of the tower is compliant with the most current version of Electronic Industries Alliance/Telecommunication Industry Association 222 (EIA/TIA 222) as defined by MSB 17.125.

17.66.180 REPAIR AND REPLACEMENT

(A) This section applies to all existing, permitted, and nonconforming structures regulated by this chapter.

(B) The property owner shall be responsible for all aspects of the operation, improvements, development, and maintenance of the site in compliance with the terms and conditions of the permit and all applicable local, state, and federal requirements.

(C) Tall structures that qualify for certification of legal nonconforming status, or have been granted a permit under this chapter may be replaced or reconstructed in order to improve the structural integrity of the tall structure or in the case of accidental damage or collapse.

(1) Reconstruction or replacement shall not:

- (a) increase lighting;
- (b) change the type of lighting;
- (c) change the tower type;
- (d) change the location of the tall structure;
- (d) increase the height of a tall structure; or
- (e) increase the width of the structure, excluding antenna

mounts or rotor blades, by more than five feet.

(2) In the case of accidental damage or collapse, if reconstruction or replacement has not commenced within one year of the date of the damage, the structure is considered to be abandoned and is subject to MSB 17.66.190 Abandonment.

(3) Reconstruction or replacement shall not be in conflict with requirements or conditions of a previously granted permit.

17.66.190 ABANDONMENT

(A) Any tower that is not operated for a continuous 12 month period shall be considered abandoned. In such circumstances, the following shall apply:

(1) Towers, antennas and the equipment compound shall be removed within 90 calendar days at the owner's expense unless the abandonment is associated with a replacement tower as provided for in MSB Code 17.66.160 Network Improvement Permit.

(2) An applicant wishing to extend the time for removal or to initiate reactivation shall submit a letter to the department stating the reason for such extension. The director may extend the time for removal or reactivation up to 90 additional calendar days upon a showing of good cause.

(3) If the tower, antenna, and equipment compound is not removed within this time, the director may give notice that a contract will be made for removal within 30 calendar days following written notice to the property owner. Thereafter, the director may cause removal of the tower with costs being borne by the property owner.

17.66.200 NONCONFORMING USES

(A) Within the borough there may be tall structures under construction or in existence as of the effective date of this chapter or amendments thereto which were lawful before the effective date of this chapter, but which would otherwise be prohibited, regulated or restricted under this chapter. Such nonconforming uses

are allowed to continue but shall not be expanded except as provided in this chapter.

(B) Nonconforming tall structures under construction or in existence as of the date of this chapter that do not already have pre-existing legal nonconforming status, an acknowledgement of land use, mandatory land use permit, or a conditional use permit under MSB title 17 may apply for pre-existing legal nonconforming status upon submittal of the following:

(1) name, title, and contact numbers of the landowner, applicant, and persons in charge of the operation;

(2) height of tower

(3) legal description and borough tax account number of the subject parcel;

(4) a certified site plan, drawn to scale, which clearly indicates:

(a) all site boundaries;

(b) location of existing and proposed structures pertinent to the new and existing telecommunication facilities with distance from property lines noted;

(c) means of access;

(d) existing fencing;

(e) adjacent public easements and rights-of-way.

(5) A non-refundable fee as prescribed under MSB 17.99

(C) Within 15 calendar days of submittal, the director shall issue a determination of incompleteness if the application fails to meet the requirements of this chapter. Rejection of the application for pre-existing legal nonconforming status shall be in writing and shall state the deficient items. Once the deficiencies are corrected, the application shall be accepted as complete.

(D) Pre-existing legal non-conforming status will be determined based on whether the applicant has demonstrated that the development was constructed legally under the applicable code provision at the time.

17.66.210 VIOLATIONS, ENFORCEMENT, AND PENALTIES

(A) Remedies, enforcement actions, and penalties shall be consistent with the terms and provisions of MSB 1.45.

(B) In addition to other applicable penalties, failure to correct the violation of code, after reasonable notice, may result in revocation of the permit.

(C) Complaints received by the borough of violations of state or federal law will be forwarded to the appropriate agency for enforcement.

(D) Authorized representatives of the borough shall be allowed to inspect the site and related records at reasonable times for the purpose of monitoring compliance with all permit conditions.

(E) The permittee shall assist and cooperate with authorized inspections upon reasonable notice from the borough.

17.66.220 SEVERABILITY OF CHAPTER

(A) Should any section or provisions of this chapter be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.”

Assemblymember Woods spoke in favor of scheduling a work session to further discuss the proposed legislation.

Assemblymember Colligan spoke in favor of the primary amendment unless a business need can be identified to justify enacting the legislation.

Assemblymember Keogh expressed the need for some level of regulatory oversight in relation to the setback of tall structures from adjacent property lines.

Discussion ensued regarding:

- the time spent by the Towers Working Group;
- the unintended consequences of no regulatory oversight; and
- legislative action in relation to private business transactions.

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

VOTE: The motion failed with Assemblymembers Woods, Halter, and Salmon in favor.

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

MOTION: Assemblymember Arvin moved a primary amendment to strike Section 6, in its entirety as follows: "Section 6. Application within Special Land Use Districts. Upon adoption of this ordinance, MSB Chapter 17.66 shall apply when special land use district regulations reference MSB Chapter 17.60."

VOTE: The primary amendment passed without objection.

MOTION: Assemblymember Arvin moved to divide the question to take Ordinance Serial No. 11-074 and Resolution Serial No. 11-083 separately.

VOTE: The motion to divide the question passed without objection.

MOTION: First Segment. Assemblymember Salmon moved to adopt Ordinance Serial No. 11-074.

VOTE: First Segment. The motion passed as amended with Assemblymember Keogh opposed.

MOTION: Second Segment. Assemblymember Salmon moved to adopt Resolution Serial No. 11-083.

MOTION: Assemblymember Arvin moved to postpone Resolution Serial No. 11-083 indefinitely.

VOTE: The motion passed without objection.

(The regular meeting recessed at 8:45 p.m. and reconvened at 8:55 p.m.)

(Assemblymember Colver re-entered the meeting at 8:55 p.m.)

2. Ordinance Serial No. 11-103: AN ORDINANCE AMENDING MSB 8.52.015, PROHIBITED ACTS, AND MSB 8.52.035, DEFINITIONS, UNDER THE NOISE, AMPLIFIED SOUND, AND VIBRATION PORTION OF THE CODE. *(Sponsored by Assemblymember Woods)*
 - a. IM No. 11-171

CONFLICT OF INTEREST: Assemblymember Colligan declared a conflict of interest noting he is an officer in a local radio control airplane club and has invested in legal funds to research the inapplicability and unenforceability of the previous legislation that imposed the regulations.

RULING: Mayor DeVilbiss ruled that Assemblymember Colligan had a conflict of interest and would be recused from voting on the issue.

Mayor DeVilbiss opened the public hearing.

The following persons spoke in support of Ordinance Serial No. 11-103: Mr. Pat Martin, President of Mat-Su RC Modelers; Mr. Fred Keller; Mr. Gary Utt; and Mr. Matthew Shoemaker.

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

MOTION: Assemblymember Woods moved to adopt Ordinance Serial No. 11-103.

Assemblymember Woods requested support of the legislation.

Assemblymember Halter commented that the legislation does not appear well thought out.

Assemblymember Keogh expressed concern with the noise measurement mechanism proposed in the legislation.

VOTE: The motion to adopt Ordinance Serial No. 11-103 passed without objection.

(Assemblymember Colligan re-entered the meeting at 9:19 p.m.)

3. Ordinance Serial No. 11-141: AN ORDINANCE APPROVING A SUPPLEMENTAL APPROPRIATION OF \$50,000 FROM TALKEETNA ROAD SERVICE AREA NO. 29 FUND BALANCE, FUND 283, TO TALKEETNA ROAD SERVICE AREA NO. 29 FISCAL YEAR 2012 OPERATING BUDGET, FUND 283.
 - a. IM No. 11-218

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. 11-141.

VOTE: The motion passed without objection.

4. Ordinance Serial No. 11-142: AN ORDINANCE ACCEPTING AND APPROPRIATING \$80,000 FOR A PORTION OF GRANT FUNDS FROM THE ALASKA STATE DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT FOR THE DEPARTMENT OF EMERGENCY SERVICES FISCAL YEAR 2012 DESIGNATED LEGISLATIVE GRANT PROJECTS.
 - a. Resolution Serial No. 11-135: A RESOLUTION APPROVING THE SCOPES OF WORK AND BUDGETS FOR A PORTION OF THE ALASKA STATE DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT GRANTS FOR THE DEPARTMENT OF EMERGENCY SERVICES PROJECTS.
 - (1) IM No. 11-227

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 Salmon moved to adopt Ordinance Serial No. 11-142 and Resolution Serial No. 11-135.

VOTE: The motion passed without objection.

5. Ordinance Serial No. 11-143: AN ORDINANCE AMENDING MSB CHAPTER 17.29, FLOOD DAMAGE PREVENTION, TO CLOSELY REFLECT THE MINIMUM THAT IS REQUIRED BY THE UNITED STATES CODE OF FEDERAL REGULATIONS.
 - a. IM No. 11-228

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 Salmon moved to adopt Ordinance Serial No. 11-143.

MOTION: Assemblymember Colver moved to postpone Ordinance Serial No. 11-143 indefinitely.

Assemblymember Colver:

- stated he is sponsoring a substitute piece of legislation related to flood hazard regulation reform;
- clarified that the substitute will incorporate aspects of Ordinance Serial No. 11-143, as well as language on narrowing the focus of flood hazard mapping for subdivision development; and
- noted that the Assembly will be meeting on this issue Thursday.

VOTE: The motion to postpone Ordinance Serial No. 11-143 indefinitely passed without objection.

6. Ordinance Serial No. 11-145: AN ORDINANCE APPROVING THE ALASKA STATE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES COMPENSATION FOR RELOCATION OF THE COTTONWOOD ELEMENTARY SCHOOL SOCCER FIELDS FOR THE REQUIRED FEDERAL HIGHWAY ADMINISTRATION MITIGATION OF SECTION 4(F) PROPERTY FOR THE SEWARD MERIDIAN RECONSTRUCTION, PHASE 1, PROJECT NO. 51184, PARCEL IDENTIFIED AS NO. 24 (MSB 006252).
 - a. IM No. 11-233

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 Colligan moved to adopt Ordinance Serial No. 11-145.

Assemblymember Colver:

- noted he worked with Assemblymember Arvin to replace the soccer field;
- reported the field was lost due to right-of-way acquisition by the State; and
- talked about the need to improve access to and from Cottonwood Creek elementary school on Seward Meridian.

VOTE: The motion passed without objection.

7. Ordinance Serial No. 11-146: AN ORDINANCE AMENDING MSB 17.23.150, DEVELOPMENT PERMIT REQUIRED, AND 17.23.165, PERMIT STANDARDS.
 - a. IM No. 11-234

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 Salmon moved to adopt Ordinance Serial No. 11-146.

VOTE: The motion passed without objection.

C. AUDIENCE PARTICIPATION (Three minutes per person.)

The following person spoke regarding the use of eminent domain to acquire property interests needed for the Bogard Road Extension East project: Mr. Charles Donn.

The following person thanked the Assembly for their decision on Ordinance Serial No. 11-103 and spoke to the impact the previous regulations had on the model aviation community: Mr. Patrick Martin.

MOTION: Assemblymember Salmon moved to suspend the rules to extend the meeting until 11 p.m.

VOTE: The motion passed without objection.

D. CONSENT AGENDA

1. RESOLUTIONS

a. Resolution Serial No. 11-138: A RESOLUTION DISSOLVING THE CITIZENS ADVISORY COMMITTEE ON THE GOOSE CREEK CORRECTIONAL CENTER.

(1) IM No. 11-241

b. Resolution Serial No. 11-139: A RESOLUTION AMENDING THE SCOPE OF WORK FOR THE STATION 51 PUBLIC SAFETY BUILDING CONSTRUCTION PROJECT NO. 10031.

(1) IM No. 11-242

c. Resolution Serial No. 140: A RESOLUTION ESTABLISHING DATES CERTAIN FOR PAYMENT, DELINQUENCY, PROTEST, AND APPEAL OF 2012 REGULAR ASSESSMENT AND TAX ROLLS, BUSINESS INVENTORY FILING, AND FOR THE COMMENCEMENT OF HEARINGS BEFORE THE BOARD OF EQUALIZATION.

(1) IM No. 11-245

d. Resolution Serial No. 141: A RESOLUTION APPROVING STATE LEGISLATIVE PRIORITIES FOR THE MATANUSKA-SUSITNA BOROUGH FOR THE CALENDAR YEAR 2012.

(1) IM No. 11-249

2. ACTION MEMORANDUMS

a. AM No. 11-091: AWARD OF BID NO. 12-014, TO ALASKA ELECTRIC AND CONTROL, INC., IN THE CONTRACT AMOUNT OF \$202,481.68 TO FURNISH AND INSTALL STANDBY GENERATORS AND AUTOMATIC TRANSFER SWITCHES FOR PUBLIC SAFETY BUILDINGS 2-2, 73 AND 11-2.

- b. AM No. 11-094: ACCEPTANCE OF LATE FILED AND RETROACTIVE SENIOR CITIZEN AND DISABLED VETERAN EXEMPTION APPLICATIONS.

Ms. McKechnie read the above legislation into the record.

MOTION: Assemblymember Salmon moved to approve the consent agenda as read into the record by the Clerk.

MOTION: Assemblymember Keogh moved to divide the question by independently considering Resolution Serial No. 141.

VOTE: The motion to divide the question passed without objection.

MOTION: First Segment. Assemblymember Salmon moved to approve the consent agenda as read into the record by the Clerk with the exception of Resolution Serial No. 11-141.

VOTE: First Segment. The motion passed without objection.

MOTION: Second Segment. Assemblymember Salmon moved to adopt Resolution Serial No. 11-141.

MOTION: Assemblymember Keogh moved a primary amendment by moving the 2011 Road Bonds to the top of the priority list.

Assemblymember Colver commented that road bonds will have the greatest economic impact on the Borough.

Assemblymember Woods noted that the rail spur offers a great deal of potential in terms of economic benefit to the Borough, as well as the entire state.

Discussion ensued regarding whether the Assembly should prioritize the priority list.

VOTE: The primary amendment failed with Assemblymembers Keogh, Colligan, and Colver in support.

Assemblymember Keogh noted that the Assembly has had discussions in the past on whether to prioritize the priority list.

MOTION: Assemblymember Keogh moved a primary amendment to amend the project list by listing the following in order of priority: 1) Rail Extension; 2) 2011 Road Bond Package; and 3) Bogard Road Extension, without priority affixed to the remaining projects.

VOTE: The primary amendment failed with Assemblymember Keogh in favor.

Mayor DeVilbiss asked how projects get listed on the resolution.

Mr. Moosey noted the project list was not modified from the previous year other than to add new items at the direction of the Assembly.

VOTE: The main motion passed without objection.

X. NEW BUSINESS

A. INTRODUCTIONS (For public hearing – Nov. 15, 2011, 7 p.m., Borough Assembly Chambers)

1. Ordinance Serial No. 11-147: AN ORDINANCE AMENDING MSB 15.24.030, COMPREHENSIVE PLAN AND PURPOSES, BY ADOPTING THE 2011 CITY OF HOUSTON HISTORIC PRESERVATION PLAN INTO THE OVERALL BOROUGH WIDE COMPREHENSIVE PLAN.

a. IM No. 11-220

2. Ordinance Serial No. 11-148: AN ORDINANCE AMENDING MSB 15.24.030, COMPREHENSIVE PLAN AND PURPOSES, BY ADOPTING THE 2011 WILLOW AREA COMMUNITY HISTORIC PRESERVATION PLAN INTO THE OVERALL BOROUGH WIDE COMPREHENSIVE PLAN.

a. IM No. 11-222

3. Ordinance Serial No. 11-149: AN ORDINANCE REAPPROPRIATING \$28,959 FROM FUND 450, PROJECT NO. 20161, HATCHER PASS WATER AND ELECTRIC TO FUND 430, PROJECT NO. 35187, FOR HATCHER PASS SKI DEVELOPMENT ROAD.

a. Resolution Serial No. 11-142: A RESOLUTION TO APPROVE THE SCOPE OF WORK AND BUDGET FOR FUNDS THAT WERE REAPPROPRIATED TO FUND 430, PROJECT NO. 35187, FOR THE HATCHER PASS SKI DEVELOPMENT ROAD.

(1) IM No. 11-238

4. Ordinance Serial No. 11-150: AN ORDINANCE ACCEPTING AND APPROPRIATING \$367 FROM THE ALASKA STATE DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT GRANT PROGRAM, TO FUND 425, PROJECT NO. 45158, FOR PARTICIPATION IN ALASKA SHIELD 2012.

a. Resolution Serial No. 11-143: A RESOLUTION APPROVING THE SCOPE OF WORK AND BUDGET FOR THE ALASKA STATE DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT GRANT, PROJECT NO. 45158, FUND 425, FOR PARTICIPATION IN ALASKA SHIELD 2012.

(1) IM No. 11-240

Ms. McKechnie read the above legislation into the record.

MOTION: Assemblymember Salmon moved to introduce the legislation as read into the record and set the public hearings for November 15, 2011.

VOTE: The motion passed without objection.

B. MAYORAL NOMINATIONS AND APPOINTMENTS

1. VACANCY REPORT

Mayor DeVilbiss requested the following confirmations:

Enhanced 911 Advisory Board
Resignation of Jeff Laughlin
Local Emergency Planning Committee
Louis Friend
Transportation Advisory Board
Resignation of Michael Campfield
Wastewater and Septage Advisory Board
Helen Munoz
Archie Giddings

Mayor DeVilbiss made the following recommendations:

Local Emergency Planning Committee
Casey Cook
Gene Belden (term begins 1/1/12)
Planning Commission
John Klapperich
Wastewater and Septage Advisory Board
Ronald Phillips
Michael Campfield (term begins 1/1/12)
Thomas Stoelting
Greater Palmer Consolidated FSA No. 132
Barry Mothershead (terms begins 1/1/12)
West Lakes FSA No. 136
Rae Arno (term begins 1/1/12)
Willow FSA No. 31
Derral Godbee
Greater Butte RSA No. 26
Michael Shields (term begins 1/1/12)

MOTION: Assemblymember Salmon moved to confirm the Mayors recommendations and resignations up for confirmation this evening.

VOTE: The motion passed without objection.

C. OTHER NEW BUSINESS

(There was no other new business presented.)

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. EXECUTIVE SESSION

(There was no executive session held.)

XIII. MAYOR, ASSEMBLY, AND STAFF COMMENTS

Mr. Spiropoulos advised there is a limit to what the Borough can settle for when seeking to acquire land under the condemnation process.

Ms. McKechnie noted the November 3, 2011, meeting packet has been distributed to the Assembly.

Assemblymember Salmon:

- expressed appreciation for serving in office; and
- spoke favorably about the direction of the Assembly.

Assemblymember Keogh:

- announced that he is bringing forward an amendment to the Mayor and Assembly Rules of Procedure to limit the use of electronic devices by elected officials during public meetings; and
- queried as to the next Ethics Board meeting.

Ms. McKechnie advised that the Ethics Board is scheduled to meet November 18, 2011.

Assemblymember Halter expressed that the discussion on tall towers was interesting.

Assemblymember Colver:

- noted he recently attended a National Association of Counties conference in Georgia;
- reported on information gleaned during the conference in regard to mapping and other tools for disaster planning; and
- shared information about the regional Georgia Ports Authority.

Assemblymember Colligan:

- spoke about the need to invest in the collection of geographic information system data;
- reiterated that he did not see the public benefit in enacting the tall towers ordinance; and
- voiced his support in finding safe property sites to fly motorized remote control models in the Borough.

Assemblymember Woods:

- noted his interest in the outcome of the tall tower ordinance; and
- spoke in opposition to the extensive permitting process proposed in the legislation.

Assemblymember Arvin:

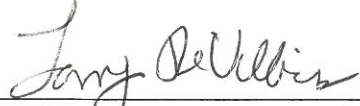
- suggested that the Manager contact communities who are on record supporting the Port MacKenzie Rail Extension project to ensure the project appears on their legislative priority list;
- noted his intent was to refer the tall tower ordinance back to the Tower Working Group to improve upon it by incorporating suggestions submitted by industry groups; and
- shared his personal experience with Code Compliance staff responding to a baseless complaint of excessive noise as enthusiasts were flying model aircraft.

Mayor DeVilbiss:

- commended the Assembly for being bold, clear, and decisive;
- spoke in support of the action by the Assembly in regard to the tall tower ordinance;
- expressed opposition to the enactment of regulations to protect view shed;
- reported on the need for accurate maps to precisely dispatch emergency responders;
- encouraged the Assembly to take a policy stand on SB 152; and
- opined as to the merits of the concept of a regional port authority.

XIV. ADJOURNMENT

The regular meeting adjourned at 11 p.m.


LARRY DEVILBISS, Borough Mayor

ATTEST:


LONNIE R. McKECHNIE, CMC, Borough Clerk

Minutes approved: 12/06/11