

I. CALL TO ORDER

The regular meeting of the Matanuska-Susitna Borough Assembly was held on December 6, 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*) (*arrived at 6:01 p.m.*)
Mr. Steven Colligan, Assembly District No. 4
Mr. Darcie K. Salmon, Assembly District No. 5 (*entered telephonically at 6:15 p.m.*)
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. Shaune O'Neil, Public Works Director
Ms. Eileen Probasco, Acting Planning and Land Use Director
Mr. Alex Strawn, Permitting Services Manager
Mr. Dennis Brodigan, Emergency Services Director
Ms. Patty Sullivan, Public Affairs Director

III. APPROVAL OF AGENDA

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

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

IV. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mr. Doug Griffin, Palmer City Manager.

V. MINUTES OF PRECEDING MEETINGS

- A. Joint Assembly/Planning Commission Meeting: 10/25/11
- B. Regular Assembly Meeting: 11/01/11
- C. Special Assembly Meeting: 11/03/11
- D. Regular Assembly Meeting: 11/15/11

Mayor DeVilbiss inquired if there were any corrections to joint meeting minutes of October 25, 2011, the regular meeting minutes of November 1, 2011, the special meeting minutes of November 3, 2011, or the regular meeting minutes of November 15, 2011.

Assemblymember Colver requested that language be added to the November 1, 2011, regular meeting minutes to document that he re-entered the meeting after the Assembly concluded business on legislation in which he did not participate due to a declared conflict of interest.

Ms. McKechnie advised that the change would be made as requested.

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

[Clerk note: the change requested was made to the November 1, 2011, regular meeting minutes.]

VI. REPORTS/CORRESPONDENCE

A. AGENCY REPORTS

1. Reports from cities

Palmer City

Ms. DeLena Johnson, Mayor:

- reported that budget deliberations are underway at the City;
- expressed appreciation to the Assembly for expanding the Dorothy Swanda Jones Building in Palmer;
- noted she looks forward to working with Borough officials on the parking plan relative to the expansion project; and
- remarked that working with Borough staff is a pleasure.

Wasilla City

Mr. Verne Rupright, Mayor:

- spoke to the conveyance of land by the Borough to the City for the purpose of constructing a library complex on four acres of property at the Wasilla Middle School;
- further added that the City is not seeking dispensation from the Borough rather a partnership that will enhance the Borough as a whole;
- voiced that the Planning Commission and Assembly approved the revised Wasilla Comprehensive Plan that specifically called out for partnership approaches that leverage funding to build a new library within the Wasilla downtown core area;

- further added that the project is supported by the School Board, as well as the Superintendent of schools; and
- affirmed that ownership rights to the property must be vested in the City otherwise attempts to garner grant funds and bonds are futile.

Assemblymember Colligan reported that legislation related to the proposed Wasilla library complex does not appear on the agenda.

Mayor DeVilbiss advised that legislation was approved on November 15, 2011, directing the Manager to gather information for Assembly consideration on options for deeding or leasing the land for the construction of a new library in Wasilla.

MOTION: Assemblymember Colligan moved to suspend the rules to allow the Borough Manager to speak to the matter.

VOTE: The motion passed without objection.

Mr. Moosey spoke to the options of deeding or leasing property to the city of Wasilla for a library.

2. Matanuska-Susitna Borough School District

(There was no report provided.)

B. COMMITTEE REPORTS

1. Joint Assembly/School Board Committee on School Issues

Assemblymember Cover:

- reported that the Committee met on Thursday, December 1, 2011;
- remarked that much of the discussion focused on the timing and logistics of projects slated for construction under the bond package; and
- noted that communication between the Borough's Finance Director and School District personnel is underway regarding bond package items that may be administered by the District through the procurement process.

MOTION: Assemblymember Colver moved to suspend the rules to allow School Board Member Lynn Gattis an opportunity to address the body.

VOTE: The motion passed without objection.

Ms. Gattis affirmed that the School Board will be meeting with the Borough Area School Site Selection Committee to select a site for the construction of a new middle/high school located on Knik-Goosebay Road.

2. Assembly Public Relations

Assemblymember Keogh:

- reported that he recently attended a two-day energy seminar;
- noted that topics of discussion included emerging policies, new regulations, markets and resources with a focus on oil and gas;
- noted the value of the seminar; and
- encouraged future attendance by members of the Assembly.

Mayor DeVilbiss reported that he will be meeting with representatives from the Alaska Industrial Development and Export Authority in regard to the impact on fish in the Susitna drainage relative to the proposed hydroelectric project.

E. MANAGER COMMENTS

1. State/Federal Legislation
2. Strategic Planning Issues

Mr. Moosey reminded the Assembly of the joint meeting with the legislative delegation on December 12, 2011.

Ms. Probasco:

- reported that Cook Inlet beluga whales are on the endangered species list and as such a recovery plan must be developed;
- further added that a science group and a stakeholders group have been established as part of the recovery action plan to formulate steps to remove the whales from the list; and
- stated that she now serves as a member of the stakeholders group, representing the Borough's interests related to Port MacKenzie.

Assemblymember Woods asked if native Alaskans were permitted to harvest the whales in the area.

Mr. Spiropoulos:

- spoke to the regulation of wildlife under the jurisdiction of the state or federal government; and
- advised regulations governing substance hunting may be enacted.

A. ATTORNEY COMMENTS

(There were no comments provided.)

B. CLERK COMMENTS

Ms. McKechnie:

- spoke regarding the upcoming meeting schedule;
- noted that agendas have been distributed for next week's meetings;
- reported that it has been requested that the Assembly schedule their planning session earlier than February 4, 2012, and

- requested direction from the Assembly as to the scheduling request.

Assemblymember Colligan:

- noted that the Governor's budget is published on December 15, 2011, and the legislature is scheduled to convene in mid-January 2012;
- stressed the importance of reviewing the Borough's priorities prior to the start of session;
- remarked on the importance of giving the Manager and staff ample time to prepare for upcoming budget deliberations; and
- spoke in support of holding the planning session as soon as possible, preferably between Christmas and the New Year.

Discussion ensued regarding the availability of Assemblymembers during the month of December.

MOTION: Assemblymember Salmon moved to reschedule the February 4, 2012, planning meeting to December 29, 2011, at 10 a.m.

VOTE: The motion passed without objection.

Assemblymember Keogh:

- spoke to the joint Assembly/School Board meeting that was canceled by Mayor DeVilbiss;
- requested that the Mayor withdraw his cancellation as both bodies are expected to meet quorum requirements;
- further added that a shared dinner and entertainment has been scheduled;
- remarked that the school Superintendent is prepared to hold the meeting and Mr. Neal Fried, Economist for the State of Alaska is scheduled to make a presentation;
- noted that he is sponsoring legislation slated for introduction on December 13, 2011, and
- questioned why the work session scheduled at 4 p.m. on December 13, 2011, was not canceled in conjunction with the joint meeting.

Mayor DeVilbiss:

- stated that neither he nor the School Board President are available to attend the joint meeting;
- expressed that he sought the concurrence of the School Board President in regard to the cancellation; and
- noted his non objection with the Assembly moving forward with the meeting.

MOTION: Assemblymember Keogh moved to reinstate the joint Assembly/School Board meeting on December 13, 2011, at 6 p.m.

Assemblymember Keogh:

- opined that Borough code does not explicitly allow the mayor or three members of the assembly to cancel a meeting, however it does allow the mayor or three members of the assembly to schedule a meeting; and
- suggested that in this instance only three assembly members are needed to move the meeting forward.

Mayor DeVilbiss opined that Borough code implies that the mayor has the authority to schedule or cancel a meeting.

VOTE: The motion passed without objection.

C. CITIZEN AND OTHER CORRESPONDENCE

1. MSB Board/Committee Minutes:
 - a. Board of Ethics: 05/09/11
 - b. Emergency Medical Services Board: 08/03/11
 - c. Greater Willow RSA Board of Supervisors: 04/28/11
 - d. Library Board: 08/20/11
 - e. Local Road Service Area Advisory Board: 06/16/11
 - f. MSB Fish and Wildlife Commission: 08/18/11, 09/15/11
 - g. Planning Commission: 09/19/11, 10/03/11
 - h. Platting Board: 09/15/11, 10/06/11

2. Community Council Correspondence:
 - a. Big Lake Community Council: 03/09/11, 04/13/11, 05/11/11, 06/08/11, 07/13/11
 - b. Chase Community Council: 04/28/11
 - c. Meadow Lakes Community Council: 01/12/11, 02/09/11, 03/09/11

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

D. INFORMATIONAL MEMORANDUMS

1. IM No. 11-279: AN INFORMATIONAL MEMORANDUM (REVISOR OF ORDINANCE) REGARDING A REVISION TO MSB 17.60.030(A), PERMITS REQUIRED, MAKING CHANGES TO ORDINANCE SERIAL NO. 11-074.

Assemblymember Colligan inquired as to the lack of a bracket at the end of the paragraph in MSB 17.60.030.7, Permit Required.

Ms. McKechnie noted that the bracket was unintentionally omitted and would be added.

VII. UNFINISHED BUSINESS

(There was no unfinished business.)

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.)

1. Ms. Patricia Rosnel – MSB Policy and Procedure No. 09-PUB

The following person spoke to concerns with the Borough’s public records request policy and requested the addition of a fee waiver to the policy: Ms. Patricia Rosnel.

B. PUBLIC HEARINGS (Three minutes per person.)

1. Ordinance Serial No. 11-153: AN ORDINANCE AMENDING MSB 17.28, INTERIM MATERIALS DISTRICT; MSB 17.30 CONDITIONAL USE PERMIT FOR EARTH MATERIALS EXTRACTION ACTIVITIES; AND MSB 17.125, DEFINITIONS, TO INCLUDE PROVISIONS FOR MATERIAL EXTRACTION BELOW THE SEASONAL HIGH WATER TABLE AND RECLAMATION.
 - a. IM No. 11-246

Mayor DeVilbiss opened the public hearing.

The following person spoke in support of Ordinance Serial No. 11-153: Ms. Kay Slack, Mat-Su Business Alliance; Ms. Lorali Simon; and Mr. Doug Glenn.

The following person spoke in opposition to Ordinance Serial No. 11-153: Mr. Joe Nolting, Mr. William Bruu; Mr. Mark Masteller; Mr. Jim Sykes; Ms. Michelle Church; and Mr. David Church.

The following persons spoke to suggested changes to Ordinance Serial No. 11-153: Mr. Wyn Menefee, Division Operations Manager of the Alaska Department of Natural Resources; Mr. Tom Healy, Director of the Alaska Rock Products Association; Mr. Marc Cottini; Mr. Wes Vander Martin, Vice President and General Manager of Anchorage Sand and Gravel; and Mr. Steve Cowley, Resource Manager to Granit Construction.

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

(The meeting recessed at 7:30 pm. and reconvened at 7:41 p.m.)

Ms. Probasco and Mr. Strawn provided a staff report.

MOTION: Deputy Mayor Arvin moved to adopt Ordinance Serial No. 11-153.

Assemblymember Woods:

- expressed that he has lingering questions about the legislation; and
- voiced support for scheduling a work session to thoroughly vet the legislation.

MOTION: Assemblymember Woods moved to postpone Ordinance Serial No. 11-153 to a time certain of December 20, 2011.

Assemblymember Arvin:

- spoke in opposition to the motion to postpone;

- noted that over a dozen meetings have been held on the issue;
- opined that there appears to be some level of consensus; and
- encouraged the Assembly to begin work on the legislation at this time.

Assemblymember Keogh:

- spoke in favor of the motion to postpone; and
- expressed discomfort in moving forward at this time due to unanswered questions and conflicting testimony.

Assemblymember Colver:

- expressed that the legislation is difficult and takes work;
- noted that the issue has been under consideration for several years; and
- encouraged the Assembly to begin work on the legislation at this time.

VOTE: The motion to postpone failed with Assemblymembers Keogh, Woods, and Salmon in favor.

MOTION: Assemblymember Halter moved a primary amendment to Ordinance Serial No. 11-153, MSB 17.28.020(A), by striking the number “40” after the words “greater than” and inserting in its place “20.”

Assemblymember Colligan:

- noted that the reference to 40 acres appears throughout the legislation; and
- queried if the intent of the primary amendment was to remove the reference in its entirety.

Assemblymember Keogh clarified that the primary amendment conforms with the recommendation of the Alaska Rock Association, as well as staff.

Mr. Strawn:

- stated that there are two sections of the legislation that require amendment to accomplish the intent of the primary amendment: and
- recommended amendment to MSB 17.30.020(C).

MOTION: Assemblymember Halter moved a secondary amendment to strike all references to 40 acres and insert 20 acres throughout the legislation.

VOTE: The secondary amendment passed without objection.

VOTE: The primary amendment passed as amended without objection.

CONFLICT OF INTEREST: Mayor DeVilbiss declared a conflict of interest noting he has a gravel pit on his farm and the material extracted from the pit is generally used on the farm but does leave the farm on occasion.

Mr. Spiropoulos:

- remarked that the definition of “extraction” is to take and remove earth materials from the subject site to an off-site location;
- noted that site is defined as a group of lots under common ownership or common use;
- opined that if you have a pit and are extracting earth material from the pit and using it on the same land or adjacent land under common ownership, the action is not considered extraction under the Borough code; and
- requested a recess to learn more about the Mayor’s operation to determine if a conflict exists.

(The meeting recessed at 8:24 p.m. and reconvened at 8:29 p.m.)

VOTE: Assemblymember Arvin ruled that Mayor DeVilbiss had a conflict of interest.

(Mayor DeVilbiss exited the meeting and the duties of the Chair passed to Deputy Mayor Arvin.)

MOTION: Assemblymember Keogh moved a primary amendment to Ordinance Serial No. 11-153, MSB 17.125.010, by replacing the definition of “Qualified professional” to read: “Qualified professional means a professional hydrologist, geologist, or registered engineer that has specific education and experience with groundwater hydrology.”

VOTE: The primary amendment passed without objection.

MOTION: Assemblymember Halter moved a primary amendment to Ordinance Serial No. 11-153, MSB 17.28.060.(A)(5), by inserting a new (d) to read: “(d) an interim materials district or a conditional use permit for earth materials extraction activities shall not be required to provide noise mitigation measures to mitigate or lessen noise impacts if a land use requiring lesser noise levels than for an industrial area arise on properties adjacent to earth materials extraction sites after the designation of the interim materials district or the effective date of the conditional use permit.”

Assemblymember Keogh asked if the Attorney or planning staff had concerns with the proposed primary amendment.

Mr. Strawn expressed no concern.

Mr. Spiropoulos expressed no legal concern.

Assemblymember Halter:

- spoke in favor of the primary amendment; and
- summarized that an existing pit located adjacent to undeveloped property should not be required to upgrade its noise mitigation standards when the vacant land undergoes development.

Discussion ensued regarding the decibel level of industrial noise provided for in Borough code.

VOTE: The primary amendment passed without objection.

MOTION Assemblymember Colligan moved a primary amendment to Ordinance Serial No. 11-153, MSB 17.28.025(f) and MSB 17.30.025(F), by inserting the words “or earth materials processing” after the word “extraction” to read: Nonforming status shall expire if materials extraction activity ceases for longer than five years” and inserting in its place “Nonconforming status shall expire if materials extraction or earth material processing activity ceases for longer than five years.”

Assemblymember Keogh inquired as to the implication of adding the words “or earth material processing” as stated in the primary amendment.

Assemblymember Arvin advised that mining could be ongoing, however if the operation slows down for a few years, yet a large stock pile of material remains, the stockpile could be considered activity.

Assemblymember Colver voiced his support of the amendment.

VOTE: The primary amendment passed without objection

MOTION: Assembly Colver moved a primary amendment to Ordinance Serial No. 11-153, MSB 17.28.020 and 17.30.020, by adding a new section to read: “This chapter shall not apply to earth material extraction activities on land owned by the State of Alaska that are in existence as of the date of adoption of this ordinance except for such operations that extract materials within four (4) feet of the water table. Where a site is exempt under this subsection, the exemption is revoked if operations proceed to within four feet of the water table.”

Assemblymember Colver:

- remarked that currently the state of Alaska is exempt from regulation related to earth material extraction;
- noted that state officials have historically spoken in opposition to the enactment of regulations governing their existing pits;
- opined that it is not in the public interest to over regulate public sector projects;
- added that the exemption applies only to existing pits; and
- further added that that the exemption does not apply to the development of future pits within the water table.

Assemblymember Keogh expressed concern as a matter of fairness the exemption of public entities and not private entities.

Deputy Mayor Arvin:

- remarked that he agrees with the sentiment expressed by Assemblymember Keogh; and
- further added that the State generally develops pits for a defined project with determined quantity and length of time versus a private operator working under a Conditional Use Permit or an Interim Materials District.

Assemblymember Halter opined that exempting the State would benefit road projects in remote areas where private pits do not exist.

VOTE The primary amendment passed without objection.

(Assemblymember Salmon exited the meeting at 9:02 p.m.)

MOTION: Assemblymember Halter moved a primary amendment to Ordinance Serial No. 11-153, MSB 17.28.067(A), to strike “For all extraction operations permitted under this chapter, reclamation of each phase of operation shall be completed in accordance with this section within two growing seasons of a phase becoming complete and inserting in its place “ For all extraction operations permitted under this chapter, reclamation of each phase of operation shall be completed in accordance with this section within four growing seasons and a two year extension may be granted as needed due to conditions.”

Mr. Spiropoulos:

- remarked the primary amendment relates to an Interim Materials District which is defined as a zone; and
- questioned the intent of the primary amendment as to when the extension would take effect when who has the authority to grant the extension.

Assemblymember Halter:

- remarked that his intent is to authorize staff to grant the extension;
- noted that reclamation should and could be complete within two years; and
- further added that the applicant should have the ability to obtain an extension under certain circumstances such as weather.

Assemblymember Colver spoke to a possible secondary amendment to insert the words “and a two year administrative extension.”

Mr. Spiropoulos:

- opined that the Assembly does not have the authority to grant discretion to a zoning official without establishing evaluation standards; and
- further added that if standards are established, the matter, under State law, would become a decision by an official applying a land use decision which is appealable to the Board of Adjustment and Appeals thus the Borough would have to give notice to interested parties.

WITHDRAW: Assemblymember Halter withdrew the primary amendment.

There was no objection noted.

MOTION: Assembly Member Halter moved a primary amendment to Ordinance Serial No. 11-153, MSB 17.28.067(A), to strike the word “two” and insert the word “four” after the word “within” to read: For all extraction operations permitted under this chapter, reclamation of each phase of operation shall be completed in accordance with this section within four growing seasons of a phase becoming complete.”

VOTE: The primary amendment passed without objection.

MOTION: Assemblymember Keogh moved to postpone Ordinance Serial No. 11-153, to a date certain of December 20, 2011.

Assemblymember Keogh:

- expressed that the legislation has been on the table for over two hours;
- noted that much public testimony has been presented, as well as reports from staff;
- further added that multiple documents related to the legislation have been presented to the Assembly; and
- remarked that due to the time and the amount of business remaining on the agenda the legislation should be postponed.

Assemblymember Colver:

- spoke in opposition to the postponement;
- stated that much progress has been made thus far; and
- encouraged the Assembly to finalize the legislation at this time.

VOTE: The motion to postpone to a time certain of December 20, 2011, failed with Assemblymembers Keogh and Halter in favor.

MOTION: Assemblymember Colligan moved a primary amendment to Ordinance Serial No. 11-153, MSB 17.28.060(A)(7), to insert the following sentence, at the end of the paragraph, to read “This regulation shall not apply to manmade waterbodies being constructed during the course of the materials extraction activities.”

Assemblymember Colligan asked staff why the sentence was originally proposed to be removed from code.

Mr. Strawn:

- noted the proposed removal was an oversight; and
- did not express objection to leaving the language in the ordinance.

VOTE: The primary amendment passed without objection.

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

VOTE The motion passed failed Assemblymembers Woods, Colligan, and Halter in favor (requires 5 votes).

MOTION: Assemblymember Colver moved a primary amendment to Ordinance Serial No. 11-153, MSB 17.28 to insert section 17.28.063, to read: A reclamation plan shall be submitted which clearly defines steps the applicant will take to restore and revegetate the site in accordance with the reclamation standards outlined in MSB 17.28.067. The reclamation plan shall include the following: (1) an approximate time sequence for reclamation at particular locations; (2) proof that

reclamation financial assurance has been filed with the State of Alaska in accordance with AS 27.19.040, except, (a) those operations which qualify for an exemption under AS 27.19.050 are exempt from this requirement.”

Mr. Strawn:

- affirmed that the language referenced in the primary amendment was inadvertently omitted from the legislation;
- further remarked that the language has been reviewed by the Planning Commission and industry; and
- recommended approval of the primary amendment as the language is pivotal to the legislation.

VOTE: The primary amendment passed without objection.

MOTION: Assemblymember Halter moved a primary amendment to Ordinance Serial No. 11-153, MSB 17.28.067(F)(1), to strike the words “with a silt loam or loam texture and less than fifteen percent gravel or cobble content by volume” after the word “growth” to read: “natural substances that have water and nutrient holding capacity conducive to plant growth may be used as a substitute for topsoil.”

Deputy Mayor Arvin:

- spoke in favor of the primary amendment; and
- opined that a sample can have a stone in it that outweighs the organic material, therefore the reference to a percentage of weight should be removed.

MOTION: Assemblymember Halter a secondary amendment to add after the words “natural” “substances” the words “topsoil, dirt, and peat”

Deputy Mayor Arvin

- commented that there are organic woody materials that support the growth of plants and the proposed amendment would prohibit that from taking place, and
- noted his opposition to the secondary amendment.

Assemblymember Halter explained that the language in the subsection indicates that there is insufficient topsoil on site, therefore topsoil would need to be brought in to the site during the redemption process.

VOTE; The secondary amendment failed with Assemblymembers Keogh and Hater in favor.

MOTION: Assemblymember Colligan moved a secondary amendment to add the words “and organic material” after the words “natural substances.”

Assemblymember Keogh:

- expressed concern with the broad term natural substances; and
- further remarked that sawdust and wood chips are natural substances yet they not an appropriate substitute for topsoil.

VOTE The secondary amendment passed with Assemblymembers Keogh and Halter opposed.

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

VOTE: The main motion as amended passed with Assembly Keogh opposed.

The meeting recessed at 9:29 p.m. and reconvened at 9:40 p.m.)

(Mayor DeVilbiss re-entered the meeting and resumed the duties of the Chair.)

2. Resolution Serial No. 11-155: A RESOLUTION ADOPTING THE CAPITAL IMPROVEMENT PROGRAM FOR FISCAL YEAR 2013 THROUGH FISCAL YEAR 2018.
- a. IM No. 11-253

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: Deputy Mayor Arvin moved to adopt Resolution Serial No. 11-155.

MOTION: Assemblymember Woods moved a primary amendment to insert the “Port McKenzie Deep Draft Dock Expansion, under Unfunded Projects, Public Transportation in FY2013-2018.

Assemblymember Woods remarked that the project was inadvertently omitted from the legislation.

VOTE: The primary amendment passed without objection.

MOTION: Assemblymember Woods moved a primary amendment to strike the Lake Lorraine Development Plan under MSB Recommended Planning Related Projects (Un-Prioritized).

Assemblymember Woods advised that the Lake Lorraine Development plan is premature as the land use designation for the adjoining property will not be identified until approximately 2018.

Deputy Mayor Arvin:

- described Lake Lorraine as a unique asset;
- spoke to whether removing it from a planning related development plan is a wise decision as Lake Lorraine is a waterbody residing within a industrial district; and
- stated his opposition to the proposed primary amendment.

Assemblymember Keogh asked if the Lake Lorraine is currently underway.

Mr. Moosey:

- reported that only general planning has taken place establishing roads and a buffer; and
- further remarked that no detailed plans have been established.

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

MOTION: Assemblymember Woods moved a primary amendment to strike “Railroad Trail Palmer to Moose Creek” under Recreational Trails, Unfunded Projects.

Assemblymember Woods remarked that the property is a railroad right-of-way held by the railroad and the use of the property does not rest with the Borough.

Assemblymember Keogh:

- acknowledged that there is an existing legal right-of-way to Moose Creek along the former rail-line;
- noted that the property is currently used for recreational purposes;
- further added that the Alaska Railroad has been looking at extending rail from the Palmer Fair Grounds to Moose Creek contingent on funding to haul coal from the Wishbone Hill mine to points beyond; and
- opined that based on conversations with representatives from the railroad the project is not moving forward anytime soon.

Discussion ensued regarding:

- ownership of railroad rights-of-way; and
- the utilization of a management agreement in terms of designating the right-of way as recreational under the *Rails to Trails* initiative.

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

Assemblymember Halter queried if the Willow Airport Master Plan is a State or Borough plan and requested a status report.

Mr. Moosey noted the Master Plan is a State plan.

Ms. Probasco reported that her staff is not actively participating in the planning effort.

VOTE: The main motion passed as amended without objection.

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

VOTE: The motion passed without objection.

3. Ordinance Serial No. 11-156: AN ORDINANCE APPROVING AN APPROPRIATION OF \$75,000 FROM THE WEST LAKES FIRE SERVICE AREA FUND BALANCE, FUND 249, TO FUND 405, PROJECT NO. 45260, TO ALLOW FOR FACILITY MODIFICATIONS TO INTERIM STATION 7-3 ON SPRING ROAD.
 - a. Resolution Serial No. 11-154: A RESOLUTION APPROVING THE AMENDED BUDGET FOR PROJECT NO. 45260, TO ALLOW FOR FACILITY MODIFICATIONS TO INTERIM STATION NO. 7-3 ON SPRING ROAD.
 - (1) IM No. 11-255

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. 11-156 and Resolution Serial No. 11-154.

VOTE: The motion passed without objection.

4. Ordinance Serial No. 11-157: AN ORDINANCE AMENDING MSB 2.76.030, REGARDING THE DEFINITION OF COMMUNITY COUNCILS. *(Sponsored by Mayor DeVilbiss)*
 - a. Ordinance Serial No. 11-157 (SUB): AN ORDINANCE AMENDING MSB 2.76.030 REGARDING THE DEFINITION OF COMMUNITY COUNCILS. *(Sponsored by Mayor DeVilbiss)*
 - (1) IM No. 11-262
 - (2) IM No. 11-262 (SUB)

Mayor DeVilbiss opened the public hearing.

The following persons spoke in opposition of Ordinance Serial No. 11-157: Ms. Jeanne Winjum, North Lakes Community Council; Mr. Tim Swezey; Mr. William Bruu; Ms. Krista Maesilek; Mr. Mark Masteller; Mr. Jim Sykes; Mr. Joe Irvine; Ms. Helen Munoz; Ms. Michelle Church; and Ms. Patricia Rosenell.

The following spoke in favor of Ordinance Serial No. 11-157: Mr. George Rauscher; and Mr. Jay Van Diest.

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

Mayor DeVilbiss requested that the Assembly postpone the legislation to give Community Councils' an opportunity to review the legislation after the Assembly decides on a version to move forward.

MOTION: Deputy Mayor Arvin moved to adopt Ordinance Serial No. 11-157.

MOTION: Deputy Mayor Arvin moved to amend Ordinance Serial No 11-157 by substitute Ordinance Serial No. 11-157(SUB).

Assemblymember Arvin spoke in favor of postponing to a date certain in late March or early April 2012 to allow for a thorough review by all Community Councils’.

MOTION: Assemblymember Arvin moved to postpone Ordinance Serial No. 11-157 and 11-157 (SUB) to a date certain of April 3, 2012.

Assemblymember Colligan spoke in favor moving one piece of legislation forward to avoid confusion.

VOTE: The motion to postpone failed with Assemblymembers Colver and Keogh in favor.

VOTE: The motion to amend by substitute Ordinance Serial No. 11-157(SUB), passed without objection.

MOTION: Assemblymember Arvin moved to postpone Ordinance Serial No. 11-157 (SUB) to a time certain of April 3, 2012.

VOTE: The motion passed with Assemblymember Halter opposed.

Ms. McKechnie:

- noted that she sent an email announcing the legislation to every community council President, Vice-President and Secretary provided their email address was on file;
- reported that the Clerk’s Office works to ensure updated contact information is maintained; and
- further added that is ultimately the responsibility of community council members to provide the Clerk’s office with their contact information.

Assemblymember Keogh commented that it appears the accuracy of contact information provided to staff is problematic.

Mayor DeVilbiss stated that there is no intent to destroy community councils with this legislation.

C. AUDIENCE PARTICIPATION (Three minutes per person.)

The following person spoke regarding the need to reserve property for a future regional sewer system: Ms. Helen Munoz.

The following persons spoke in support of prohibiting the use of electronic devices by members of the Assembly during Assembly meetings and spoke in opposition to the use of pro and con sign-up sheets for public testimony: Ms. Charissa Cherry and Mr. Jim Sykes;

The following person spoke in support of the expansion of the Wasilla Library, expressed support of prohibiting the use of electronic devices by members of the Assembly during Assembly meetings and spoke in opposition to the use of pro and con sign-up sheets for public testimony: Ms. Diane Woodruff.

The following persons spoke to the success of the Fronteras Spanish Immersion Charter School and thanked the Assembly for the appointments to the School Site Committee, Fronteras members: Mr. Ernie Hetrick and Ms. Nicole Whittington-Evans.

MOTION: Assemblymember Arvin moved to suspend the rules to extend the meeting to 11:30 pm

VOTE: The motion failed with Assembly Keogh, Colligan, Woods, and Arvin in favor (requires 5 votes).

MOTION: Assemblymember Halter moved to suspend the rules to extend the meeting until 11:15 p.m.

VOTE: The motion passed without objection.

The following person spoke in support of prohibiting the use of electronic devices by members of the assembly during assembly meetings, requested that the assembly consider adopting a uniform quorum requirement for community councils, and expressed opposition to the use of pro and con sign-up sheets for public testimony: Ms. Michelle Church.

D. CONSENT AGENDA

1. RESOLUTIONS

a. Resolution Serial No. 11-156: A RESOLUTION AMENDING THE SCOPE OF WORK FOR THE WEST LAKES FIRE SERVICE AREA STATION 7-1 CONNEX STORAGE UNIT, PROJECT NO. 45088.

(1) IM No. 11-271

b. Resolution Serial No. 11-157: A RESOLUTION AUTHORIZING PARTICIPATION IN THE LIBRARY CONSTRUCTION AND MAJOR EXPANSION MATCHING GRANT PROGRAM FOR THE CONSTRUCTION OF A TALKEETNA PUBLIC LIBRARY AND COMMUNITY RESOURCE CENTER IN THE AMOUNT OF \$2.8 MILLION.

(1) IM No. 11-275

c. Resolution Serial No. 11-158: A RESOLUTION ADDING TO POLICY AND PROCEDURES OF THE ASSEMBLY AND MAYOR. *(Sponsored by Mayor DeVilbiss)*

(1) IM No. 11-278

2. ACTION MEMORANDUMS

- a. AM No. 11-105: VACATION OF PUBLIC INTEREST IN THE DEDICATION OF EASEMENT RECORDED MARCH 28, 1968, AT BOOK XI MISC, PAGE 66, WITHIN PROPOSED DIXON'S HATCHER PASS PLACE MASTER PLAN, LOCATED IN SECTION 32, TOWNSHIP 19 NORTH, RANGE 1 EAST, SEWARD MERIDIAN, ALASKA.
- b. AM No. 11-109: DESTRUCTION OF BALLOTS FROM THE OCTOBER 4, 2011, BOROUGH REGULAR ELECTION.

Ms. McKechnie read the above legislation into the record.

Assemblymember Keogh requested to remove Resolution Serial No. 11-158 from the consent agenda.

MOTION: Assemblymember Arvin moved to approve the consent agenda as read into the record by the clerk with the exception of Resolution Serial No. 11-158.

VOTE: The motion passed without objection.

MOTION: Assemblymember Keogh moved to adopt Resolution Serial No. 11-158.

MOTION: Assemblymember Colligan moved a primary amendment to Resolution Serial No. 11-158, Section II Communications, as follows:

- to insert the words "in a manner that would violate the Open Meetings Act" after the word "other" to read: "D. During assembly meetings the mayor and members of the assembly will not communicate electronically with each other in a manner that would violate the Open Meetings Act so that all deliberations happen openly in the public." And
- to add a new paragraph E to read: "E. All Communications devices shall be silenced within the meeting room during all assembly meetings and public hearings by the mayor, members of the assembly, staff and public, as to not disrupt or district from the meeting in process."

Assemblymember Colligan:

- remarked that the issue of the use of electronic devices during assembly meetings should be addressed as the Borough considers electronic media enhancements to assist remote locations;
- stated that people need to be courteous and silence cell phones during meetings; and
- noted he will not turn off his phone rather silence it and check during breaks.

MOTION: Assemblymember Keogh moved to divide the question

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

MOTION: First Segment. E. All Communications devices shall be silenced within the meeting room during all assembly meetings and public hearings by the mayor, members of the assembly, staff and public, as to not disrupt or distract from the meeting in progress.

VOTE: First Segment. The motion passed without objection.

MOTION: Second Segment. D. During assembly meetings, members of the assembly and the mayor will not communicate electronically by cell phone or personal computer for calls, text message, or email messages so all deliberations are open to the public.

Assemblymember Arvin suggested that the secondary amendment would prohibit the Assembly from participating in meetings telephonically or via Skype.

Assemblymember Koegh:

- noted that it is not the intent of his motion to prohibit the Assembly from participating in meetings telephonically; and
- opined that State law provides for the use of telephonic participation by elected officials.

Assemblymember Colligan:

- remarked that the use of the term electronic device defines all technology and is not limiting; and
- spoke in support of defining electronic communication in a broad sense as technology changes rapidly.

Assemblymember Colver:

- advised that it is not practical to limit the use of electronic communication during Assembly meetings as members participate telephonically;
- objected to the inference that the Assembly is not conducting business above board;
- remarked that the integrity of the body is being called into question; and
- further noted that it appears the issue is being used for political purposes.

MOTION: Assemblymember Keogh moved to suspend the rules to extend the meeting to 11:30 p.m.

VOTE: The motion passed without objection.

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

VOTE: The motion passed without objection.

VOTE: The secondary amendment failed with Assemblymembers Colligan, Woods, and Arvin opposed and Assemblymembers Colver, Keogh, and Halter in favor. The motion failed with Mayor DeVilbiss invoking his privilege in opposition.

MOTION: Assemblymember Arvin moved a secondary amendment to strike the words “with each other” after the word “electronically.”

Assemblymember Colligan reiterated his desire to encompass electronic communication as a whole regardless of the device while ensuring compliance with the Open Meetings Act.

Assemblymember Arvin asked for assurance from the attorney that the motion would not prohibit member of the assembly from participating in meetings electronically.

Mr. Spiropoulos remarked that telephonic participation is affirmatively allowed by code and the only way to prohibit it is by ordinance.

VOTE: The secondary amendment passed without objection.

VOTE: First Segment. The primary amendment passed without objection.

MOTION: Assemblymember Keogh moved to strike in its entirety item 8, which reads: The Mayor from time to time may request, before the Assembly meeting, that the clerk provide for pro and con sign-up sheets on an issue for members of the public to sign-up to speak to an item.

VOTE: The primary amendment passed without objection.

VOTE The main motion as amended passed without objection.

X. NEW BUSINESS

A. INTRODUCTIONS (For public hearing – 12/20/11, 7 p.m., Borough Assembly Chambers)

1. Ordinance Serial No. 11-158: AN ORDINANCE ACCEPTING AND APPROPRIATING \$238,150 FROM THE ALASKA STATE DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT GRANT PROGRAM, TO FUND 425, PROJECT NO. 45158, FOR EMERGENCY AND COMMUNICATIONS EQUIPMENT, AND PROGRAM COORDINATOR WAGES.

a. Resolution Serial No. 11-159: 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 EMERGENCY AND COMMUNICATIONS EQUIPMENT AND PROGRAM COORDINATOR WAGES.

(1) IM No. 11-265

2. Ordinance Serial No. 11-159: AN ORDINANCE AMENDING MSB 17.55.010, TO CREATE SPECIFIC SETBACK REQUIREMENTS FOR ALASKA RAILROAD RIGHTS OF WAY; AND AMENDING MSB 17.125, DEFINITIONS.

a. IM No. 11-266

3. Ordinance Serial No. 11-160: AN ORDINANCE APPROVING THE CLASSIFICATION OF A PORTION OF BOROUGH-OWNED PARCEL 16N04W06D001 IN THE SOUTH BIG LAKE AREA AS MATERIAL LANDS.
 - a. IM No. 11-267

4. Ordinance Serial No. 11-161: AN ORDINANCE APPROVING A SUPPLEMENTAL APPROPRIATION OF \$40,500 FROM THE WEST LAKES FIRE SERVICE AREA NO. 136 FUND BALANCE, FUND 249, TO THE WEST LAKES FIRE SERVICE AREA NO. 136 FISCAL YEAR 2012 OPERATING BUDGET, FUND 249, TO REIMBURSE FOR UNEXPECTED EXPENSES INCURRED AS A RESULT OF NECESSARY REPAIRS AND UPGRADES.
 - a. IM No. 11-268

5. Ordinance Serial No. 11-162: AN ORDINANCE APPROVING A SUPPLEMENTAL APPROPRIATION OF \$30,000 FROM THE BUTTE FIRE SERVICE AREA NO. 2 FUND BALANCE, FUND 251, TO THE BUTTE FIRE SERVICE AREA NO. 2 FISCAL YEAR 2012 OPERATING BUDGET, FUND 251, FOR THE PURCHASE OF NECESSARY EQUIPMENT.
 - a. IM No. 11-269

6. Ordinance Serial No. 11-163: AN ORDINANCE ACCEPTING AND APPROPRIATING \$6,275 FROM THE ALASKA STATE DEPARTMENT OF NATURAL RESOURCES, DIVISION OF PARKS AND OUTDOOR RECREATION, TO FUND 440, PROJECT NO. 15015, FOR THE MAT-SU SNOWMOBILE TRAIL MARKING PROJECT.
 - a. Resolution Serial No. 11-160: A RESOLUTION APPROVING THE SCOPE OF WORK AND BUDGET FOR THE MAT-SU SNOWMOBILE TRAIL MARKING PROJECT, FUND 440, PROJECT NO. 15015.
 - (1) IM No. 11-270

7. Ordinance Serial No. 11-164: AN ORDINANCE ACCEPTING AND APPROPRIATING \$22,243 FROM THE ALASKA STATE DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT GRANT PROGRAM, TO FUND 480, PROJECT NO. 45126, FOR COMMUNITY EMERGENCY RESPONSE TEAM AND NEIGHBORHOOD WATCH TRAINING.
 - a. Resolution Serial No. 11-161: A RESOLUTION APPROVING THE SCOPE OF WORK AND BUDGET FOR THE ALASKA STATE DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT GRANT, PROJECT NO. 45126, FUND 480, FOR CERT AND NEIGHBORHOOD WATCH TRAINING.
 - (1) IM No. 11-272

8. Ordinance Serial No. 11-165: AN ORDINANCE ACCEPTING AND APPROPRIATING \$13,306.31 FROM MATANUSKA TELEPHONE ASSOCIATION TO FUND 440, PROJECT NO. 20323 FOR UPGRADING AND ENHANCING THE

TELECOMMUNICATIONS AND INFORMATION SERVICES WITHIN THE
MATANUSKA-SUSITNA LIBRARY NETWORK.

- a. IM No. 11-273
- 9. Ordinance Serial No. 11-166: AN ORDINANCE ACCEPTING AND APPROPRIATING \$8,000 FROM THE ALASKA STATE DEPARTMENT OF EDUCATION TO FUND 480, PROJECT NO. 20364, FOR CONTINUING EDUCATION GRANTS AT THE BIG LAKE, SUTTON, TALKEETNA, TRAPPER CREEK, AND WILLOW PUBLIC LIBRARIES.
 - a. Resolution Serial No. 11-162: A RESOLUTION APPROVING THE SCOPE OF WORK AND BUDGET FOR CONTINUING EDUCATION GRANTS FOR THE BIG LAKE, SUTTON, TALKEETNA, TRAPPER CREEK, AND WILLOW PUBLIC LIBRARIES.
 - (1) IM No. 11-274

Ms. McKechnie read the above legislation into the record.

MOTION: Assemblymember Arvin moved to introduce the legislation as read into the record by the Clerk and set the public hearings for December 20, 2011.

VOTE: The motion passed without objection.

B. MAYORAL NOMINATIONS AND APPOINTMENTS

1. VACANCY REPORT

Mayor DeVilbiss requested the following confirmations:

Borough Area Schools Site Selection Committee

Ernest Hetrick

Jennifer Schmidt

Emergency Medical Services Board

Paul Gavell

Health and Social Services Board

Kevin Munson

MSB Fish and Wildlife Commission

Ben Allen

Office of Administrative Hearings

Ross Kopperud

Danaly Dalrymple

Transportation Advisory Board

James Rowland

Big Lake RSA No. 21

Houston Snyder

Caswell FSA No. 135

Larry Cline

Greater Willow RSA No. 20
Jim Norcross
Lazy Mountain RSA No. 19
Matthew Speckels
Talkeetna Flood Control Service Area No. 7
Roberta Sheldon

Mayor DeVilbiss made the following recommendations:

Aviation Advisory Board
Patrick Martin
David Palmer
Borough Area School Site Selection Committee
Darcie Salmon
Tom Adams
Emergency Medical Services Board
Mia Mangione
Enhanced 911 Advisory Board
Joel Butcher
Local Emergency Planning Committee
Lance Wilson
Parks, Recreation, and Trails Advisory Board
Edward Strabel
Platting Board
David Robinson
Port Commission
Jay Nolfi
Greater Talkeetna RSA No. 29
George Wagner

MOTION: Assemblymember Arvin moved to approve the Mayor's recommendations up for confirmation this evening.

VOTE: The motion passed without objection.

C. OTHER NEW BUSINESS

(There was no other new business.)

D. REFERRALS (For referral to the Planning Commission for 90 days or other date specified by the Assembly)

(There were no referrals.)

XI. RECONSIDERATION

(There was no reconsideration presented.)

XII. EXECUTIVE SESSION

(There was no executive session held.)

XIII. MAYOR, ASSEMBLY, AND STAFF COMMENTS

Mr. Moosey:

- thanked Elizabeth Gray for her dedicated service to the Borough; and
- remarked that Ms. Gray has accepted employment in Oklahoma.

Ms. McKechnie:

- announced she will be out of the office on leave December 19, through December 30; and
- noted that the Deputy Clerk will be Acting Clerk during her absence.

Assemblymember Keogh:

- extended appreciation to Ms. Gray; and
- requested a report on the timeline for filling vacant management positions.

Mr. Moosey provided the information.

Assemblymember Halter thanked Mayor for appointments to road and fire service boards.

Assemblymember Colver spoke to his work on proposed amendments to the subdivision code.

Assemblymember Colligan expressed appreciation for the debate on electronic communication.

Assemblymember Woods expressed appreciation to Ms. Gray for her service.

Assemblymember Arvin:

- affirmed his commitment to openly follow the public process; and
- expressed resentment about remarks made questioning his character.

MOTION: Assemblymember Arvin moved to suspend the rules to extend the meeting to 11:35 p.m.

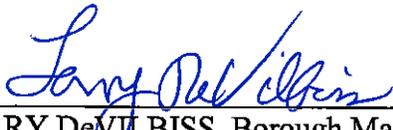
VOTE: The motion passed without objection.

Mayor DeVilbiss

- spoke in support of the legislation on community councils;
- expressed his hesitation in endorsing one gasline project; and
- noted economics will drive gasline development.

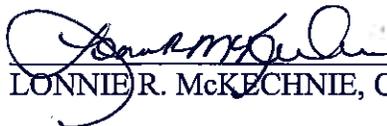
XIV. ADJOURNMENT

The regular meeting adjourned at 11:35 p.m.



LARRY DeVILBISS, Borough Mayor

ATTEST:



LONNIE R. McKECHNIE, CMC, Borough Clerk

Minutes Approved: 01/17/12