

The regular meeting of the Matanuska-Susitna Borough Planning Commission was held on March 21, 2016, at the Matanuska-Susitna Borough Assembly Chambers, 350 E. Dahlia Avenue, Palmer, Alaska. The meeting was called to order at 6:03 p.m. by Chair John Klapperich.

I. CALL TO ORDER, ROLL CALL, AND DETERMINATION OF QUORUM

Planning Commission members present and establishing a quorum:

- Ms. Mary Anderson, Assembly District #1
- Mr. Thomas Healy, Assembly District #2
- Mr. John Klapperich, Assembly District #3 *Chair*
- Ms. Colleen Vague, Assembly District #4
- Mr. William Kendig, Assembly District #5
- Mr. Vern Rauchenstein, Assembly District #7

Planning Commission members absent and excused were:

- Mr. Tomas Adams, Assembly District #6

Staff in attendance:

- Ms. Eileen Probasco, Planning & Land Use Director
- Mr. Alex Strawn, Development Services Manager
- Ms. Shannon Bodolay, Assistant Borough Attorney
- Mr. Mark Whisenhunt, Planner II
- Ms. Mary Brodigan, Planning Commission Clerk

II. APPROVAL OF AGENDA

Chair Klapperich inquired if there were any changes to the agenda.

GENERAL CONSENT: The agenda was approved without objection.

III. PLEDGE OF ALLEGIANCE

The pledge of allegiance was led by Mr. Butch Moore, a member of the audience.

IV. CONSENT AGENDA

- A. Minutes
 - 1. December 21, 2015, regular meeting minutes
 - 2. January 4, 2016, regular meeting minutes
 - 3. January 18, 2016, regular meeting minutes
 - 4. March 7, 2016, regular meeting minutes

B. INTRODUCTION FOR PUBLIC HEARING: QUASI-JUDICIAL MATTERS

1. **Resolution 16-12**, a Conditional Use Permit (CUP) in accordance with MSB 17.30 – Conditional Use Permit for Earth Materials Extraction Activities, for the extraction of 1,300,000 cubic yards of earth material from a 20-acre site within an 80-acre parcel, located within Township 18 North, Range 2 East, Section 3, Tax Parcel B2 (18N02E03B0002), Seward Meridian. Public Hearing: April 4, 2016. (*Staff: Mark Whisenhunt, Applicant: Gary Robles*)

C. INTRODUCTION FOR PUBLIC HEARING: LEGISLATIVE MATTERS

1. **Resolution 16-14**, a resolution recommending Assembly approval to amend Ordinance MSB 15.24.030, adopting the MSB Metropolitan Planning Organization (MPO) Self-Assessment Study. Public Hearing: April 4, 2016. (*Staff: Jessica Smith*)
2. **Resolution 16-11**, a resolution recommending Assembly approval of an Interim Materials District (IMD) at the MSB Central Landfill in accordance with MSB 17.28 – Interim Materials District, for the extraction of 12,140,000 cubic yards of earth material from 260 acres within a 440-acre area, located within Township 17 North, Range 1 East, Sections 1 & 12, Tax Parcels D5, D6, A7, and B6 (17N01E12A007 & B006), Seward Meridian. Public Hearing: April 4, 2016. (*Staff: Mark Whisenhunt, Applicant: MSB Land Management*)
3. **Resolution 16-17**, a resolution recommending Assembly adoption of the Louise Susitna Tyone Lakes Comprehensive Plan Update previously known as the Lake Louise Comprehensive Plan. Public Hearing: April 4, 2016. (*Staff: Sara Jansen*)

Chair Klapperich read the consent agenda into the record.

Chair Klapperich inquired if there were any changes to the consent agenda.

GENERAL CONSENT: The consent agenda was approved without objection.

V. COMMITTEE REPORTS

(There were no committee reports.)

VI. AGENCY/STAFF REPORTS

(There were no agency/staff reports.)

VII. LAND USE CLASSIFICATIONS

(There were no land use classifications.)

VIII. AUDIENCE PARTICIPATION (Three minutes per person.)

The following person spoke regarding concerns with public process and the public not having an opportunity to have input on approval of the Planning Commission's minutes: Mr. Eugene Carl Haberman.

IX. PUBLIC HEARING: QUASI-JUDICIAL MATTERS (*Public Hearing not to begin before 6:15 P.M.*)

Commission members may not receive or engage in ex-parte contact with the applicant, other parties interested in the application, or members of the public concerning the application or issues presented in the application.

(There were no quasi-judicial public hearings.)

X. PUBLIC HEARING LEGISLATIVE MATTERS

- A. **Resolution 16-09**, a resolution recommending the Assembly adopt the 2016 Port MacKenzie Master Plan. Referred to the Planning Commission by the Assembly on February 2, 2016, and due back by May 3, 2016. (*Staff: Eileen Probasco*)

Chair Klapperich read the resolution title into the record.

Ms. Eileen Probasco provided a staff report:
staff recommended approval of the resolution with an amendment.

Commissioners questioned staff regarding steps have been taken to ensure that the Port is earthquake proof.

Chair Klapperich opened the public hearing.

The following person spoke regarding concerns with public process: Mr. Eugene Carl Haberman.

There being no one else to be heard, Chair Klapperich closed the public hearing and discussion moved to the Planning Commission.

MOTION: Commissioner Kendig moved to approve Resolution 16-09. The motion was seconded.

MOTION: Commissioner Kendig moved a primary amendment by adding a whereas statement to read: "Appendix D 'Department of Emergency Services, Port MacKenzie District Emergency Services 20-year Plan' is outdated and should be revised within a six month period, and incorporated into the plan". The motion was seconded.

VOTE: The primary amendment passed without objection.

VOTE: The main motion passed as amended without objection.

B. **Resolution 16-08**, a resolution recommending Assembly approval of an Interim Materials District (IMD) in accordance with MSB 17.28 – Interim Materials District, for the extraction of 750,000 cubic yards of earth material from a 25-acre site within a 40-acre parcel, located within Township 17 North, Range 04 West, Section 25, Tax Parcel B19 (17N04W25B019) Seward Meridian. (*Staff: Mark Whisenhunt, Applicant: Happy Heairet*)

Chair Klapperich read the resolution title into the record.

(The meeting recessed at 6:48 p.m., and reconvened at 6:54 p.m.)

Mr. Mark Whisenhunt provided a staff report.

Mr. William Heairet, the applicant, provided an overview of his application.

Commissioners questioned Mr. Heairet regarding clarification of the width of buffers.

Chair Klapperich opened the public hearing.

The following persons spoke in favor of Resolution 16-08: Mr. Bill Haller, Ms. Kathleen Connaker Grant, Mr. Craig Green, Ms. Sandy Baker, Ms. Roberta Rutter, Mr. Verne Monette, Mr. Mokie Tew, Mr. David Hoey, Mr. Jim Christianson, and Mr. Danny Drum.

The following persons spoke in opposition of Resolution 16-08: Ms. Suzette Longacre; Mr. Kirk Curry; Mr. Jerry MacAleavey; Ms. Carrie Keil; Ms. Kim Grabbe; Mr. Doug Longacre; Mr. Tim Finnigan, provided a sound sample of gravel pit noise measured by a sound meter; Mr. Jim Rehmann; Mr. Bill Dugdale; Mr. John F. Belarde; Mr. Bill Kane; Mr. George B. Woodbury, III; Mr. Butch Moore; Mr. Gerard Farkas; Mr. Robert Lada; Mr. Craig Beitinger; Mr. William Woodland; Ms. Theresa Finnigan; and Ms. Cindy Moore.

The following person spoke regarding concerns with public process: Mr. Eugene Carl Haberman.

(The meeting recessed at 8:55 p.m., and resumed at 9:00 p.m.)

Chair Klapperich invited Mr. Whisenhunt to respond to questions and statements from the public.

Mr. Whisenhunt responded to questions and statements from the public.

Commissioners questioned staff regarding:

- clarification of the traffic pattern for accessing the proposed IMD from Belarde Boulevard;
- will the IMD be transferrable if the property is sold; and
- the process for revoking an IMD should the need arise.

Chair Klapperich invited Mr. Heairet to respond to questions and statements from the public.

Mr. Heairet responded to questions and statements from the public.

Commissioners questioned Mr. Heairet regarding:

- what would it take to bring Belarde Boulevard up to borough standards;
- clarification of the reclamation plan;
- will the 50-foot hole created by the removal of gravel be refilled;
- if so, how will it be done to be aesthetically pleasing to the neighbors; and
- is the applicant prepared to comply with conditions listed in Resolution 16-08.

There being no one else to be heard, Chair Klapperich closed the public hearing and discussion moved to the Planning Commission.

MOTION: Commissioner Kendig moved to approve Resolution 16-08. The motion was seconded.

Commissioner Kendig stated that he will be voting in favor of the application.

Commissioner Vague:

- stated that she has issues with the entire application and will be voting against approval;
- opined that property values in the area will be affected;
- noted that there are plenty of gravel pits between here and Big Lake; and
- is concerned with the potential noise.

Commissioner Healy:

- stated that he has serious concerns with this application;
- noted that without zoning, it's difficult for the PC to determine if this is a good place for an IMD;
- referred to page 424 of the packet and opined that it doesn't look like a good place to put an industrial use;
- people had a reasonable expectation that they were buying property within a residential and recreational area;
- the Big Lake Comprehensive Plan encourages light industrial uses in only two areas; and
- stated that based on testimony and the comp plan, he cannot support approval of the application.

Commissioner Anderson:

- opined that comprehensive plans are usually well vetted;
- noted that the Big Lake Comprehensive Plan was updated in August of 2009;
- operating a gravel extraction operation in a dispersed residential area does not appear to be consistent with the goals of the comp plan; and
- stated that she will not be voting in favor of this application.

Commissioner Rauchenstein:

- stated that there are seven other gravel pits in the area;
- opined that the proposed IMD will not cause any more noise than the other gravel pits except when they are operating the crusher;

- gravel is sorely needed; and
- will be voting in favor of the application.

Chair Klapperich:

- stated that the Big Lake Community Council initiated their comp plan process;
- the community council also weighed in in favor of the proposed IMD with 30 for and 2 against;
- referred to the seventh whereas statement on page 630 of the packet that said that the applicant has met all of the requirements of MSB 17.28.050 and 17.27.060, and is in compliance with all local, state, and Federal laws;
- stated that he feels very strongly about personal property rights; and
- will be voting in support of the application.

Commissioner Kendig:

- questioned why staff provided a resolution in favor and another supporting denial without providing a recommendation to approve or deny; and
- opined that staff are the experts, and requested that in the future they make recommendations as to approve or not approve applications.

Mr. Strawn:

- stated that in the last five years, staff has always made a recommendation either for or against approval, which for most applications is an easy thing to do;
- there is usually significant evidence one way or another;
- in this case, the applicant met all of the operating standards and requirements with the exception of being compliant with the comp plan;
- in past staff has made a recommendation and provided a resolution for the PC supporting their recommendation;
- if the PC chose not to accept staff's recommendation, they would be forced to come up with their own reasons for supporting either approval or denial, and wouldn't have a resolution prepared to get them started; and
- in this case, staff provided the commission with two different resolutions both of which are supportable by facts.

Commissioner Anderson:

- questioned whether the comp plan is a ruling document for the area;
- if it is legally binding; and
- can a community council vote in favor of a land use that contradicts their own comp plan.

Mr. Strawn:

- referred to MSB 15.24.030(A) Comprehensive Plan and Purposes;
- stated that comp plans are not intended to be regulatory, but to guide development; and
- in this case, one of the findings that the PC has to make is that the application is in line with the comp plan.

Ms. Shannon Bodolay, Assistant Borough Attorney:

- stated that state law requires that the Assembly provide comp plans and land use

- regulations;
- one of the requirements for an IMD is that it be consistent with the comp plan;
 - urged the commission to beef up their findings if they believe that the application is consistent with the comp plan; and
 - acknowledged that often times comp plans have conflicting goals.

VOTE: The main motion failed with Commissioners Kendig and Rauchenstein in favor.

Chair Klapperich reminded commissioners that they will need to approve a resolution with facts supporting denial of Resolution 16-08.

1. **Resolution 16-16**, A resolution making a recommendation and providing findings of fact to support denial of Resolution 16-08.

Chair Klapperich read the resolution title into the record.

MOTION: Commissioner Healy moved to approve Resolution 16-16. The motion was seconded.

Chair Klapperich:

- stated that he voted in error and meant to have voted in favor of the application;
- acknowledged that the vote would have been three to three and the motion would still have failed; and
- is not in agreement with all of the findings of fact supporting denial of Resolution 16-08 and will be voting against Resolution 16-16.

VOTE: The main motion failed with Commissioners Anderson, Healy, and Vague in favor.

Ms. Bodolay:

- stated that these are not findings of facts and conclusions of law in connection with a conditional use permit;
- it's not a problem of a court overturning the commission's decision, but a matter of the Assembly not knowing the commission's reasons for a decision; and
- suggested that it will be helpful for the commission to provide direction as to what they didn't like about Resolution 16-16.

Chair Klapperich:

- stated that the commission needs to come up with finding to support the denial of Resolution 16-08; and
- suggested that the commissioners that voted against the resolution should draft a new resolution stating why the resolution failed.

Mr. Kendig suggested that the resolution should explain why the commission was split on the vote and why they couldn't agree.

Discussion ensued as to the best way to proceed with coming up with findings that support the denial of Resolution 16-08.

The commission decided to draft a new resolution detailing why the commission had a split vote on Resolution 16-08.

The clerk requested a five minute break in order to retrieve the Planning Commission Resolution Log Book to obtain a new resolution number.

(The meeting recessed at 10:31 p.m., and resumed at 10:36 p.m.)

MOTION: Commissioner Anderson move to approve Resolution 16-18. The motion was seconded.

Commissioner Anderson suggested starting with the first seven whereas statements from Resolution 16-08 which explains the process that the commission went through.

MOTION: Commissioner Vague moved a primary amendment to add a “whereas” statement to read "consideration of Resolution 16-08 came to a two to four vote”, and to add the following conclusions to the now, therefore, be it resolved statement:

- Commissioners Healy, Anderson, and Vague find Resolution 16-08 to be incompatible with the Big Lake Comprehensive Plan; and
- Commissioners Kendig, Rauchenstein and Klapperich find Resolution 16-08 to be compatible with the Big Lake Comprehensive Plan.

The motion was seconded.

Discussion ensued regarding using the verbiage "may be compatible" versus in "is compatible".

MOTION: Commissioner Kendig moved a secondary amendment to replace “to be” with "may be” to read: “Commissioners Kendig, Rauchenstein and Klapperich find the request for an IMD may be compatible with the Big Lake Comprehensive Plan”. The motion was seconded.

VOTE: The secondary amendment passed with Commissioner Vague in opposition.

VOTE: The primary amendment passed without objection.

Mr. Whisenhunt:

- referred to page 409 of the packet and suggested adding conclusions of law dealing with public health, safety, convenience, and welfare;
- that the applicant has met all of the requirements of MSB 17.28.050 and 17.28.060; and
- that the applicant is in compliance with all local, State, and Federal laws.

MOTION: Commissioner Kendig moved a primary amendment to add the following conclusions:

- the proposed use, with conditions, may not be harmful to the public health, safety, convenience, and welfare; and

- the applicant has met all of the requirements of MSB 17.28.050 and MSB 17.28.060, and is in compliance with all local, State, and Federal Laws.
The motion was seconded.

VOTE: The primary amendment passed without objection.

Discussion ensued as to whether commissioners found Resolution 16-08 to be compatible or incompatible with the Big Lake Comprehensive Plan, or the request for an IMD to be compatible or incompatible with the Big Lake Comprehensive Plan.

MOTION: Commissioner Healy moved a primary amendment to replace "Resolution 16-08" with "request for an IMD" under conclusions to read:

- "Commissioners Healy, Anderson, and Vague find the request for an IMD to be incompatible with the Big Lake Comprehensive Plan; and
- Commissioners Kendig, Rauchenstein and Klapperich find the request for an IMD to be compatible with the Big Lake Comprehensive Plan."

The motion was seconded.

VOTE: The primary amendment passed without objection.

MOTION: Commissioner Kendig moved a primary amendment to insert the first seven whereas statements from Resolution 16-08 at the beginning for Resolution 16-18. The motion was seconded.

VOTE: The motion to approve Resolution 16-18 passed as amended without objection.

MOTION: Commissioner Rauchenstein moved to postpone Resolution 16-13 until April 4, 2016. The motion was seconded.

Discussion ensued as to whether the commission should postpone the remaining agenda items, or try and complete them prior to the mandatory adjournment time of midnight.

The commission decided that they could conclude business prior to the mandatory adjournment of midnight.

WITHDRAWN: Commissioner Rauchenstein moved to withdraw his motion.

There was no objection noted.

C. Resolution 16-13, a resolution recommending the Assembly adopt MSB 8.41, Marijuana Related Facility License Referrals. Referred to the Planning Commission by the Assembly on February 16, 2016, and due back by May 16, 2016.

Chair Klapperich read the resolution title into the record.

Mr. Alex Strawn provided a staff report:

- staff recommended approval of the resolution.

Commissioners questioned staff regarding clarification of the process for a resident to file an objection to a marijuana related facility.

Chair Klapperich opened the public hearing.

The following person spoke regarding concerns with public process and conflicting meetings:
Mr. Eugene Carl Haberman.

There being no one else to be heard, Chair Klapperich closed the public hearing and discussion moved to the Planning Commission.

MOTION: Commissioner Kendig moved to approve Resolution 16-13. The motion was seconded.

VOTE: The motion passed without objection.

XI. CORRESPONDENCE AND INFORMATION

A. Email and Attachment from Patty Rosnel regarding PC Resolution 16-07, Alsop East IMD

(Correspondence and information was presented and no comments were noted.)

XII. UNFINISHED BUSINESS

(There was no unfinished business.)

XIII. NEW BUSINESS

(There was no new business.)

XIV. COMMISSION BUSINESS

A. School Site Selection Committee - PC Representative 2 *(Postponed from March 7, 2016)*

Ms. Brodigan:

- stated that in January 2015, Commissioner Adams was elected as PC Representative 1 to the School Site Selection Committee (SSSC), and Commissioner Rauchenstein was elected as the alternate;
- noted that the Planning Commission was unable to provide a Representative 2 for previous two years;
- Commissioner Kendig volunteered to be the PC Representative 2 and was elected by the commission;
- acknowledged that there was a clerical error and Commissioner Kendig's name was never forwarded to the Mayor for consideration;
- the error was not discovered until recently since there were no meetings of the SSSC in 2015;

- noted that Mayor Halter has requested that Commissioner Vague be on the SSSC; and
- requested that the commission nominate a Representative 2 to sit on the SSSC.

Commissioner Kendig:

- stated that he was unaware that his name had not been forwarded to the Mayor and assumed that he had been on the committee all this time; and
- would like to be the PC Representative 2 on the SSSC.

Commissioner Healy:

- noted that there was only two minutes left before mandatory adjournment; and
- suggested that the commission postpone discussion until the next meeting.

MOTION: Commissioner Healy moved to postpone this item until April 4, 2016. The motion was seconded.

VOTE: The motion to postpone passed without objection.

B. Upcoming Planning Commission Agenda Items (*Staff: Alex Strawn*)

(Commission Business was presented and no comments were noted.)

XV. DIRECTOR AND COMMISSIONER COMMENTS

Mr. Strawn:

- reminded the Commission that there is a joint meeting with the Assembly tomorrow night; and
- is looking for feedback as to whether staff should continue to provide two resolutions for the commission to consider when considering applications.

Commissioner Klapperich thanked everyone for their patience and thanked staff for their complete staff reports.

XVI. ADJOURNMENT

The regular meeting adjourned at 12:00 p.m.



JOHN KLAPPERICH, Planning Commission
Chair

ATTEST:



MARY BRODIGAN, Planning Commission
Clerk

Minutes approved: April 18, 2016