

I. CALL TO ORDER

The special meeting of the Matanuska-Susitna Borough Assembly was held on September 26, 2006, at the Borough Assembly Chambers, 350 E. Dahlia Avenue, Palmer, Alaska. The special meeting was called to order at 6 p.m. by Mayor Timothy L. Anderson.

II. ROLL CALL

Assembly members present and establishing a quorum were:

- Ms. Lynne Woods, Assembly District No. 1
- Mr. Bill Allen, Assembly District No. 2
- Mr. Talis J. Colberg, Assembly District No. 3
- Ms. Mary Kvalheim, Assembly District No. 4
- Ms. Cindy L. Bettine, Assembly District No. 5
- Mr. Jim Colver, Assembly District No. 6 (*Deputy Mayor*) (*arrived at 6:15 p.m.*)
- Ms. Betty Vehrs, Assembly District No. 7

Staff in attendance were:

- Mr. John Duffy, Borough Manager
- Ms. Michelle M. McGehee, CMC, Borough Clerk
- Mr. John Aschenbrenner, Deputy Borough Attorney
- Ms. Lonnie McKechnie, Executive Assistant to the Borough Clerk
- Ms. Marian Romano, Assistant Borough Manager
- Ms. Tammy Clayton, Finance Director
- Mr. Murph O'Brien, Planning and Land Use Director
- Ms. Patricia Von Ah, Human Resources Manager

III. APPROVAL OF AGENDA

Mr. Anderson:

- inquired if there was any objection to moving Resolution Serial No. 06-134 after the Executive Session; and
- to moving audience participation prior to the items of business to allow the public a chance to speak after Item A, under items of business.

There was no objection noted.

Mayor Anderson inquired if there were any other changes to the agenda.

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

IV. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mr. Jim Turner, a former assembly member.

V. ITEMS OF BUSINESS

A. PRESENTATION FROM STAINBACK PUBLIC PRIVATE REAL ESTATE RE: THE HATCHER PASS DEVELOPMENT AGREEMENT BETWEEN THE MATANUSKA-SUSITNA BOROUGH AND JL PROPERTIES.

Mr. John Stainback:

- provided background information and objectives for Stainback Public Private Real Estate (SPPRE); and
- provided an overview of the objectives of the services that were provided to the Borough.

Mr. Will Reed:

- spoke regarding the changes that SPPREE made to the market demand study;
- spoke regarding the financial analysis for the alpine facility;
- overviewed SPPRE updated public/private finance and development plan;
- spoke regarding the returns that the parties will receive with the plan; and
- spoke regarding the next steps of the project.

Assemblymember Vehrs queried the management agreement with JL Properties.

Mr. Duffy advised that the next step is to get comments from JL Properties.

Assemblymember Colver queried whether SPPRE has been meeting with JL Properties to discuss the project.

Mr. Reed advised that they have met with JL Properties to discuss the project.

Discussion ensued regarding:

- the investments being made by the parties;
- the complexity of the agreement with the different equity classes;
- the national scale for a project of this size;
- the need to appraise the value of the property; and
- the Borough's return for the public assets.

The meeting recessed at 6:50 p.m. and reconvened at 7:10 p.m.)

VI. SPECIAL ORDERS (to begin at 7:10 p.m.)

A. PUBLIC HEARINGS (Three minutes per person.)

1. Ordinance Serial No. 06-187: AN ORDINANCE APPROPRIATING \$40,277,669 TO FUND 400, SCHOOL PROJECTS, FOR THE ACQUISITION, CONSTRUCTION, AND INSTALLATION OF SCHOOL AND RELATED CAPITAL IMPROVEMENTS WITHIN THE BOROUGH AND FOR RELATED ISSUANCE COSTS FOR THE 2006 SERIES A AND B GENERAL OBLIGATION SCHOOL BONDS.

- a. Resolution Serial No. 06-129: A RESOLUTION APPROVING THE SCOPE OF WORK AND BUDGET FOR THE 2006 SERIES A AND SERIES B GENERAL OBLIGATION SCHOOL BOND CONSTRUCTION PROJECTS.
- (1) IM No. 06-269

Ms. Clayton provided a staff report.

Mayor Anderson 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 Colver moved to adopt Ordinance Serial No. 06-187 and Resolution Serial No. 06-129.

VOTE: The main motion passed without objection.

VII. AUDIENCE PARTICIPATION

The following persons spoke in opposition to Resolution Serial No. 06-136: Mr. Dane Crowley and Ms. Jay Nolfi.

The following person spoke regarding concerns with Ordinance Serial No. 06-147 and due process rights regarding minor modifications to plats: Ms. Jean Krause.

The following persons spoke in support of Resolution Serial No. 06-136: Ms. Cathy Wells, Director of Friends of Mat-Su; and Mr. Garvin Buccaria.

The following person spoke regarding the existing MSB 16.05.030(E), Penalties and Remedies, violating Alaska Statute: Dr. Israel Nelson.

- C. Resolution Serial No. 06-135: A RESOLUTION IN SUPPORT OF LOCAL TAX RELIEF FOR FAMILIES AND BUSINESSES AT THE STATE LEVEL DURING FISCAL YEAR 2007.

(Sponsors: Assemblymembers Woods, Kvalheim, and Bettine)

1. IM No. 06-284

MOTION: Assemblymember Kvalheim moved to approve Resolution Serial No. 06-135.

Assemblymember Bettine spoke regarding how the Alaska Municipal League thinks that municipalities should be lobbying, particularly during the campaign season.

Assemblymember Colver:

- spoke in support of Resolution Serial No. 06-135; and
- requested to be added as a sponsor on the legislation.

Mayor Anderson:

- advised that he supports the concept of the resolution; and
- spoke regarding sustainable programs with annual appropriations.

Assemblymember Woods:

- stated that the natural resources belong to all; and
- stated that the principal of natural resources is to share with all Alaskans.

Discussion ensued regarding the appropriation of sustainable funds.

MOTION: Assemblymember Bettine moved a primary amendment to Resolution Serial No 06-135, Therefore, Be It Resolved clause, in (1)(a) to delete the word “by” to read as follows: (1)(a) The state of Alaska is urged to adopt a sustainable revenue sharing program annually appropriating a percentage of natural resource revenues to municipalities with a \$100,000 per community minimum. This sharing of State revenues is consistent with the owner state concept, intergovernmental cooperation and constitutional provisions which provide for the natural resource ownership by all the people of the state of Alaska. Delivery of services at the local level is part of the annual State responsibility to citizen/owners for the betterment of the state of Alaska.

VOTE: The primary amendment passed without objection.

VOTE: The main motion passed as amended without objection.

- D. Resolution Serial No. 06-136: A RESOLUTION SUPPORTING A MORATORIUM ON SALES OF TIMBER ON BOROUGH-OWNED LANDS.
(Sponsor: Assemblymember Vehrs)
1. IM No. 06-286

MOTION: Assemblymember Vehrs moved to approve Resolution Serial No. 06-136.

Assemblymember Vehrs:

- stated that the timber industry has not been given a fair shake by not implementing a timber permit;
- spoke regarding the need for a permitting process for the timber industry;
- stated that a process needs to be set up if the Borough wants to be business friendly; and
- spoke regarding the need to be proactive.

Assemblymember Kvalheim:

- requested to be added as a sponsor to the legislation; and
- queried the status of the permitting process and best management plan.

Mr. Duffy:

- stated that it is taking longer than expected due to the fact the it has expanded beyond just the timber sale for timber harvest;
- advised that a contractor has been hired to assist with the process; and
- advised that it should be completed in three months.

Assemblymember Colberg:

- stated that he never intended for this to be turned into a perpetual moratorium, which is not fair to anyone;
- noted that the Port MacKenzie depends on the ships that come in for the wood chips; and
- opined that further delay is inappropriate.

Discussion ensued regarding:

- the need for a public process; and
- the need to support economic development.

MOTION: Assemblymember Colver moved a primary amendment to the title of Resolution Serial No. 06-136 by adding the phrase “until a timber harvest permit process is adopted” at the end of the title to read as follows. A resolution of the Matanuska-Susitna Borough Assembly adopting a moratorium on sales of timber on Borough-owned lands until a timber harvest permit process is adopted.

VOTE: The primary amendment passed without objection.

MOTION Assemblymember Colver moved a primary amendment to Resolution Serial No. 06-136, by adding a Further Be It Resolved clause to read as follows: Further Be It Resolved, that legislation for a timber harvest permit be introduced to the Assembly no later than January 1, 2007.

MOTION: Assemblymember Bettine moved a secondary amendment to Resolution Serial No. 06-136, to strike the date of “January 1, 2007” and insert in its place “December 5, 2006.”

Mr. Aschenbrenner advised that the legislation states that it is supporting a moratorium not adopting a moratorium.

VOTE: The secondary amendment failed with Assemblymembers Colberg, Bettine, and Colver in support.

Assemblymember Bettine queried whether the legislation needs to go to the Planning Commission prior to the Assembly.

Mr. Duffy advised that the legislation does not need to go to the Planning Commission; however it does need to go to the Real Property Asset Management Board.

Mayor Anderson queried who would be issuing the permits.

Mr. Duffy advised that administration would be issuing the permits.

Discussion ensued regarding the permitting process.

MOTION: Assemblymember Colver moved a secondary amendment to Resolution Serial No. 06-136, to strike the date of “December 5, 2006” and insert in its place “January 16, 2007.”

VOTE: The secondary amendment passed with Assemblymembers Colberg and Allen opposed.

VOTE: The primary amendment passed as amended without objection.

MOTION: Assemblymember Vehrs moved a primary amendment to Resolution Serial No. 06-136 to strike the word “support” and insert in its place “adopts” throughout the legislation.

VOTE: The primary amendment passed with Assemblymembers Allen and Colberg opposed.

Assemblymember Allen:

- spoke regarding the need for economic development;
- spoke in opposition of the moratorium on timber;
- spoke regarding the State Delegation’s response to the moratorium;
- stated that people who want to do business in the Borough need to be treated with respect; and
- stated that the moratorium would be a sad mistake.

MOTION: Assemblymember Allen moved a primary amendment to Resolution Serial No. 06-136, to insert a clause to read as follows: “Now, Therefore, Be It Resolved, that the Port District is excluded from timber sales.”

Assemblymember Colberg queried if this particular timber sale is entirely in the Port District.

Mr. Duffy advised that this timber sale is in the Port District.

Assemblymember Vehrs:

- advised that she does not have an objection to timber sales in the Port District; and
- stated that she does not want to taint the process.

Discussion ensued regarding:

- the need to establish a process; and
- the concerns of the community.

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

VOTE: The motion to stop debate failed with Assemblymembers Woods and Vehrs in support.

(The regular meeting recessed at 8:26 p.m. and reconvened at 8:35 p.m.)

MOTION: Assemblymember Allen moved a secondary amendment to Resolution Serial No. 06-136, to insert the phrase “for a period of 90 days” to read as follows: “Now, Therefore, Be It Resolved, that the Port District is excluded from timber sales for a period of 90 days.”

VOTE: The secondary amendment failed with Assemblymembers Woods, Allen, and Colberg in support.

MOTION: Assemblymember Bettine moved a secondary amendment to Resolution Serial No. 06-136, to strike the phrase “Port District” and insert in its place “the pending sale of MSB 004756” to read as follows: “Now, Therefore, Be It Resolved, that the pending sale of MSB 004756 is excluded from timber sales.”

Assemblymember Bettine:

- advised that her intent is to let this sale go through and not any others; and
- spoke to the need for a process.

VOTE: The secondary amendment passed with Assemblymember Vehrs opposed.

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

VOTE: The main motion passed as amended with Assemblymember Colberg opposed.

MOTION: Assemblymember Vehrs moved to reconsidered Resolution Serial No. 06-136.

VOTE: The motion failed unanimously.

E. Ordinance Serial No. 06-147: AN ORDINANCE REPEALING TITLE 16, SUBDIVISIONS, IN ITS ENTIRETY, ADOPTING TITLE 27, SUBDIVISIONS, AND AMENDING MSB 15.39.140. *(Continued from September 19, 2006)*

1. IM No. 06-198

MOTION PENDING: Assemblymember Kvalheim moved to adopt Ordinance Serial No. 06-147.

MOTION: Assemblymember Bettine moved a primary amendment to Ordinance Serial No. 06-147, MSB 27.15.170(H), Surveyor’s Certificate, by striking the last paragraph in its entirety that reads: I, (surveyor’s name and land surveyor number), hereby certify that I am a registered professional land surveyor in the

state of Alaska and that this plat represents a survey made by me or under my direct supervision, and that the monuments shown on the plat shall be set on or before, and that all dimensional and other details are true and correct to the best of my knowledge.

Assemblymember Bettine advised that the purpose of the amendment is to ensure that the property corners are set by the original surveyor.

Assemblymember Colver:

- stated that the original intent was to have the corners set by the surveyor after the utilities are set; and
- spoke regarding utility staking.

Assemblymember Kvalheim requested Mr. Aschenbrenner to provide an opinion regarding the amendment.

Mr. Aschenbrenner:

- spoke regarding concerns if the Borough were to do surveying for private developments;
- stated that he does not want to see the Borough in litigation over boundary disputes; and
- spoke regarding public improvements.

Discussion ensued regarding:

- Surveyor's permits;
- property corners in subdivision agreements; and
- the current practice in code.

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

VOTE: The motion to stop debate passed with Assemblymembers Colver and Vehrs opposed.

VOTE: The primary amendment passed with Assemblymembers Colver and Vehrs opposed.

MOTION: Assemblymember Colberg moved to reconsider the primary amendment.

VOTE: The motion to reconsider the primary amendment failed with Assemblymember Colver in support.

MOTION: Assemblymember Bettine moved a primary amendment to Ordinance Serial No. 06-147, MSB 27.35.005(C), by striking the following sentence: (13) the setting of property corners and monuments may be part of an agreement.”

Assemblymember Colver opined that the amendment will cause more encroachments.

VOTE: The primary amendment passed with Assemblymember Colver opposed.

MOTION: Assemblymember Vehrs moved a primary amendment to Ordinance Serial No. 06-147, to delete MSB 27.15.060, Minor Modifications, in its entirety.

Assemblymember Bettine requested that staff provide comments on the amendment.

Mr. O'Brien:

- advised that he supports the flexibility to approve minor modifications administratively;
- spoke to the administrative process; and
- spoke to the criteria for minor modification.

Discussion ensued regarding:

- the review process for a plat;
- the need for the Planning Department to provide a policy; and
- appeals to the Board of Adjustment and Appeals.

VOTE: The primary amendment passed with Assemblymembers Allen, Woods, and Colberg opposed.

MOTION: Assemblymember Vehrs moved to reconsider the primary amendment.

VOTE: The motion to reconsider the primary amendment failed unanimously.

Assemblymember Vehrs requested that "Minor Modifications" be placed on the tracking report.

MOTION: Assemblymember Colver moved a primary amendment to Ordinance Serial No. 06-147, MSB 27.15.050(A)(6), to insert the phrase "if requested in writing" between the words "code" and "by" to read as follows: (6) any additional information required by code, if requested in writing by the platting or planning official.

VOTE: The primary amendment passed without objection.

MOTION: Assemblymember Kvalheim called for the question on the main motion (to stop debate).

VOTE: The motion to stop debate failed with Assemblymembers Allen, Kvalheim, and Vehrs in support.

MOTION: Assemblymember Colver moved a primary amendment to Ordinance Serial No. 06-147, MSB 27.20.065(D)(5), to insert the phrase "the length of the pole" between the words "and" and "does" to read as follows: (5) the pole portion of the flag lot is of uniform width and the length of the pole does not exceed the square root of 125 percent of the flagged parcel's square footage. Lots of less than two acres shall have a maximum pole length of 330 feet.

VOTE: The primary amendment passed without objection.

MOTION: Assemblymember Bettine moved a primary amendment to Ordinance Serial No. 06-147, MSB 27.15.080(A)(5), to insert the following sentence at the end “Comments submitted by utilities shall be considered in making this determination” to read as follows: (5) proof has been submitted demonstrating that utility easements provided. Comments submitted by utilities shall be considered in making this determination.

MOTION: Assemblymember Colver moved a secondary amendment to Ordinance Serial No. 06-147, to strike the word “shall” and insert the word “may” to read as follows: (5) proof has been submitted demonstrating that utility easements provided. Comments submitted by utilities may be considered in making this determination.

VOTE: The secondary amendment passed with Assemblymembers Woods, Allen, and Colberg opposed.

VOTE: The primary amendment passed as amended without objection.

MOTION: Assemblymember Colver moved a primary amendment to Ordinance Serial No. 06-147, MSB 27.20.030(B), to insert a sentence (4) to read as follows: (4) notwithstanding, the platting board can deviate from (B)(1), (2), and (3) of this section if the board makes a finding that conditions for a variance can be met.

Assemblymember Colver:

- noted that Alaska Statute defines the conditions that have to be met for a variance; and
- stated that this allows the Platting Board to look at rural access issues.

Mr. Aschenbrenner:

- stated that the variance standards in Title 29 of Alaska Statute are for land use regulations; and
- stated that variance standards in Title 27 of the Borough code are for a variance of a subdivision ordinance.

VOTE: The primary amendment passed with Assemblymembers Allen, Colberg, and Bettine opposed.

MOTION. Assemblymember Colver moved to reconsider the primary amendment.

VOTE: The motion to reconsider failed with Assemblymembers Colberg and Bettine in support.

(The regular meeting recessed at 9:35 p.m. and reconvened at 9:41 p.m.)

MOTION: Assemblymember Bettine moved a primary amendment to Ordinance Serial No. 06-147, MSB 27.15.120(B)(8) to insert the sentence “In making this determination, the platting board shall consider comments from utilities concern the adequacy of alternative access to provide for utility facilities and services” at

the end of the paragraph to read as follows: (8) demonstration that a reasonably comparable, established alternate right-of-way or means of access exists that is sufficient to satisfy all present and reasonably foreseeable uses pursuant to AS 19.30.410. In making this determination, the platting board shall consider comments from utilities concerning the adequacy of alternative access to provide for utility facilities and services.

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

VOTE: The motion to stop debate failed with Assemblymembers Colver and Vehrs opposed.

VOTE: The primary amendment passed with Assemblymembers Colver and Vehrs opposed.

MOTION: Assemblymember Vehrs called for the question on main motion (to stop debate).

VOTE: The motion to stop debate passed with Assemblymember Colver opposed.

VOTE: The main motion passed as amended with Assemblymembers Colver and Vehrs opposed.

MOTION: Assemblymember Colberg moved to reconsider Ordinance Serial No. 06-147.

VOTE: The motion failed with Assemblymember Colver in support.

VIII. EXECUTIVE SESSION *(for matters, the immediate public knowledge of which would clearly have an adverse effect upon the finances of the borough and matters which by law, municipal charter, or ordinance are required to be confidential; direction may be given to the Attorney or labor negotiator regarding labor negotiations)*

MOTION: Assemblymember Colver moved to enter executive session for matters, the immediate public knowledge of which would clearly have an adverse effect upon the finances of the borough and matters which by law, municipal charter, or ordinance are required to be confidential; direction may be given to the Attorney or labor negotiator regarding labor negotiations, specifically to address the labor contract, negotiations between the Matanuska-Susitna Borough and the Matanuska-Susitna Borough Employees Association. Those in present during the executive session are the Assembly, Mayor, Manger, Attorney, Clerk, Human Resources Manager, and Finance Director.

Assemblymember Vehrs queried whether the documents would be privileged.

Mr. Aschenbrenner advised that the documents are privileged at this time due to the labor negotiations.

VOTE: The motion passed without objection and the Assembly entered executive session at 9:50 p.m.

MOTION: Assemblymember Kvalheim moved to exit executive session.

VOTE: The motion passed without objection and the Assembly exited executive session at 10:25 p.m.

B. Resolution Serial No. 06-134: A RESOLUTION RATIFYING THE PROPOSED LABOR AGREEMENT WITH THE MATANUSKA-SUSITNA BOROUGH EMPLOYEES ASSOCIATION.

1. IM No. 06-287

MOTION: Assemblymember Kvalheim moved to approve Resolution Serial No. 06-134.

VOTE: The motion passed with Assemblymembers Allen, Colberg, and Bettine opposed.

MOTION: Assemblymember Colver moved to reconsider Resolution Serial No. 06-134.

VOTE: The motion failed with Assemblymember Colberg in support.

IX.. MAYOR, ASSEMBLY, AND STAFF COMMENTS

Assemblymember Woods spoke regarding the fiscal impact analysis regarding the tax cap.

Ms. Clayton advised that there was a draft report in August and that the fiscal impact analysis will be finalized within the next two weeks.

Assemblymember Vehrs thanked everyone for sharing their knowledge and experience over the last three years.

Assemblymember Colver:

- encouraged the Assembly to keep working with each other; and
- spoke regarding issues with setback violations.

Mayor Anderson stated that he has been proud that all the members can work together.

X. ADJOURNMENT

The special meeting adjourned at 10:42 p.m.

/ S /

CURTIS D. MENARD, Borough Mayor

ATTEST:

/ S /

MICHELLE M. MCGEHEE, CMC, Borough Clerk

Minutes approved: 11/21/06