

Planning Commission SUPPLEMENTAL INFORMATION

December 15, 2016

Public Hearing – Amendments to General Standards for Marijuana Related Facilities

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Central Monofill Services (CMS)

- CMS Response to Borough Staff's Report and Comments at the December 5, 2016 Hearing – [Page 37](#)
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<ftp://ftp.matsugov.us/departments/Planning/Permitting/>
- Comments from Stephanie Nowers – [Page 81](#)

SUPPLEMENTAL INFORMATION

Jess Kilborn

From: gerimccann@att.net
Sent: Friday, December 09, 2016 2:36 PM
To: randallk_2@msn.com
Cc: Lonnie McKechnie; Jess Kilborn; bnvalentine@yahoo.com; Holly Sheldon Lee; kmccann@mtaonline.net
Subject: Request for Emergency Moratorium

Dear Randall,

A group of Talkeetna residents came to the Dec. 6th Assembly meeting to request an Emergency Moratorium to prohibit all marijuana related facilities within Special Use Districts (SPUD) until such a time as MSB 17.60 – Conditional Use Permit (CUP) is updated to apply within the Mat-Su Borough SPUD's. We also voiced that we are supportive of the MSB 17.60 to include SPUD's to protect Talkeetna from marijuana licensing without requiring a CUP.

Since both you and the MSB Attorney you were not present the mayor directed us to ask you to write the emergency moratorium for us. Will you please write this emergency moratorium for us?

This is a critical issue for Talkeetna's downtown Main Street Townsite SPUD. We are seriously concerned about the marijuana business license application that is in process of being submitted prior to the MSB Assembly meeting to revise the MSB 17.60 ordinance. If the license is submitted prior to the MSB 17.60 code update then this business might be "grandfathered" in and we would have not a voice in the CUP decision making process. Talkeetna could be "STUCK" with this business on the Talkeetna's downtown Main Street and we are opposed to that!

The community of Talkeetna needs time to update the downtown SPUD requirements concerning marijuana facilities before any applications are received by the Borough.

We respectfully request this emergency moratorium on behalf of all the families with children in Talkeetna.

A large group of Talkeetna residents concerned about marijuana licensing testified at the recent Dec. 5th Talkeetna Community Council meeting. Next month community members will be requesting the Talkeetna Community Council engage in modifying the Talkeetna SPUD to address marijuana facilities.

Many residents of Talkeetna are writing a letters to the MSB Assembly, Planning Commission, and Marijuana Advisory Committee supporting this request for an Emergency Moratorium and MSB 17:60 to be updated to include SPUD's.

Please respond and let us know if and when you will write this emergency moratorium. If you can not write it, we will request another Assembly member to write it.

I also called an left a message for you and hope to hear back from you soon.

Sincerely,

Geri & Kevin McCann 907-715-7891

Additional Talkeetna Residents;

Beth Valentine

Mike Mathews

Holly Sheldon Lee

David Lee

Rick and Diana Shear

Doug and April Moore

Judith Lund

Janet and Bill Rasmussen

Chad Valentine

Noel Machinko

John and Karen Timmers

Danae Burleson

Duranda Twigg

Constance Twigg

Harold Conrad

Anna Jolley

Jess Kilborn

From: gerimccann@att.net
Sent: Friday, December 09, 2016 4:29 PM
To: randallk_2@msn.com
Cc: jimsykesdistrict1@gmail.com; Lonnie McKechnie; Jess Kilborn; Alex Strawn; George Hays; John Moosey; Vern Halter
Subject: MORATORIUM REFUSAL FOR TALLEETNA RESIDENTS

Randall

In response to our phone conversation when you called me back.

I am most disappointed that you refused to write the emergency moratorium to delay the marijuana licensing for just a few weeks until MSB 17.60 is updated to include SPUD's. This is denying us democracy and a voice that the CUP 17.60 provides. I am further disappointed in your response when I informed you that the Mayor instructed us to ask you to write the moratorium, stating that "you don't work for the mayor" was a most rude. Your showed no compassion for our position to protect our right in the decision making process provided with CUP - 17.60. You mentioned Joe in our conversation... It is not about JOE. It is about the Assembly rectifying their error in not covering SPUD's in CUP 17,60 and our democratic rights. Joe wants to slip in the loop hole the Assembly neglected to close and our request was for the Assembly to cover us with a temporary moratorium until that mistake is rectified TO PROTECT the intention of CUP 17.60 which should be covering SPUD's . Why are you not wanting to provide a freeze for a few weeks until the CUP17.60 is rectified?

REVIEW THE EMAIL I SENT YOU BELOW AGAIN . I HOPE YOU ARE CLEAR ON WHAT WE ARE REQUESTING AND WHY.

I called Jim Sykes and requested him to write the moratorium.

Sincerely
Geri McCann

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The community of Talkeetna needs time to update the downtown SPUD requirements concerning marijuana facilities before any applications are received by the Borough.

We respectfully request this emergency moratorium on behalf of all the families with children in Talkeetna.

A large group of Talkeetna residents concerned about marijuana licensing testified at the recent Dec. 5th Talkeetna Community Council meeting. Next month community members will be requesting the Talkeetna Community Council engage in modifying the Talkeetna SPUD to address marijuana facilities.

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Jess Kilborn

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To: randallk_2@msn.com
Cc: jimsykesdistrict1@gmail.com; Lonnie McKechnie; Jess Kilborn; Alex Strawn; George Hays; John Moosey; Vern Halter
Subject: Re: MORATORIUM REFUSAL FOR TALKEETNA RESIDENTS

Randall,

I want to clarify that we only want the Moratorium as a safe guard in the event that the MSB 17.60 is not rectified and updated before any more marijuana licenses are submitted. A marijuana license has already slipped through the loop hole and is operating in Talkeetna SPUD and is now grandfathered in without having to go through the CUP 17.60 process. We were denied a voice in that process, We want to prevent yet another license being granted which is targeted at downtown Main St. Talkeetna.. This is about codes, and laws being active and functioning as they should in regard to marijuana licensing.

I am requesting you reconsider writing the moratorium on these grounds.

Geri McCann
907-715-7891

On Friday, December 9, 2016 4:29 PM, "gerimccann@att.net" <gerimccann@att.net> wrote:

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12-9-16

CC: MSB Marijuana Advisory Committee

Dear MSB Assembly members,

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Sincerely,

Dana D'Ellore

cc: file

CC: MSB Planning Commission
CC: MSB Marijuana Advisory Committee

December 8, 2016

Dear MSB Assembly members,

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Next month community members will be requesting the Talkeetna Community Council take up/ or engage in modifying the Talkeetna SPUD to address marijuana facilities.

Sincerely,



Beth Valentine

P.O. Box 270

Talkeetna, AK 99676

CC: MSB Planning Commission
CC: MSB Marijuana Advisory Committee

Dear MSB Assembly members,

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Sincerely,

Geri & Kevin McCann
907-715-7891
P.O. Box 546
Talkeetna, AK 99676

CC: MSB Planning Commission
CC: MSB Marijuana Advisory Committee

Dear MSB Assembly members,

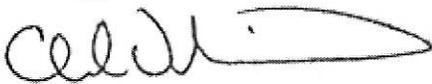
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Sincerely,



CHAD VALENTINE
P.O. BOX 77
TALKEETNA, AK 99676

CC: MSB Planning Commission
CC: MSB Marijuana Advisory Committee

12/9/16

Dear MSB Assembly members,

We are requesting an emergency moratorium to prohibit all marijuana related facilities within Special Use Districts (SPUD) until such a time as MSB 17.60 – Conditional Use Permit (CUP) is updated to apply within the Mat-Su Borough SPUD's. We are supportive of the MSB 17.60 to include SPUD's to protect Talkeetna from marijuana licensing without requiring a CUP.

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Next month community members will be requesting the Talkeetna Community Council take up/ or engage in modifying the Talkeetna SPUD to address marijuana facilities.

Sincerely,

Dané Burleson

Dané Burleson

HC 89 Box 8364

Talkeetna AK 99676

CC: MSB Planning Commission
CC: MSB Marijuana Advisory Committee

Dear MSB Assembly members,

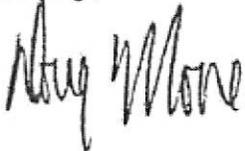
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Sincerely,



DOUG MOORE

HC 89 BOX 8574

TALKEETNA AK 99676

907 733-1869

doug@moreshardware.com

Jess Kilborn

From: Noelle <carbone@mtaonline.net>
Sent: Friday, December 09, 2016 11:59 AM
To: Lonnie McKechnie; Jess Kilborn
Subject: CUP needs to be required for all Talkeetna SPUD areas for marijuana businesses.

CC: MSB Planning Commission
CC: MSB Marijuana Advisory Committee

Dear MSB Assembly members,

I am requesting an emergency moratorium to prohibit all marijuana related facilities within Special Use Districts (SPUD) until such a time as MSB 17.60 – Conditional Use Permit (CUP) is updated to apply within the Mat-Su Borough SPUD's. I am supportive of the MSB 17.60 to include SPUD's to protect Talkeetna from marijuana licensing without requiring a CUP.

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A community of Talkeetna needs time to update the downtown SPUD requirements concerning marijuana facilities before any applications are received by the Borough. We respectfully request this emergency moratorium on behalf of all the families with children in Talkeetna.

Please consider that many areas of the borough (the cities) were able to make their own rules in regards to marijuana sales within their communities. Talkeetna, being a part of the wider borough and unincorporated obviously, was not. At the very least, having marijuana businesses be required to have a CUP within our SPUD areas gives the community some say in how these businesses will be run, the hours they operate etc. Marijuana sales are controversial and to be done in the best way for the community a CUP should be required.

Lastly, please also consider the very limited resources the Talkeetna community has in dealing with the health and safety issues these businesses will bring to the area. We no longer have a consistent trooper presence due to the loss of our trooper post. Our community health center and EMS are already grossly overtaxed, especially in the tourist season, and the health center runs purely on grant money. Tourists visiting Talkeetna, smoking and ingesting pot, many for the first time, will inevitably lead to issues that will tax our community resources.

Active members of our community strive to make it healthy, functional and a pleasant place to live, especially for Talkeetna's youth. We want a say, through a required CUP in marijuana business starting in our community. And many would like to see no marijuana business on our very visible and small main street area.

Next month community members will be requesting the Talkeetna Community Council take up/or engage in modifying the Talkeetna SPUD to address marijuana facilities.

Thank your for your consideration.

Sincerely,

Noelle Carbone
Talkeetna Community Member

CC: MSB Planning Commission
CC: MSB Marijuana Advisory Committee

Dear MSB Assembly members,

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Sincerely,

Rachel & Margo Neobis
Phantom - The Riverchondlers Assoc.
Talkeetna, AK

Jess Kilborn

From: Joda Hankins <jodahankins@gmail.com>
Sent: Friday, December 09, 2016 12:38 PM
To: Lonnie McKechnie; Jess Kilborn

Dear Lonnie & Jessica,

My name is Joda Hankins and I work in the tourism sector in Alaska as a mountain and ski guide.

As someone who holds the culture and people of Talkeetna close to heart, as well as a business owner providing a service with the town of Talkeetna always being a highlight of that service, I write in hopes of deterring a marijuana shop, retail or other considerations, being able to hold storefront or other considerations, on Main Street in Talkeetna.

The people of Talkeetna, as well as the visitors who travel there from all around the world, place a high importance on the family friendliness of the town and its ability to cater to families through entertainment, tourism, activities, and other Alaska-unique experiences that are a treasured aspect of their time spent there. With the tight quarters that Main Street is, the presence of a marijuana shop would not only drastically decrease the guests overall ability to enjoy and experience the speciality and historical significance of Talkeetna, it would significantly take away from the culture and focus of the people who have made Talkeetna home and dedicated so much effort and business sense to making it accessibly and enjoyable for visitors.

Please heavily consider the long-term , negative effects this could have on a town of this size and culture.

Joda Hankins
Talkeetna Resident

CC: MSB Planning Commission
CC: MSB Marijuana Advisory Committee

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Sincerely,

Jason Sturgis
Owner: Alaska Air, Inc
DBA : Alaska Bush Floatplane Service
Cell: (907)733-1693
Email: Jasonsturgis@mac.com

A handwritten signature in black ink, appearing to read 'J Sturgis', is located to the right of the typed name and contact information.

CC: MSB Planning Commission
CC: MSB Marijuana Advisory Committee

12/8/2014

Dear MSB Assembly members,

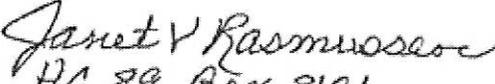
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1,  Janet Rasmussen
AC 89 Box 8121
Talkeetna, AK 99676

2,  William Rasmussen
AC 89 Box 8121
Talkeetna, AK 99676

12/9/16
CC: MSB Planning Commission
CC: MSB Marijuana Advisory Committee

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A community of Talkeetna needs time to update the downtown SPUD requirements concerning marijuana facilities before any applications are received by the Borough. We respectfully request this emergency moratorium on behalf of all the families with children in Talkeetna.

Next month community members will be requesting the Talkeetna Community Council take up/or engage in modifying the Talkeetna SPUD to address marijuana facilities.

Sincerely,

Susan Kellard
Talkeetna resident
733-2300

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Dear M & B Assembly Members,

I agree with the moratorium requests. As a long time resident of Talkeetna would like to offer the following:

Talkeetna is a very unique little town that has been called the jewel of the Mat Su Borough has established a reputation of being a welcoming, friendly, family oriented community.

Talkeetna and the surrounding area bring in the bulk of the bed tax revenue for the borough due to the hub of Talkeetna's Main Street, its recreational activities and the scenic setting.

Talkeetna has the distinction of having locals and tens of thousands of visitors stroll its Main Street to get to the river and the fantastic, panoramic view of the Great One and the Glasha Range.

At the end of Main Street is the "Riverside Park" with the only public flush toilets. Many thanks to the borough for the installation and upkeep. These facilities are well used by adults and children.

These restrooms are situated next to the borough sign and very visible as people walk by and are inviting to use.

It's a quiet, little park that was intended for tent camping, but the facilities have drawn the general public and children to it every day of the summer season.

I'm told that there's a defecation of parks that infer a playground. And the rule is no marijuana

stores, facilities within $\frac{1}{2}$ amount of a park/playground.
If this regulation revisited and the definition
changed to reflect the true usage. (Clarified)

Nearby is the proposed marijuana store that
should be not in the downtown Talkeetna Spud
district but located out of the Main Street location.

Talkeetna is the jewel of the Borough please
keep it that way and please consider this request.

Sincerely,
Susan Kellard
P.O. Box 101
Talkeetna 99676
733-2300

CC: MSB Planning Commission
CC: MSB Marijuana Advisory Committee

Dear MSB Assembly members,

We are requesting an emergency moratorium to prohibit all marijuana related facilities within Special Use Districts (SPUD) until such a time as MSB 17.60 – Conditional Use Permit (CUP) is updated to apply within the Mat-Su Borough SPUD's. We are supportive of the MSB 17.60 to include SPUD's to protect Talkeetna from marijuana licensing without requiring a CUP.

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Next month community members will be requesting the Talkeetna Community Council take up/or engage in modifying the Talkeetna SPUD to address marijuana facilities.

Sincerely,

Peggy Hicks

CC: MSB Planning Commission
CC: MSB Marijuana Advisory Committee

Dear MSB Assembly members,

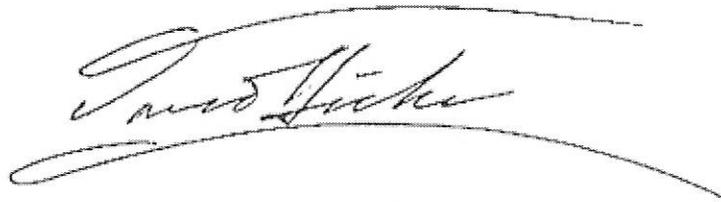
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Sincerely,

A handwritten signature in cursive script, appearing to read "David Fisher", is written over a large, thin, curved line that spans the width of the signature.

CC: MSB Planning Commission
CC: MSB Marijuana Advisory Committee

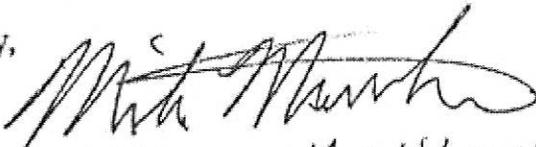
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Sincerely,


Mike MATHEWS 12/8/16
PO Box 270
Talkeetna, AK 99676

CC: MSB Planning Commission
CC: MSB Marijuana Advisory Committee

Dear MSB Assembly members,
We are requesting an emergency moratorium to prohibit all marijuana related facilities within Special Use Districts (SPUD) until such a time as MSB 17.60 – Conditional Use Permit (CUP) is updated to apply within the Mat-Su Borough SPUD's. We are supportive of the MSB 17.60 to include SPUD's to protect Talkeetna from marijuana licensing without requiring a CUP.

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Sincerely,


Judith Lund
P.O. Box 13414
Draper Creek, AK
99683

CC: MSB Planning Commission
CC: MSB Marijuana Advisory Committee

Dear MSB Assembly members,

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Next month community members will be requesting the Talkeetna Community Council take up/ or engage in modifying the Talkeetna SPUD to address marijuana facilities.

Sincerely,

Constance E. M. Twigg

P. O. Box 266

Talkeetna, Alaska 99676

Constance Twigg

CC: MSB Planning Commission
CC: MSB Marijuana Advisory Committee

Dear MSB Assembly members,

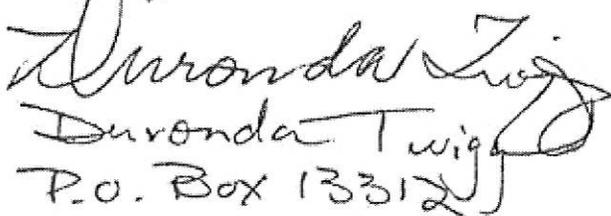
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Sincerely,


Duronda Twig
P.O. Box 13312
Trapper Creek, AK 99683

CC: MSB Planning Commission
CC: MSB Marijuana Advisory Committee

Dear MSB Assembly members,

We are requesting an emergency moratorium to prohibit all marijuana related facilities within Special Use Districts (SPUD) until such a time as MSB 17.60 – Conditional Use Permit (CUP) is updated to apply within the Mat-Su Borough SPUD's. We are supportive of the MSB 17.60 to include SPUD's to protect Talkeetna from marijuana licensing without requiring a CUP.

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Next month community members will be requesting the Talkeetna Community Council take up/ or engage in modifying the Talkeetna SPUD to address marijuana facilities.

Sincerely,



Colleen Contonlove

P.O. Box 1166

Talkeetna, AK 99676

907-733-2174

CC: MSB Planning Commission
CC: MSB Marijuana Advisory Committee

Dear MSB Assembly members,

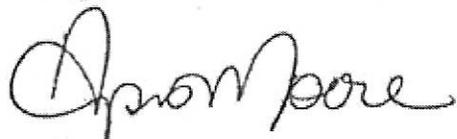
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Sincerely,



April J. Moore

HC89 Box 8574

Talkeetna, Ak 99576

907.733.1869

aprilmhbs@hotmail.com

CC: MSB Planning Commission
CC: MSB Marijuana Advisory Committee

Dear MSB Assembly members,

We are requesting an emergency moratorium to prohibit all marijuana related facilities within Special Use Districts (SPUD) until such a time as MSB 17.60 – Conditional Use Permit (CUP) is updated to apply within the Mat-Su Borough SPUD's. We are supportive of the MSB 17.60 to include SPUD's to protect Talkeetna from marijuana licensing without requiring a CUP.

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Sincerely,



Noelle Mischenko

P.O. Box 63

Talkeetna, AK 99676

PC SUPPLEMENTAL PACKET

12/15/2016

Page 36

Matanuska - Susitna Borough
Development Services

DEC 12 2016

Received

Public Comment Letter:

CC: MSB Planning Commission
CC: MSB Marijuana Advisory Committee

Dear MSB Assembly members,

We are requesting an emergency moratorium to prohibit all marijuana related facilities within Special Use Districts (SPUD) until such a time as MSB 17.60 – Conditional Use Permit (CUP) is updated to apply within the Mat-Su Borough SPUD's. We are supportive of the MSB 17.60 to include SPUD's to protect Talkeetna from marijuana licensing without requiring a CUP.

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The community of Talkeetna needs time to update the downtown SPUD requirements concerning marijuana facilities before any applications are received by the Borough. We respectfully request this emergency moratorium on behalf of all the families with children in Talkeetna.

A large group of Talkeetna residents concerned about marijuana licensing testified at the recent Dec. 5th Talkeetna Community Council meeting. Next month community members will be requesting the Talkeetna Community Council engage in modifying the Talkeetna SPUD to address marijuana facilities.

Sincerely,

Sandra Mischenko
Talkeetna, AK



Anchorage
311 N. Sitka Street
Anchorage, AK 99501

Fairbanks
1301 Wells Street
Fairbanks, AK 99701

**CMS'S SUPPLEMENTAL INFORMATION IN RESPONSE TO BOROUGH STAFF'S
REPORT AND COMMENTS AT THE DECEMBER 5, 2016 HEARING**

CMS appreciates the Planning Commission's opportunity to respond to allegations made by the Borough Staff at the December 5, 2016 hearing on CMS's application for a conditional use permit, however, the time frame allowed to provide a meaningful, reasoned response by CMS is inadequate. CMS notes that in addition to the written report from the Staff that CMS received on November 23, 2016 that is completely contrary to the staff report issued in 2014, CMS received additional documents, including a report from Jim Munter on December 1, 2016. CMS received additional information on Friday, December 2, 2016 and information at the December 5, 2016 hearing, including new and different testimony from borough staff, and a letter from the State regarding hydrology issues concerning ponds on the property. During the oral staff report, both Mr. Strawn and Mr. Wisenhunt made several unfounded allegations alleging dishonesty on the part of CMS management related to citations received over three years ago. This is without merit.

CMS attempted to orally, off the cuff, respond to some of that information at the hearing during its limited allotted time frame. Unfortunately that opportunity was insufficient to allow CMS to fully and fairly address these new, last minute unfounded accusations and reports. The Planning Commission gave CMS nine days, until December 14, 2016 to supplement its response. Unfortunately, that amount of time is wholly inadequate for CMS to provide a meaningful and comprehensive response. CMS has not been able to meet with the borough staff to go over its concerns. The borough staff has not even attempted to review CMS's supplement to its CUP application. CMS is simply unable to fully and meaningfully respond to the information the borough staff sprung on it at the last minute, within the time frame allowed. Consequently, CMS renews its request that the hearing on CUP be continued.

In the event the Planning Commission denies CMS's renewed request for a continuance of the hearing on CUP, CMS does want to respond to the borough staff's recent position that CMS is not a "suitable applicant." CMS operates two permitted monofills in Alaska which are inspected annually by the ADEC. We have received scores of 100% for each of the past three years of inspections, with comments such as "the facility is being managed and operated excellently" and "thank you for running a great operation." The sole basis for the staff's recommendation that the Commission find CMS to be an unsuitable applicant is former enforcement officer and current staff member Mark Wisenhunt's misleading, inaccurate and

inflammatory characterization of citations he issued 3 ½ years ago that are not directly related to this CUP application.

Whisenhunt claims that CMS is unsuitable because it was issued a citation because it did not remove cover material which Whisenhunt considered to be “trash” from the property and then lied about it. Whisenhunt further alleges CMS continues to be in violation because it has not removed “junk vehicle tires” from the property. Those accusations are simply not true.

It is true that CMS brought “cover material” to the property with which it intended to do compaction tests. It is also true that there was “junk” that had accumulated on the property, including McDonalds cups, diaper boxes, and other such materials that likely blew onto the property from the Glen Highway over the years before CMS owned the property. CMS disputed, however, that the cover material was “junk or trash.”

Whisenhunt repeatedly referred to the cover material as “trash” throughout his presentation. In fact, however, what Whisenhunt failed to mention, and thereby misled the commissioners is the fact that the BOAA specifically found

The shredded materials that were deposited on the subject property consists of a manufactured product and **are not trash** under MSB 8.50 [and the] scrap wood and tires deposited on the subject property are not trash under MSB 8.50.050(A)(3) because it was intended for reuse. [Emphasis added].

The BOAA further found that “the tires, scrap wood and shredded materials were not ‘junk’ under MSB 17.60 because they were being repurposed.”

In other words, contrary to Mr. Whisenhunt’s continued assertions, CMS was not and is not storing “trash” or “junk” on its property. Mr. Whisenhunt’s accusations are simply not true.

While it is true that the Alaska Court of Appeals, in an unpublished and therefore not citable opinion, upheld CMS’s conviction of the violations (for which it was fined a few hundred dollars), that decision did not have the benefit of the BOAA’s determination that the material was not “trash or junk.” CMS did not further appeal that matter in light of the BOAA’s determination¹ because the BOAA did find that CMS needed a CUP because it was a “commercial” operation and, therefore, a conditional use permit is required for CMS “to continue operation on this site.”² CMS has, in fact, removed the “cover material,” which was used at another location for its intended purpose. CMS has never been issued an enforcement order, from the borough or the BOAA, requesting that it remove the tires from its property. Mr. Whisenhunt’s enforcement order upon which the citations were based, did not even require removal of the tires. While CMS recognizes that it cannot sell the tires from the property, it can use the tires in its own development of the property or use on its own equipment, which it intends to do. These tires can be used without alteration.

¹ The Alaska courts give deference to agency’s interpretations of their regulations.

² See Exhibit ____, the BOAA’s August 15, 2013 final Order.

The allegation that Shane Durand was not truthful in his dealings with Mr. Whisenhunt is similarly not true. Mr. Whisenhunt claims that Shane Durand lied to him when he told him that CMS employees had collected and removed the “trash” from on and around the site. In fact, CMS did do that. They picked up trash that had been blown around and deposited both on the site and nearby the site. While it is true that CMS did not remove the cover material, as Mr. Whisenhunt well knows, CMS did not consider that to be “trash,” and the BOAA agreed. CMS placed a layer of soil over the cover material not to hide it, but to prevent it from blowing around because it had not been compacted. (It was easier and more expedient to spread some soil over the “cover” material than compact it because the equipment to spread the topsoil was at the site, the sheepsfoot compactor was not. Moreover, placing soil over the “cover” material would have allowed CMS to do testing on the cover material for potential use in roadway embankments.

In fact, when Mr. Whisenhunt came back to the site to inspect it, CMS employees freely let him onto the site. They did not require him to have a search warrant and did not otherwise hinder his inspection in any manner. To the contrary, they told him that soil had been placed over the cover material and, showed him where it had been placed and allowed him to dig holes to inspect the same. CMS was open with Mr. Whisenhunt. Mr. Durand simply did not agree with Mr. Whisenhunt that the cover material was “trash” as the BOAA decision confirmed.

To find that CMS is not a “suitable applicant” based on its position that the “cover material” was not “trash,” is both unfair and contrary to the ultimate determination by the BOAA. In this case, it was Mr. Whisenhunt who was wrong concerning the cover material, not CMS. That does not mean that Mr. Whisenhunt is “unsuitable” to be in the planning department. It certainly does not mean that CMS is an “unsuitable applicant.”

The borough’s staff’s current position is inconsistent with the actions it has taken throughout the CUP application process. During CMS’s 2013 CUP application, the borough staff did not suggest that CMS was an “unsuitable applicant” or otherwise suggest that the issuance of the citation should be considered at all against CMS in its application. The borough staff worked closely with CMS for over a year on CMS’s 2014 application. The borough staff did not hesitate to work with CMS because CMS was an “unsuitable applicant.” The borough staff did not suggest at the 2014 public hearing that CMS was in any way “unsuitable.” To the contrary, they supported CMS’s abilities and reputation.

The borough staff said nothing negative about CMS’s qualifications or suitability at the 2014 hearing or in the 2014 very detailed staff report which supported issuance of a CUP to CMS.

CMS’s reputation and “suitability” is an extremely important and significant issue. It extends beyond this application. This issue has already been resolved by both the court and the BOAA over three years ago. A finding of unsuitability will effectively deny CMS the ability to operate a recycling facility anywhere in the Mat-Su Borough or for that matter be awarded other unrelated projects in the Mat-Su Borough.³ Such a result would be sad, indeed for the borough.

³ Such a finding will also negatively impact CMS’s ability to operate recycling facilities in other parts of the state and in other states.

CMS believes its current application meets all the requirements necessary to grant its request for a CUP to operate a recycling center and monofill facility at its present site, for the reasons expressed in its application and argued at the public hearing. In the event that the Planning Commission disagrees and does not vote to approve CMS's application, CMS respectfully requests that they not make a finding that CMS is an unsuitable applicant. In that regard, CMS requests that the Staff or the Commission remove all references to this unfounded allegation from the proposed Resolution and the Commission not adopt findings that CMS is an unsuitable applicant.

Dated this 12/24 day of December, 2016.



Stuart M. Jacques
President
Central Monofill Services
311 N. Sitka St.
Anchorage, AK 99501
(907) 561-0125
(907) 561-0178 fax
Stuart@cei-alaska.com



MATANUSKA-SUSITNA BOROUGH

Planning and Land Use Department

Development Services Division

350 East Dahlia Avenue • Palmer, AK 99645

Phone (907) 861-7822 • Fax (907) 861-8158

www.matsugov.us

MEMORANDUM

DATE: December 13, 2016

TO: Matanuska-Susitna Borough Planning Commission

FROM: Alex Strawn, Development Services Manager 

SUBJECT: Supplemental information related to request by Central Monofill Services (CMS) to operate a Junkyard/Refuse Area

Staff's presentation to the Planning Commission's at the December 5, 2016 public hearing primarily referenced documents within the commission's packet. However, staff did reference minutes from a Fairbanks North Star Borough (FNSB) Planning Commission meeting dated August 7, 2012 where CMS was seeking approval for a Monofill in Salcha. Staff referenced pages 20-22 of the minutes. Within the minutes, Larry Helgeson, Vice President of Environmental Management Inc. (a company primarily owned by Stuart Jacques) apologized for operating the site prior to issuance of a conditional use permit. Mr. Jacques admitted to bringing in material resulting from demolition of 34 buildings and clarified "there is presently no waste in the landfill. There is ground up material." The FNSB minutes referenced are attached hereto.

Due to the issue of Commissioner Kendig's recusal from the body and his reliance on Board of Ethics Advisory Opinion 16-01, an digital audio recording of the October 10, 2016 Board of Ethics meeting has been provided to the Clerk for distribution and inclusion in the record.

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FAIRBANKS NORTH STAR BOROUGH PLANNING COMMISSION
Matanuska-Susitna Borough
Code Compliance

MINUTES
August 07, 2012

AUG 23 2013
LMW

A regular meeting of the Fairbanks North Star Borough Planning Commission was held in the Assembly Chambers, Borough Administration Center, 809 Pioneer Road, Fairbanks, Alaska. The meeting was called to order at 7:00 p.m. by Tom Marsh, Chairman.

MEMBERS PRESENT: Tom Marsh Renee Staley
David Pruhs Joy Huntington
Joe Cottingham Marna Kranenburg
Jerry McBeath Tim Sovde

MEMBERS ABSENT: Kevin McCarthy

OTHERS PRESENT: Bernardo Hernandez, Director of Community Planning
Kellen Spillman, Transportation Planner IV
Brandy Schade, Planner III
Cynthia Klepaski, Asst. Borough Attorney
Marnie Long-Boehl, Secretary

Matanuska-Susitna Borough
Code Compliance

A. ROLL CALL

AUG 23 2013

B. MESSAGES

Received

1. Chairperson's Comments:
None
2. Communications to the Planning Commission
 - **Mr. Hernandez** passed out an ordinance to the Commissioners (Ord. No. 2012-44) that will be introduced to the Borough Assembly on August 9, 2012. This ordinance is amending Chapter 2.21 and 2.39.050 regarding procedural rules for boards and commission. He suggested discussing this ordinance in a work session at our next meeting date.
 - **Mr. Hernandez** announced that the appeal (AP 001-13) has been withdrawn. He said that the Borough Assembly had to approve this vacation or deny this vacation within 30 days after the Platting Board acted on the subdivision. The Borough Assembly denied this vacation. Therefore, there is no variance necessary for AP 001-13.
3. Citizen's Comments – limited to three (3) minutes
 - a. Agenda items not scheduled for public hearing.
None
 - b. Items other than those appearing on the agenda.
None
4. Disclosure & Statement of Conflict

PC Meeting Minutes
August 7, 2012

C. *MINUTES

D. APPROVAL OF AGENDA AND CONSENT AGENDA

Approval of Consent Agenda passes all routine items indicated by asterisk (*) on agenda. Consent Agenda items are not considered separately unless any Planning Commission member or citizen so requests. In the event of such request, the item is returned to the general agenda.

MOTION: To approve agenda with the withdrawal of **AP 001-13** and consent agenda, including minutes of previous meeting by **Mr. Pruhs**, seconded by **Mr. Cottingham**.

Objections

None

MOTION APPROVED

E. CONSENT AGENDA ITEMS

F. PUBLIC HEARING

HP2013-001 Application by the Alaska Department of Transportation and Public Facilities – Northern Region for local planning authority approval of the Fairbanks Area Spot Intersection Improvements project. This proposed project will install safety improvements including increased sign size, rumble strips, and highway lighting. The following intersections will be included in this proposed project: Chena Hot Springs Road / Nordale Road, Chena Hot Springs Road / Old Steese Highway, Goldstream Road / Steese Highway, Goldstream Road / Old Steese Highway, Goldstream Road / Sheep Creek Road / Murphy Dome Road. Lighting will not be installed at the Goldstream Road / Sheep Creek Road / Murphy Dome Road intersection.

Kellen Spillman presented the staff report. Based upon staff analysis, the Department of Community Planning recommended approval of the proposed request.

The Department of Community Planning further recommends the following Findings of Fact in support of approval:

- 1) This project is supported in the following sections of the Fairbanks North Star Borough Comprehensive Plan:
 - Transportation and Infrastructure –
 - Goal 1 – To have a safe, efficient, multi-modal transportation system that anticipates community growth.
 - Strategy 1 – Ensure that road designs improve safety and minimize adverse impacts
 - Identify and correct problem intersections

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- 2) This project is consistent with the following Policy of the FNSB Comprehensive Road Plan:
- Consider the effects of light pollution caused by intersection lighting on outlying residential neighborhoods. In sensitive areas, utilize cutoff fixtures or other techniques to mitigate impacts

Mr. McBeath asked about the Chena Hot Springs Road / Murphy Dome Road / Sheep Creek Road that showed the lowest reductions. He asked why these roads improvements were included in this project.

Mr. Spillman said that **Mr. Heim** will address the specifics of this question, but there were five (5) intersections included in this proposal that all had similar trends observed. He stated that bidding these projects together, instead of individual, does reduce costs.

Mr. McBeath asked if one (1) Contractor will do all five (5) projects.

Mr. Spillman replied correct.

Mr. McBeath asked if there were no other projects that showed significant safety improvements that would be higher up on the list than these projects.

Mr. Spillman will defer this question to **Mr. Heim**.

Mr. McBeath asked about the definition use of night time. He asked if this definition is an Alaskan definition or a Lower 48 definition.

Mr. Spillman will defer this to **Mr. Heim**. He believes DOT uses periods of darkness as their evaluation.

Mr. McBeath asked about the rumble strips and the testing conditions.

Mr. Spillman said that the two (2) case studies that he reviewed in preparation for this project from FHWA was a case study in Iowa and Minnesota. FHWA did not note any maintenance issues or functionality issues during the winter months.

Mr. McBeath asked if the studies were conducted during the winter as well as other seasons.

Mr. Spillman said that FHWA studies for Iowa and Minnesota did not note any maintenance issues to do with seasonal impacts.

Mr. McBeath asked if the studies were conducted in winter as well as other seasons.

Mr. Spillman did not know what season the studies were conducted.

Mr. McBeath asked about the enlargement of the signs, and asked what the increase is in size.

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Mr. Spillman said that the "stop" signs will be increased to 36" x 36". The "prepare to stop" signs will be 48" x 48". The "double arrow" sign will encompass eight (8) square feet.

Mr. McBeath asked if the signage size was a 50% increase.

Mr. Spillman said that the increase was not 50%, but would defer this question to **Mr. Heim**.

Ms. Huntington wanted to see the slide of Nordale Road intersection on the overhead. She asked about why they were moving the street lights to the top left. She would like more clarification on the location of the street lights.

Mr. Spillman said that the street light plan was developed based on light illumination. He believes that DOT was moving the street lights to increase coverage of the intersection.

Ms. Huntington asked about the Dear Property Owner letter referring to the rumble strips. They were concerned about the accumulation of ice falling off vehicles. The property owner was worried about the build-up in these areas, and the difficulty for snow plows to clean because of the irregular / raised pavement.

Mr. Spillman looked into this issue with FHWA, and could not find any documented evidence of snow and ice falling off vehicles and creating a problem area.

Ms. Klepaski would like clarification on the transfer rumble strips. She would like to know if they were like the strips on the side of the highways which shake the car to alert you that you are off the highway lane.

Mr. Spillman said that is a transfer rumble strip, but rumble strips have varying depths.

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Carl Heim, DOT, talked about the transfer rumble strip. This transfer rumble strip goes across the driving lane. He said that the lighting has 250' spacing. DOT measured the existing lights in the intersections that are lit. Some of these existing lights will be moved to meet the requirements. Additional new lighting will be installed as well. The main focus for these projects is to reduce crashes. This project is science driven. DOT receives data from the troopers from different crash locations. This data is analyzed to make the determination of what intersections require improvements. He believes this project will save lives.

Mr. McBeath asked if this was a Federal project and the project is based on conditions and standards. He asked if rumble strips are used throughout the United States. He asked for clarification on rumble strips and winter conditions.

Mr. Heim said that the rumble strips are to notify people that there is a change ahead. He said that rumble strips have been used in other states with snow conditions, and have been successful. The snow removal maintenance workers believe that it will not be a problem for snow removal over rumble strips. He said that the rumble strips will be 3/8" deep. It is possible that the rumble strips will fill with snow, but after snow removal they still should be effective.

Mr. McBeath asked if these rumble strips are used in Anchorage, Alaska.

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Mr. Heim knows that there is some centerline rumble strips in Anchorage, but does not know if there is lane transfer rumble strips.

Ms. Kranenburg asked when DOT applied for the monies for this project, did DOT have to show accident trends or money saved to qualify for the funds.

Mr. Heim said yes. DOT receives the crash data and analyses the crash data. There is an associated cost with each crash in level of severity.

Ms. Kranenburg asked if the data is necessary to qualify for the Federal funding.

Mr. Heim said yes.

Ms. Kranenburg asked if **Mr. Heim** did not analysis the data in the spreadsheet provided to the Commissioners.

Mr. Heim said that it was analyzed.

Ms. Kranenburg asked about high speeds and alcohol accidents. She asked if they are still factored into this project.

Mr. Heim said that those accidents would be driver behavior but are still factored into the data. He said that DOT tries to look at measures that they can mitigate i.e. night time crashes with lighting, high speeds with rumble strips, potential visual problems with larger signage. Every crash is looked at but certain crashes have more weight when they do the calculations to determine whether the project qualifies for Federal funding.

Mr. Sovde asked if DOT compared the summer crashes to the winter crashes depending on darkness and lightness available for comparison.

Mr. Heim said that if there is night time crashes, lighting will be used to mitigate the intersection. DOT looks at all crashes as a package, but some crashes have different weights of how they view them. He stated that there is probably fifty (50) ways to mitigate crashes, but DOT does not use them all.

Mr. Sovde asked if there is a comparison between light and darkness for these particular crashes.

Mr. Heim said that on the information from the troopers it could read "unlit intersection." This is the type of data that is used.

Mr. Sovde asked about the rear end collisions. He asked if DOT looked into having right turn lanes provided.

Mr. Heim explained that turn lanes are used for high volumes of traffic. These intersections do not have a high volume of traffic.

Mr. Sovde said that the Steese / Goldstream have high volumes of traffic during rush hour.

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Mr. Heim asked if **Mr. Sovde** was talking about the Goldstream and the new Steese intersection. The volume is high in this area, but not high enough to justify a right turn lane.

Mr. Cottingham looked at the accident report, and stated that a lot of the crashes were due to high speeds and failure to stop. He does not see where rumble strips and lighting will slow these people down. His question to the applicant is how close are these rumble strips placed to the intersection.

Mr. Heim stated that the third set of rumble strips are not going to be installed. He believes the third set is not necessary. He said that there will be a rumble strip at 500 feet and 250 feet from the intersection.

Mr. Cottingham asked if there were studies done on people losing control of their car because of snow ridges or buildup on these rumble strips.

Mr. Heim is not aware of any studies on snow ridges or buildup.

Mr. Cottingham asked if **Mr. Heim** has any information of vehicles losing control while travelling downhill and hitting the rumble strips in wet weather.

Mr. Heim has not read any studies on these conditions and that if the rumble strips would cause a potential hazard.

Mr. Cottingham asked why DOT did not consider a large blinking warning light prior to the intersection. He asked if a warning light would be simpler and cheaper for the project.

Mr. Heim said that would be a good option, but the studies show that people get use to the blinking light and over a period of time ignore the blinking light.

Mr. Cottingham asked if people could become use to the rumble strips as well.

Mr. Heim said visual light and hitting rumble strips is different. He believes the rumble strips are an eye opener.

Mr. McBeath asked about rear end crashes.

Mr. Heim explained that if there is a rear end crash and no one is hurt, then it would be listed as property damages.

Mr. McBeath said that rear end collisions only happen when two (2) cars are involved.

Mr. Heim said that there are instances that people have property damage crashes and the person leaves the vehicle, and then the vehicle is towed away.

Mr. McBeath was talking about rear end crashes.

Mr. Heim agreed that rear end crashes involve two (2) cars.

Mr. McBeath stated that this type of crash would indicate that there should be turn lanes.

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Mr. Heim said that right turn lanes are not necessarily for a crash reduction. They can be used as a mitigating factor with high volumes of traffic, but right turn lanes can also be used to help increase capacity and traffic flow through an intersection. Right turn lanes are an expensive alternative for mitigating crashes. Right turn lanes are not the best use of funds, and require a lot of right-of-way.

Mr. Marsh asked about the placement of "stop ahead" signs, and placement of the first rumble strip.

Mr. Heim said that the placement of the "stop ahead" sign is based on sight distance back from the intersection.

Mr. Marsh said that it looks like the rumble strips are placed at the same location as the "stop ahead" sign.

Mr. Heim said yes, approximately.

Mr. Marsh believes the "stop ahead" sign should be closer to the intersection than the first set of rumble strips.

Mr. Heim said that the rumble strip is not right at the "stop ahead" sign.

Mr. Marsh asked if the rear end crashes are because one (1) vehicle is stopping at the stop sign.

Mr. Heim said yes.

Mr. Marsh said that a turn lane would not help in this type of situation.

Mr. Heim does not believe that a turn lane would help.

Mr. Sovde asked if the fund monies are Federal monies passed through the State for crash mitigation.

Mr. Heim responded that it is a special program with Federal money which includes highway improvements with specific requirements.

Mr. Sovde asked if the specific requirements allowed for the possibility of right turn lanes.

Mr. Heim said absolutely. DOT has people to review these intersections to see what improvements are good uses of federal or state funds.

Mr. Pruhs said that the beginning study is to upgrade the location and not do "a taking."

Mr. Heim said yes.

Mr. Pruhs asked if there were merge lanes in these areas, would there still be accidents from merges or not.

Mr. Heim said that merging is a totally different subject. He would only be guessing if adding turn lanes increase accidents or decrease accidents.

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Phil Barrian, resides at 2911 Alderberry Trail, is concerned about the project on Goldstream / Murphy Dome. He said that there have not been too many accidents at the intersection in the last few years. There have been several accidents up Murphy Dome road. He stated that in the winter time, the road is slippery, and there is a turn in the road. He also added that the subsurface conditions on the road are unstable. He is concerned about the durability of the rumble strips. He said that DOT repairs this section of road every year or every other year. He would like to know the exact location of the rumble strips. He would like to know the safety aspect of these rumble strips in the winter months. He said that when heavy trucks travel down Murphy Dome road and go over the rumble strips, it will be like a 25 foot vibrator. His argument is that this rumble strip with traffic crossing and unstable soils will need engineering to make sure that they are going to last a duration of time.

Ms. Kranenburg asked **Mr. Barrian** if his main concern is the rumble strips.

Mr. Barrian replied yes.

Ms. Kranenburg asked if he had an issue with larger stop signs.

Mr. Barrian thinks the larger stop signs are wonderful. His concern is safety with these rumble strips.

Allen James, resides at 2900 Murphy Dome Road, has watched this intersection for thirty (35) years. He said that there has not been an accident on Murphy Dome Road in the last four (4) years. The crashes that have happened have been around 11:15 pm and 3:45 am. He described one (1) of the accidents. He believes that the rumble strips will be placed close to his driveway. He does not want to hear sounds from these rumble strip from his house.

Mr. Sovde asked if the road curves and drops down.

Mr. James said yes. He also wants to know why the rumble strips are not tested first in Fairbanks before installing them permanently.

Steve Levey, resides at 2866 Monarch Road, has had several meetings with DOT in regards to different modifications of the Murphy Dome intersection. DOT has not been able to explain that these crashes are actually data driven. He stated that there is no ice as a variable in any of the studies that were used. Ice is the cause of most night time accidents at this intersection. Icing is a constant problem at this intersection. This road is rebuilt annually or every other year. DOT's plan is inconsiderate of the environmental conditions, and the neighbors of this area. He stated that sound does travel up, and all the roads in Iowa and Minnesota were on flat ground. Federal regulations say that rumble strips are strictly to be used in rural locations. He described the sound pollution that these rumble strips will cause in the neighborhood. He stated that most of the crashes are coming down Goldstream Road and missing the intersection. He said that the speed limit coming up to the stop sign is 50 miles an hour. There is no "stop ahead" warning sign.

Mr. McBeath asked **Mr. Levey** what he thought the Planning Commission should do for this area.

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Mr. Levey said that a larger stop sign, a stop ahead sign, and to reduce the speed limit.

Charles Whitaker said that this project could have a negative impact on the Fairbanks area. Unnecessary street lights contribute to light pollution already at too high a level to a Community that relies on winter tourism. He spoke of the Japanese tourism that comes to Fairbanks to view the aurora lights. He said that the lighting portion of this project is not consistent with the goals and policies of the Comprehensive Plan. He read parts of the goals from the Comprehensive Plan. He gave different examples of some of the lighting scenarios in Fairbanks.

Mr. McBeath asked **Mr. Whitaker** about his letter in the addendum to the Planning Department and the Commissioners. He wanted clarification on the lighting. He asked if **Mr. Whitaker** wanted the Commissioners to remove the lighting from the three (3) project areas that already have lighting, or that DOT does not have lighting in the fourth area where there is no lighting currently.

Mr. Whitaker is not suggesting removing lighting. The Steese / Goldstream had two (2) street lights for thirty (30) years. A person can see this intersection from a half a mile away. He believes that two (2) lights are sufficient in this area. He does not want anymore lighting at the intersections, than the lighting that is in existence. The intersection that is not lit does not have the crashes to support needing more lighting.

Mr. McBeath asked if **Mr. Whitaker** is challenging the State Department of Transportation's data.

Mr. Whitaker yes.

Mr. McBeath asked if he had brought this information to the attention of DOT.

Mr. Whitaker has not spoke with **Mr. Steve Titus** of the Northern Region.

Mr. Sovde asked if **Mr. Whitaker** had any other samples of other data that is inaccurate.

Mr. Whitaker said that on the crash data sheets there are two columns reading dark or daylight, and another column that reads angle or rear end. The intersection of Chena Hot Springs / Old Steese headed east has a downhill grade and a turn from the stop sign. If the road was to be straightening and a little rise in the grade, it would alleviate the problem in that area.

Rebecca Levey, resides at 2866 Monarch Road, pointed out that Murphy Dome is basically a huge cul-de-sac. If anyone is approaching the Murphy Dome / Sheep Creek section they would have had to come through it. She said if you look at the crash data sheet, it will show that the crashes did not come from the Murphy Dome Road but they came from Goldstream to Murphy Dome. The rumble strips are not going to mitigate the crashes.

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Carl Heim, DOT, said that there is no study that show rumble strips will cause accidents while vehicles are crossing over the rumble strips. DOT is going to rebuild the first 600 or 700 feet of Murphy Dome Road. DOT is going to raise the grade, re-level the centerline, and repave the road. He said that when a vehicle travels over a rumble strip, it is 50-70 decibels in sound. This is not very loud. The travel time over a rumble strip is approximately 1-1.5 seconds. Speed signs do not work. People get use to speed signs. They become a yield sign. Speed signs are not an effective way to slow down traffic to alert drivers of road conditions. They have newer LED signs but DOT has not been able to implement these signs as of yet. DOT is working towards better advanced signage. He does not believe that rumble strips will create sound pollution. Rumble strips are to save lives. DOT is trying to improve safety, and DOT understands that light pollution is an issue. DOT is using cutoff type fixtures, and reducing the wattage from 400 to 250 watts. He clarified that Murphy Dome / Goldstream is not going to be lit. The lighting was taken out of this project. He said the crash data was not only at the intersection, but up and downstream from the intersection.

Mr. Sovde asked for clarification on .04 miles from intersections where they gather the data.

Mr. Heim said four tenths of a mile.

Mr. Sovde said that he heard **Mr. Heim** say that speed signs do not work, and flashing lights do not work. He gave an example of a location where a motion sensor sign is used for calculating speed. He asked if these types of signs were addressed, and how far away is DOT from implementing these types of signs.

Mr. Heim did not know, but said that it is years away.

Mr. McBeath asked if 50-70 decibel range for sound is an average of all different types of vehicle traffic travelling over rumble strips. This would also include heavy trucks as well as light vehicles.

Mr. Heim understands that it is an average decibel range.

Mr. McBeath asked if the Northern Regions Research Division would be involved in the studies of the affects of rumble strips on Fairbanks area roads. He asked **Mr. Heim** if this was part of the maintenance and research effort to determine the ethicacy of rumble strips which have not been used.

Mr. Heim said that DOT has talked with the Northern Regions Research Division. He said that they are of the opinion that rumble strips will work, but maintenance will be the key driving factor behind rumple strips.

Ms. Huntington asked **Mr. Heim** if the Commissioners could separate these projects, and what would that do to the timeline of the project. She would like to remove Murphy Dome Road.

Mr. Heim said that all these projects are a package deal. If the improvements were dropped out, it changes the value of the entire project. It could kill the project and lead to no improvements. Projects have to be a certain dollar amount to be constructed. The project could be delayed.

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Ms. Huntington understands that removing any one of these areas could delay the project. There would not be any construction for 2013. Would the funding still be available for 2014?

Mr. Heim said that there are five (5) intersections and one (1) intersection has had the lighting removed so that changed the dollar amount of the whole project. If more improvements are dropped out of this project it will kill the construction for all the intersections.

Ms. Huntington asked why the Commissioners were not given the correct design of this project. It seems that the report that the Commissioners received had three (3) sets of rumble strips, and now it has been changed to two (2) sets of rumble strips per intersection.

Mr. Heim stated that sometimes the process after public meetings takes awhile before the report is updated. The only change to the report is the deletion of the third rumble strip twenty (20) feet in front of the stop sign. The placement of the sign is not going to change the performance of the safety improvements.

Mr. Marsh asked if there are further questions.

PUBLIC HEARING CLOSED

MOTION Move to approve **HP2013-001** with two (2) Findings of Fact by **Ms. Huntington**, seconded by **Mr. McBeath**.

Discussion

Ms. Kranenburg has looked through the packet of information. She does understand the process of getting funding. She has an issue with rumble strips across the roadway. She did a quick search on rumble strips and could not find any data on rumble strips. She said that having no data available does not prove the safety concerns that these rumble strips are great. She talked about the data sheet and found that only one (1) crash was listed at happening during the night. The reason for the accident is listed as the driver fell asleep. She is not in favor of this request.

Mr. Sovde concurs with **Ms. Kranenburg**. He added that the money could be better spent having larger signs, and having motion sensor lit signs. He will not be supporting this project.

Mr. Cottingham does not believe that there is enough information on rumble strips that will affect Alaskan conditions. He will not be voting in favor of this project.

Mr. McBeath will be supporting this project. The Commissioners should be looking at the information presented, and if it will enhance safety at these five (5) intersections or not. The focus tonight is on rumble strips. He believes that rumble strips will reduce speed. Speed is a large issue at these locations. He believes that if proven that the rumble strips are not affective in Fairbanks, the rumble strips will be improved or removed.

Mr. Pruhs will be voting in favor of this request.

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Ms. Huntington understands that DOT is trying to put measures in to mitigate safety issues. She wished that the Murphy Dome section could be removed from the project, but does not want to delay the other intersections to be constructed.

Mr. Marsh will be supporting this request. He believes that these measures will contribute to overall safety. Rumble strips might not have proven technology for Fairbanks, but the studies have to start somewhere.

Mr. Hernandez announced that if the Commissioners need additional information, there is another alternative of postponing this request.

Mr. Sovde asked if this proposal is proposed "as is", and the Planning Commission cannot change the proposal.

Mr. Spillman stated that the Planning Commission has the opportunity to place conditions on the project.

MOVE to AMEND to REMOVE the rumble strips from the Murphy Dome intersection by **Mr. Pruhs**, seconded by **Ms. Huntington**.

Mr. McBeath asked if the rumble strips are removed, will this project qualify for funding.

Mr. Pruhs believes that this will go on to the Borough Assembly.

Mr. Marsh said that this proposal will not be going to the Borough Assembly.

Mr. Spillman said that if the Planning Commission attaches a condition to a project, then it is forwarded to the Borough Assembly.

Mr. Pruhs does not believe removing the rumble strips will affect the value of the project. He believes that there will be more information on rumble strips by the time this project reaches the Borough Assembly.

Mr. Hernandez talked with **Mr. Heim** and he explained that if the rumble strips were removed, he would have to remove the Murphy Dome intersection out of the project.

Mr. Pruhs removes his **AMENDMENT**, seconded by **Ms. Huntington**.

Mr. Marsh said that the Commissioners are ready to vote on the main motion.

ROLL CALL

Five (5) in Favor: **Mr. Pruhs, Ms. Staley, Ms. Huntington, Mr. McBeath, Mr. Marsh.**

Three (3) Opposed: **Mr. Cottingham, Mr. Sovde, Ms. Kranenburg**

MOTION TO APPROVE, PASSED.

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PUBLIC HEARING

CU2013-001 A request by Keith Christenson of Environmental Management, Inc., for a Conditional Use Permit for Tax Lot 3403, 3405 and 3409 Section 34, Township 4S, Range 4E, Salcha-Moose Creek Subdivision to allow for a construction and demolition monofill, solid waste landfill (7070 Canaday Road, Salcha). **Located north of Canaday Road and east of Richardson Hwy.**

Brandy Schade presented the staff report. Based upon staff analysis, the Department of Community Planning recommended approval of the proposed request with the following conditions:

1. The conditional use permit is valid only in conjunction with the ADEC Solid Waste permit no. SWZA063-17 and all ADEC conditions shall be applied to this conditional use.
2. This conditional use is subject to approval of the ADEC's Division of Water for a General Permit for Stormwater Discharges for Construction General Permit Activity (Construction General Permit) of which, the Storm Water Pollution Prevention Protection Plan is a component.
3. As it relates to the property's boundaries on the north and west (TL3409); during the period of operation the perimeter of the 40 acre Canaday Homestead Monofill shall maintain a dense fifteen foot (15') wide vegetative border in conjunction with ten to fifteen foot (10' - 15') high earth berms. The boundaries to the south and east (TL 3403 & 3405) shall also maintain a dense fifteen foot (15') wide vegetative buffer however, the earth berms on this portion of the property can be reduced to five feet high (5').
4. Additionally, an eight foot (8') high fence shall be erected on all four (4) sides of the c & d landfill. Gates with locks shall be installed on the western side of the property adjacent to Canaday Rd.
5. Signage shall be implement on the front gate and shall read:

Canaday Homestead Monofill
Private Property- No Trespassing
Do not enter unless Authorized or accompanied by Authorized Personnel
ONLY INERT WASTE ALLOWED IN MONOFILL
DISPOSAL OF ANY HAZARDOUS WASTE OR PCB WASTE IS NOT
PERMITTED
6. A Jurisdictional Determination shall be applied for from the Corp of Engineers within sixty (60) days from the approval of this conditional use.
7. The FNSB Community Planning Department shall be granted thirty (30) days written notice of the intent to implement the ADEC approved Closure Plan, such that the FNSB Community Planning Department can provide comments to the ADEC. Furthermore, thirty (30) days written notice shall be granted if the applicant reapplies to the ADEC for an extension / reissue of the ADEC Solid Waste Permit.

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8. This conditional use permit expires on June 17, 2017. The applicant must reapply for a conditional use permit beyond the aforementioned date.

The Department of Community Planning further recommends the following Findings of Fact in support of approval:

1. The proposed conditional use conforms to the intent and purpose of Title 18 and of other ordinances and state statutes.
2. The proposed conditional use is in the interest of the applicant. The applicants wish to operate their business of an inert c & d landfill.
3. There are adequate sewage capacities, transportation facilities, energy and water supplies and other public services to serve the proposed conditional use.
4. The proposed conditional use will not jeopardize public health, safety or welfare. ADEC Permit No. SWZA063017 confirms that the applicant has adequately addressed all requirements of the Solid Waste Division. Furthermore, the Notice of Intent submitted to the ADEC Division of Water demonstrates that the applicant is working toward the public's best interests.

Ms. Schade pointed out a discrepancy in the Staff Report. The timeline and schedule on the Canaday Homestead Inert Waste Monofill Closure Plan states that all reclamation operations will be completed by the end of 2028. The ADEC has a five (5) year solid waste permit renewal time.

Mr. McBeath asked if the monofill landfill is currently in operation.

Ms. Schade said yes.

Mr. McBeath asked if this was standard practice before getting the conditional use permit.

Ms. Schade said that it is not standard procedure to start operation of this monofill without a conditional use permit.

Mr. McBeath asked if all the materials in the landfill will be inert.

Ms. Schade replied yes.

Mr. McBeath said that none of the materials are to be hazardous waste.

Ms. Schade replied correct.

Mr. McBeath said that it was mentioned in the DEC permit that non-regulated asbestos (non-RACM) containing material will be accepted. He asked **Ms. Schade** if non-RACM is not hazardous.

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Ms. Schade said that the permit is for non-RACM and that is considered to be inert provided that it is handled appropriately. The applicant addressed how the material would be handled, and ADEC approved their plans. She stated that when non-RACM material is appropriately handled it is not airborne or not friable. If the material is not friable, then the material is not hazardous.

Mr. McBeath pointed to the Staff Report on Page 3 of 6. It states "A liner is not required by the ADEC because leakage will not transpire." He would like clarification on this statement. He stated that there will be snow and ice melt that will go through the debris. He asked what if that water interacts with current inert materials, and will it have any affect that will lead to toxic contamination of ground water.

Ms. Schade said that the amount of water that is generated from inert material is negligible. Precipitation will play a factor, and this is where the Storm Water Prevention Plan comes into place. Part of the plan is how the site is designed. The debris does not run towards the Little Salcha or Tanana. The water from the debris is negligible enough that it doesn't warrant any type of vapor barrier.

Mr. McBeath stated that the site is in a wetland area. He asked if there was no risk that there would be an out flow from this site.

Ms. Schade said that the site has been designed to maintain the vast majority of any water that comes off of the debris. She can defer this question to the applicant.

Ms. Huntington asked about other conditional use permits granted close to this site. She asked what type of conditional use permits were granted in this area.

Ms. Schade said that there was a conditional use permit granted in 2009 for a blasting agent manufacturer and an explosive storage facility.

Mr. Cottingham would like to see a picture of Canaday Road on the overhead. He asked if the road was constructed with an angle as it is on the overhead.

Ms. Schade said yes.

Mr. Cottingham asked if it was diagonal across by the subdivision. He asked about refrigerators for disposal, and where will the refrigerant be disposed.

Ms. Schade said that appliances will be recycled. She understands that appliances will be taken off site.

Mr. Cottingham understands the appliances will be delivered to the site and then pickup and removed from the site.

Ms. Schade said yes.

Mr. Cottingham said that there will not be any removal of refrigerant on the site.

Ms. Schade said correct.

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Mr. Cottingham asked about the maximum number of trips a day, and if they were round trips or single trips.

Ms. Schade replied, one way.

Mr. Hernandez communicated that it will be twenty (20) trips into the site, and twenty (20) trips leaving the site for a total of forty (40) trips.

Mr. Cottingham asked who will pay for the up keep of Canaday Road.

Ms. Schade said that ADOT will maintain the road.

Mr. Cottingham asked if Staff knew what ADOT's schedule is for repairing the road from high heavy truck volume.

Mr. Spillman said that he spoke with ADOT, and ADOT does own and maintain Canaday Road. He stated that it is rare for ADOT to own a road, and this road is not high on ADOT's priority list for maintaining.

Mr. Cottingham asked about guarantees that the property will be reclaimed according to the reclamation program.

Ms. Schade stated that it is part of the permit, and the enforcement of the permit would be ADEC.

Mr. Cottingham asked if there was bonding attached to this permit.

Ms. Schade does not know. The applicant is supposed to report to ADEC every year. If the applicant does not report to ADEC, then ADEC will visit the site and will have the applicant enforce the Closure Plan.

Mr. Cottingham asked about the conditions that the Commissioners place on the conditional use permit, and how are they enforced. Will the applicant send reports to the Borough?

Ms. Schade said that the Borough will not receive reports. The regulatory part of the project would come from ADEC.

Mr. Cottingham asked when a GU-1 property receives a conditional use permit for the area as an industrial use, does the surrounding property become defacto zoning.

Ms. Schade said that the surrounding property will stay GU-1.

Mr. Hernandez stated that the zoning is GU-1. GU-1 can have any uses except for jails.

Mr. Cottingham believes that it is creating problems to have residential, commercial, and industrial activities in the same proximity.

Mr. Hernandez stated that is the type of zoning for the area.

Mr. Pruhs asked if there was a representative from the ADEC present at this meeting.

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Mr. Spillman said yes.

Mr. Pruhs asked if the site was mainly for Eielson AFB.

Ms. Schade said yes.

Mr. Pruhs asked if it was 100% for Eielson.

Ms. Schade said that Eielson is the primary contract.

Mr. Hernandez said that this question should be deferred to the applicant.

Ms. Huntington would like background history on the zoning for the area.

Mr. Hernandez said that before 1988 all the property in this area was UU zoning. In the UU zoning there were no lot sizes or conditional uses. In 1988, the area was changed to GU-1. GU-1 had minimum lot sizes at 40,000 square feet, and conditional uses.

Ms. Huntington asked if **Mr. Hernandez** knew when the housing was constructed in this area, and if anyone has asked for a rezone in the area.

Mr. Hernandez cannot recall any rezones in this area. He does not know when the houses were constructed.

Mr. Sovde stated that Canaday Road is classified as a rural local road in the Commissioners packet. He would like to know DOT's definition of a rural local road.

Mr. Spillman said DOT classifies their roadways on the national scale. Local road is the lowest classification of roadway. There are local roadways in the Borough that handle approximately 4,000 plus traffic count. ADOT estimated in 2008, 2009, and 2010 that there was a traffic count of 100.

Mr. McBeath asked if it was 100 vehicles per day.

Mr. Spillman said correct.

Mr. Sovde said that as part of ADOT's classification, it will not determine how robust they will build the road looking at possible future use.

Mr. Spillman would agree with this statement.

Mr. Pruhs asked **Ms Schade** if the FNSB did a real estate value on these surrounding properties, and how these surrounding properties will be impacted with this conditional use permit.

Ms. Schade said that is out of the FNSB's scope. Property owners that enjoy the General Use zone do so because they want a zone that is not restrictive, but also the neighboring properties can enjoy their property in the manner they choose which could include a monofill.

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Mr. McBeath asked if this would be the second landfill in the Borough.

Mr. Hernandez stated that there is another landfill in Fox, Alaska.

Mr. McBeath asked if an alternate site analysis is done before granting a conditional use permit for this landfill.

Mr. Hernandez said that the Borough does not do the site analyses, but he will defer this question to the applicant.

Mr. Sovde asked about the height of the fence. He said that the Borough's landfill has an 8' high fence, and asked if this is why there is a condition for an 8' high fence.

Ms. Schade said yes.

Mr. Sovde asked what height of fence is required as a standard for a transfer site or a disposal site.

Mr. Hernandez said that there is not a standard for fencing for height of fences. He said that there is a height standard for urban zoning areas. The standard is that a fence cannot exceed 8' in height. There also is a requirement that junk yards are fenced.

Mr. Sovde asked if **Mr. Hernandez** knew the height of the fence for transfer sites, or the landfill in Fox, Alaska.

Mr. Hernandez does not know the height of the fence, but said that conditional uses are treated as a case by case basis.

Mr. Marsh asked **Ms. Schade** if the applicant has agreed to the conditions.

Ms. Schade said that the applicant is aware of the conditions, but would like to change the following conditions:

DELETE:

4. Additionally, an eight foot (8') high fence shall be erected on all four (4) sides of the c & d landfill. Gates with locks shall be installed on the western side of the property adjacent to Canaday Rd.

ADD:

4. An eight-foot (8') fence, or four-foot (4') fence on top of a berm, shall be erected on all four sides of any open cell. The combined height of the berm and fence shall be no less than eight feet in total. The fence will be installed before any waste is placed in the cell and it will be maintained until the waste material in a cell is covered.

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DELETE:

8. This conditional use permit expires on June 17, 2017. The applicant must reapply for a conditional use permit beyond the aforementioned date.

ADD as requested:

8. We want to clarify that the 19.3 acres described in the ADEC solid waste permit is not expected to be filled in five years. The closure plan approved by ADEC listed an expected completion date for the reclamation activities for the monofill to be 2028, (after fifteen years of accepting waste). However, ADEC requires us to renew our permit to operate the landfill every five years. As a condition of this CUP the FNSB will be informed of the ADEC permit renewal process and will have the opportunity to provide input to ADEC to stop the landfill operations if necessary. The proposed requirement by the FNSB in item #8 to also get a new CUP every five years is redundant and acts more like another operation permit requirement rather than a zoning modification. ADEC has definable criteria to obtain and retain an operating permit for an inert waste monofill. FNSB has no such operating permit criteria or requirement. If this CUP is approved, we need to be assured that the approved zoning use remains in place throughout the life of the project or due to the uncertainty; we will be unable to invest the funds necessary to fully develop the property to its potential. We request condition number 8 be dropped.

Ms. Schade added that ADEC would be the enforcement or party that would do follow-ups on this site. When the applicant anticipates closure, the applicant is supposed to follow the approved Closure Plan that the applicant submitted to ADEC. She said if the cell does not receive waste for 90 days or more, than that area with debris must receive a one foot intermediate cover of soil.

Ms. Klepaski wanted to see the overview of the surrounding properties on the overhead. She asked how the residents to the north access their property.

Ms. Schade said that the north property owner access their property through a private drive that belongs to the applicant.

Ms. Klepaski asked if this will change with this conditional use permit.

Ms. Schade said that when the property from the west becomes absorbed, then the access will be moved.

PUBLIC HEARING OPENED

Larry Helgeson, applicant, would like to have five (5) minutes to state his request.

Mr. Pruhs **MOVED** to **EXTEND** to five (5) minutes of public testimony time.
No Objections.

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Larry Helgeson is the Vice President of Environmental Management, Inc. He said that Canaday Homestead has hired Environmental Management, Inc. to obtain the necessary permits, and be responsible for managing and operating this landfill. He apologizes for operating the site prior to this conditional use permit. Currently, the site has been operating as a recycling operation. Canaday Homestead has contracted with Central Recycling Services. He showed the operation of the site on the overhead. The plan is to place all the waste into a permitted landfill. He said that the landfill will be for private use only. It will not be open to the public. Periodically when a contractor has a demolition project, the landfill will be open to accept waste. The recent hauling of several trucks of debris is from Eielson AFB and will be the future activity once a year. There will be short periods of high activity at this site. It will not be a constant interruption to the neighborhood. This site is well suited for this operation because it is located in a good road system that has access to both Eielson and Fort Greely. Both bases will have old buildings that will need to be demolished. The 40 acres is large enough to make this site economically feasible. The site is also well suited for the reclamation project that is planned. When the landfill operation is done, the land will be returned to topsoil and will become pasture land. Fire has been listed as an issue. The entire site is a non-smoking area. If a fire occurs while on this site, they will have fire equipment and tools on standby to fight small fires. If a larger fire occurs, they have a 10,000 gallon water tank on site for use with fire suppression. They also have an industrial well on site. Fire prevention and protection will be an important part of their operation. The landfill will be in operation following a Storm Water Prevention Plan. This plan is already in place. The plan will be modified to cover the land filling operation once the construction is done. The site will regularly be inspected by certified personnel to confirm that these practices are followed on site.

Ms. Staley believes that she has a conflict with this request. She works for Birchwood Homes which is affiliated with Richard Fischer. He owns Polar Star Homes that were demolished at Eielson. Those homes were deemed as condemned. She did not realize that this request dealt with Eielson homes, until the applicant gave his statement.

Ms. Klepaski asked if Birchwood Homes has a contract with **Mr. Fischer**.

Ms. Staley said that Polar Star Homes was on Eielson, which was called Cool Homes. Those homes were deemed as condemned and torn down.

Ms. Klepaski asked if **Mr. Fischer** still owns these homes.

Ms. Staley said no, but technically he owns the homes. He does not own the land but owns the homes. The buildings have been demolished, and there is litigation.

Ms. Klepaski confirmed that there is litigation involved.

Ms. Staley said yes.

Mr. Marsh asked if **Ms. Staley** is familiar with these applicants.

Ms. Klepaski asked the applicants who their contract is with to remove the material from the demolished homes.

Stuart Jacques said that there is nothing in their documents saying that they are only taking debris from Eielson. They are a private landfill that is taking demolition debris from Eielson

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and Fort Greely. They have no specific contract with Eielson or any particular contract on Eielson at this time.

Mr. Marsh asked if there was an agreement with the Cool Homes project.

Mr. Jacques said that the only contract that they have right now is the material that they have brought to the site which is the demolition of 34 buildings with a contract through the COR of Engineers through Huntsville.

Mr. Pruhs asked if any information that is given here at the public testimony is not proprietary information that could be used in a civil law suit.

Mr. Jacques said yes.

Mr. McBeath asked if the applicant represents Canaday Homestead, owner of the land. He asked if Canaday Homestead had a relationship with Eielson AFB and Cool Homes.

Mr. Jacques could not tell which homes are Cool Homes on Eielson.

Mr. Marsh said that it doesn't appear to be a conflict of interest in this situation.

Ms. Huntington believes that **Ms. Staley** should make the decision because she is more familiar with the litigation.

Mr. Marsh asked **Ms. Staley** if she feels that she should step aside for the conditional use permit.

Mr. Marsh asked the Commissioners if anyone objected to **Ms. Staley** stepping down.

Mr. McBeath objected, and he feels it is a potential conflict of interest and it is for the Commissioners to judge if it is a conflict of interest.

Mr. Marsh asked **Ms. Klepaski** if **Ms. Staley** would have to abide by the Commissioners decision.

Ms. Klepaski said that the decision should go to a vote.

Mr. Marsh would like a vote whether **Ms. Staley** has a conflict.

ROLL CALL

Three (3) in Favor: **Ms. Huntington, Mr. Cottingham, Mr. Sovde**

Four (4) Opposed: **Mr. Pruhs, Mr. McBeath, Ms. Kranenburg, Mr. Marsh**

MOTION TO APPROVE, FAILED – NO CONFLICT OF INTEREST.

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Mr. Jacques is the owner and developer of the property for a landfill. He wanted to clarify that there is presently no waste in the landfill. There is ground-up material. He said that the amount of transportation on Canaday Road in the past week has been no trucks. He said there will probably be no trucks for months. He said that this is a very limited use type of landfill. His entire use of the landfill over a period of years is approximately the use of one (1) year with the FNSB landfill. This is a project by project basis. There will be short periods of time that trucks will be travelling on the road. He said that the land is not wetlands. This land use is to be an agricultural area.

Mr. McBeath said that the eastern portion of the property is wetlands.

Mr. Jacques agreed that a piece of the property is wetlands. He stated that a portion of the property is not part of the landfill development.

Mr. McBeath said that he understands that there is nothing happening at the property today that contradicts Borough ordinances.

Mr. Jacques stated that he is within the regulations of a junkyard. The recycling process has been within the regulations of a junkyard. He has not disposed or covered any waste on the landfill. The material is still in the position to be re-worked or recycled.

Mr. Pruhs asked if **Mr. Jacques** would classify the property as a storage site.

Mr. Jacques said "that's correct."

Mr. Pruhs said that in the photos he did not see any waters in the vegetative land mass area. He wanted clarification that this area is not wetlands.

Mr. Jacques said that the landfill area is not wetlands.

Mr. Pruhs asked if this site had a Federal or ADOT regulation for structural removal prior to bringing the material on site.

Mr. Jacques said that there are standard construction and demolition regulations. There is waste handling and hauling regulations.

Mr. Helgeson said that there is pretty extensive handling of hazardous materials, and all hazardous materials are removed prior to demolition.

Mr. Jacques said that there are surveys on the material before they accept the waste.

Mr. Hernandez asked about the tub grinder and the screen equipment. He asked if this equipment is on the property at present.

Mr. Jacques said yes.

Mr. Hernandez asked if these pieces of equipment have been in operation on the property prior to today.

Mr. Jacques said that they just finished hauling.

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Mr. Hernandez asked if there could be any asbestos that might get ground-up.

Mr. Jacques said that they are not allowed by law to grind asbestos. There are surveys performed prior to accepting the material. The non-friable materials are allowed and can be ground. All asbestos waste would be segregated from the regular waste.

Ms. Huntington asked if an alternate site was taken into consideration.

Mr. Jacques said that this piece of land is remote. There are neighbors, but there are not very many neighbors. They have purchased property from one (1) neighbor. They have a year to move. Their belongings are there, but they do not live there.

Ms. Huntington asked for the property location.

Mr. Jacques said the property was to the west. He said as for as other sites, they have to be for sale. Not everything is for sale. They were looking for GU property. The property could not be in a wetland. The majority of the properties are largely in wetlands. This property has a decent access.

Mr. Pruhs asked how long **Mr. Jacques** had been in the process for a landfill, and how often did he give notice to the neighbors to discuss this landfill.

Mr. Jacques said that they started negotiations with the land owners in February 2012. They also started discussing this landfill with the adjacent neighbors.

Mr. Pruhs said that these negotiations have been going on for approximately six (6) months.

Mr. Jacques answered, "That's correct."

Mr. McBeath asked **Mr. Helgeson** about the two (2) corrections to Condition #4 and Condition #8. If the Planning Commission retained these conditions would that incur further costs or liabilities?

Mr. Helgeson said that Condition #4 stated to install an 8 foot fence around the entire facility. Since this is a periodic operation, installing a fence around the whole property would incur additional costs. The neighbors have a concern of an 8 foot fence around the entire property as an eye sore. They recommended an alternative to the fencing. They are recommending a fence around the active cell of the debris. They requested using a combination of a fence and a berm to reach an 8 foot height.

Mr. McBeath asked about the deletion of Condition #8.

Mr. Helgeson thought that Condition #8 was redundant. Every five (5) years they would be going through DEC, with public comment, to get authorization to operate their facility. During the public comment period, the Borough would have the opportunity to comment on the continuation of the conditional use.

Mr. McBeath asked if they would incur any additional cost or liability if Condition #8 remained as a condition.

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Mr. Jacques responded with yes, it impinges with their ability to develop the landfill. With the ADEC permit, there are definable rules that have to be followed. They will know in five (5) years when they go before ADEC what the requirements are to renew this permit. They can manage their operations so they stay in compliance. With Condition #8 and the Planning Commission, they have no idea what the requirements are going to be in a five (5) year timeframe.

Mr. Cottingham asked if their operation is going to be to recycle refrigerators onsite.

Mr. Jacques said yes and no. They will remove the refrigerants at the building where they are being demolished. They will not accept any refrigerators that have refrigerants.

Mr. Marsh would like clarification on the recycling process.

Mr. Jacques said that asphalt is recycled and ground-up. Concrete could be ground for reuse. Metals will be recycled. They will sell a lot of the windows. Anything salvageable in the buildings will get sold. Plastics and cardboards will get recycled. They have been hauling waste to Anchorage on the rail car.

Mr. Marsh asked what materials would be buried.

Mr. Jacques said the leftovers for burial would be anything that is not of economic value. The wood products, sheetrock, and vapor barrier plastics are not of economic value.

Mr. Sovde is concerned about the vegetative barrier. He asked if there will be a vegetative barrier around the complex.

Mr. Jacques stated that they have a vegetative barrier at this time.

Mr. Sovde asked if the vegetative barrier would be maintained.

Mr. Jacques said yes.

Ms. Klepaski asked if the property to the north had a driveway easement over the property.

Mr. Jacques said that there is a legal agreement that allows the people to cross the property.

Ms. Klepaski asked if this agreement will continue.

Mr. Jacques replied yes.

Ms. Klepaski asked about the hours of operation for hauling and grinding.

Mr. Jacques said that it will be five (5) to six (6) days a week during the day.

Ms. Klepaski would like to know the schedule for hours of operation.

Mr. Jacques responded with 7:00 am – 6:00 pm.

Ms. Klepaski asked if this schedule would be for hauling and grinding.

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Mr. Jacques said yes.

Mr. Marsh announced that the Planning Commission cutoff is at midnight. They would like to give everyone an opportunity to speak. He asked the audience to keep it short where possible, but do say what is needed to be said.

Mr. Helgeson passed around a photo of the landfill to the Commissioners.

Willis Howard resides at 6782 Old Richardson Hwy, talked about the fence stopping debris that could possibly blow in the air. His concern is the asbestos and snow melt. He believes that there will be a lot of leeching in the area. The Little Salcha River is not far away. He did not hear any talk of testing wells in the area. Eielson does do removal of asbestos but he asked about the residue of asbestos that is left.

Mr. Pruhs asked **Mr. Howard** if he talked with ADEC in regards to this operation.

Mr. Howard said that he had no knowledge that this landfill existed.

Mr. Pruhs said, "You had no notification of this operation."

Mr. Howard agreed that there was no notification.

Mr. Pruhs asked if he is within 1500 feet of this landfill property.

Mr. Howard said no, he is not within 1500 feet of the property.

Mr. Pruhs asked if he was in an impact area.

Mr. Howard stated that he lives in Salcha, Alaska.

Mr. Pruhs asked if this was **Mr. Howards** first time for public testimony.

Mr. Howard said yes.

Doug Grant, resides at 7241 Canaday Road, owns the property south of the project. His neighbor told him about this project. He owns a cabin within the 500 foot range of the landfill. He talked about his knowledge of asbestos removal. He does have concerns on the asbestos. He said that they should buy his land because no one else will want to live next to a landfill.

Mr. Pruhs asked if **Mr. Grant** received any notification from the ADEC.

Mr. Grant just received the notification today. It had an incorrect address on the notification.

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Shelby Mathis, resides at 4429 Condor Ct, is a local attorney in Fairbanks. She represents Eric Lancer who lives in the Salcha area. They are presently in litigation against Robert Riddle who does business as Fairbanks Pumping and Thawing. The reason that they are present tonight is because Mr. Lancer's case involves a similar conditional use permit. Mr. Riddle's permit is for the conditional use permit for bio-solids. This conditional use permit was granted by the Planning Commission in 2007. The purpose of this permit was a little different, but after being here tonight it sounds as though everything is the same. The ADEC permit is tied to the conditional use. There were conditions attached to the conditional use permit. The reality is that none of these conditions were enforced. She gave the background of the bio-solids application, and what has happen with the use since 2007.

Mr. Marsh asked **Ms. Mathis** how the bio-solids application is related to this project.

Ms. Mathis said the reason she is here tonight, is because the conditions that were attached to the bio-solids conditional use permit. If the Borough is relying on ADEC to enforce the terms of the permit and ADEC cannot enforce the terms of the permit, then the Borough never enforces their conditions. She had the Borough Attorney send her all of the conditional use permits with conditions, and the Borough has not done any follow-ups on these permits to see if the applicants have followed these conditions placed on their permit. In September 2007 after the conditional use permit was granted, ADEC never did any follow-ups on the bio-solids application.

Mr. McBeath wanted clarification if **Ms. Mathis** felt that the ADEC is lacking in enforcement activity. He asked if these cases are quite similar.

Ms. Mathis will argue that that the bio-solids are much worse than inert material. Her point is that the Planning Commission needs to consider very hard whether not to DELETE Condition #8 regarding the five (5) year timeframe.

Eric Lancer lives four (4) miles from the landfill. He did not have any idea this landfill existed. His concern is the Planning Commission deleting Condition #8 from this conditional use permit. He believes that the Borough should be protecting the neighborhood through the conditional use permit process.

Dean Lawson resides at Eielson Farm Road. He is here because he is afraid of what could happen in the future. His experience is that these conditional use permits impact the neighborhood by misrepresentation and enforcement. He is worried about enforcement with ADEC.

John Brunser resides at Eielson Farm Road. He talked about the conditional use permit issued for bio-solids. He has the same concerns as **Mr. Lawson**.

Cheryl Adamson owns two (2) lots near this requested proposal's site. She believes this proposed site will create too much noise and dust. It will degrade her neighborhood which is comprised of people who like to live peacefully with nature. It will disturb the wildlife. It will devalue her investments in the land and her home. It will destroy the purpose of living out there on larger lots away from too many people and traffic. She is not in favor of this request.

Ms. Huntington asked **Ms. Adamson** when she bought her home in Salcha, Alaska.

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Ms. Adamson replied, 2010.

Ms. Huntington asked if she was aware of the General Use zoning.

Ms. Adamson said yes, but did not have any concerns with the neighborhood.

Ms. Huntington explained that there are a lot of uses that can be located in General Use zoning.

Ms. Adamson believes there should be a better location for this landfill operation, and not in a neighborhood.

Mr. McBeath understands that **Ms. Adamson** describes her region as a neighborhood. He asked what she means by the term "neighborhood."

Ms. Adamson owns her acreage, but does not live out there yet. She hopes to build in this area in the next five (5) years when she gets closer to retirement. She considers this a neighborhood because she believes that people buy out in Salcha for similar reasons.

Mr. Marsh asked **Ms. Adamson** if she realized that this property owner could have a junkyard or recycling yard without a conditional use permit.

Wesley Cullip, resides at 6672 Canaday Road. He was contacted by the property owner numerous times. He has seen the landfill operation. He has been on many demolitions of asbestos material. He was certified to haul asbestos material. He believes that this operation is the best operation he has seen for a landfill use. He talked about how they have cleaned this place from a junkyard to a landfill. He is in favor of this conditional use request.

Shane Durand resides at 19646 S. Mitkoff. He is the owner of Central Recycling Services. He explained that he met with the neighbors on Canaday Road. He explained to the neighbors the process of the operation. He gave them his business card and home phone number just in case they had any concerns. He has answered any questions or comments from the neighbors. He has tried to give the residents on Canaday Road first choice on any of the salvageable materials. They have delivered trees that have been removed on the property to the neighbors for firewood. He has given neighbors fences, windows, and doors from the demolition buildings. He gives his apologies to any residents that he has not been able to talk to in the neighborhood.

Ms. Kranenburg asked if the recycling business is going to be handling any of the asbestos products.

Mr. Durand said that asbestos material cannot be recycled. Asbestos is a prohibited material for recycling.

Ms. Kranenburg asked about non-RACM, and will be accepted by his company.

Mr. Durand said that the site is permitted to accept non-RACM, but there has not been any accepted as of yet.

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Ms. Kranenburg asked if there will be non-RACM accepted at the site.

Mr. Durand said yes.

Silvia Moore lives directly north of the proposed property. She was contacted by **Mr. Durand**. He was concerned that the area was wetlands. **Mr. Durand** has answered any concerns or questions from the neighbors. The previous owners had a junkyard on this property. The new owners have really done a nice job cleaning up the property. She explained that the applicant has been very nice to the neighbors. She said the trucks hauling the material to the site are very courteous as well. She is in favor of this conditional use permit.

Robert Moore explained that this site does not make any more noise in the area than the generators that the neighbors use. He described the property before it was bought by the applicant. He said that road is in better shape since they have started this landfill. He said that they keep the dust down with water trucks. He is in favor of this conditional use permit.

Jeanette Hanson, resides at 6770 Cook Circle, has lived in this neighborhood since 1976. She described the area and the roads when they purchased their property. She is concerned about the road, and how it will hold up with all the traffic with the heavy trucks. She is worried about the water tables, leaching, and what will happen to the run off snow melt in the spring.

Mr. McBeath asked if **Ms. Hanson** was in opposition of the conditional use request.

Ms. Hanson said yes, she is in opposition of the conditional use request.

Mr. Marsh asked **Ms. Hanson** what kind of leaching is she worried about.

Ms. Hanson is worried because the material is coming out of Eielson, and why do they not bury the material in their own ground.

Tom Stern lives on Canaday Road. He believes the area has improved since this landfill has been created. He is in favor of this conditional use permit.

Wes Hudnall, resides at 6875 Canaday Road, agrees with **Mr. Stern**. He has been treated with respect and integrity by the applicant. He is in favor of this conditional use permit.

Logan Cullip lives on Canaday Road. He has never seen the trucks speeding on the road. He said that the applicant has delivered firewood to his Grandfather's house. He appreciates how they have cleaned up the property. He is in favor of this conditional use permit.

Daniel Grant resides at 2190 Starlet Lane in North Pole. His father lives on Canaday Road. One of his properties is used as a summer cabin. He does not want a landfill next to him. He would like to farm on this land in the future. He said that he has worked with regulated and non-regulated asbestos. He said that when the buildings are being demolished, only some of the asbestos is removed. He is concerned about regulation follow-up. There is still insulation in the walls that is not removed. He is opposed of this conditional use permit.

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Mr. Marsh asked about **Mr. Grant** getting back to farming the land. He asked if there was anything with this operation that would stop him from farming.

Mr. Grant said that this operation would not stop him, but he would be concerned if any testing is done in the future to make sure that the soils and waterways are clean.

Mr. Marsh asked if it is possible for asbestos to leach into the ground.

Mr. Grant does not know how the applicant is packaging or containing the asbestos. He can tell the Commissioners, from experience, that he uses vacuums to pack asbestos and then it is doubled bagged for removal.

Rhonda Procell, resides at 6700 Canaday Road, explained that there are not many residents on Canaday Road. She said that the people that are complaining have never lived on Canaday Road. She stated that the truck drivers for this project are the most courteous drivers. They drive under the speed limit. She said that what they have done to the property is unbelievable. She is in favor of this conditional use permit.

Gary Bulky, resides at 6800 Canaday Road, believes that the applicant has done a great job of cleaning up the property. He is in favor of this conditional use permit.

Mr. McBeath asked if there is a person representing ADEC, and he would like to hear from this person.

Bea Bauchner resides on Chena Ridge. She did not receive any prior notification. She did receive the Dear Property Owners letter from the Borough. She noticed that there has been a lot of work performed on this property, and it looks like it's a done deal. She is concerned about the noise from the grinding. She is worried about the resale value of any property close to this landfill. She is worried about the formaldehyde that is in houses. She wonders if this formaldehyde will leach into the ground. She is not in favor of this conditional use permit.

Ken Spiers, ADEC representative, wrote the solid waste permit. He said that this application is the best application that he has ever seen for a landfill. He said the applicant provided just what was needed for the permit.

Ms. Kranenburg asked if the Borough Landfill accepts non-RACM material.

Mr. Spiers said yes.

Ms. Kranenburg asked if the Borough landfill handles the non-RACM material similar to this or dissimilar to this site plan.

Mr. Spiers said that it should be similar. He said that non-RACM is supposed to be covered within twenty-four (24) hours.

Ms. Kranenburg asked if the Borough landfill is regulated by ADEC.

Mr. Spiers said yes.

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Ms. Huntington asked about the regulation of the landfill. She asked how often testing will be conducted on this landfill.

Mr. Spiers said that they inspect inert waste facilities once every two (2) years and sometimes once every year.

Mr. Pruhs asked about the bio-solids permit, and that this facility was not inspected by the ADEC.

Mr. Spiers said that some things were left out of that particular testimony. He said that after the permit was issued, and lagoons were filled and odors that were generated, he did visit the site numerous times from complaints from residents. ADEC was of the opinion that they could enforce the odors from the operation. Two years ago, the "Right to Farm" surfaced. It says that someone that is operating a farm in an authorized area cannot be held liable as a private nuisance. ADEC's attorneys held up on enforcement. ADEC did not know if they had the authority to do any enforcing on odors in the area. The State of Alaska was sued because of not enforcing. The judge ruled that ADEC can enforce at their discretion.

Mr. Pruhs said that ADEC will enforce, and will shut down an operation upon non-compliance of the inspection. He asked what the policy was for ADEC to notice neighborhoods.

Mr. Spiers said that ADEC does not send out noticing.

Mr. Pruhs understands that ADEC will not send out noticing on a landfill operation to adjoining neighbors.

Mr. Spiers said that it is listed in the News Miner. It is published in two (2) consecutive issues of the News Miner. People are given thirty (30) days to comment.

Mr. Pruhs believes that ADEC's procedure needs to be upgraded.

Mr. McBeath asked **Mr. Spiers** if he was the only person with ADEC in the Northern Region that regulates landfill sites.

Mr. Spiers said no, there is one other person with ADEC that regulates village landfills.

Mr. McBeath asked if there were sufficient personnel with ADEC now, and if he believed that these sufficient personnel can regulate these permits in the next five (5) years.

Mr. Spiers said yes.

Mr. McBeath asked how the ADEC regulates landfills concerning leaching.

Mr. Spiers replied that experience has shown that leaching from inert waste landfill is not a problem. In most cases ADEC does not require groundwater to be monitored. At the South Cushman landfill, a municipal solid waste landfill has a ridged ground water program.

Mr. McBeath asked about the proposed landfill, and if this landfill would require groundwater monitoring.

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Mr. Spiers said no, groundwater monitoring is not required in the permit.

Mr. McBeath understands that the applicant is requesting the Commissioners to DELETE Condition #8 which relates to a renewal of the conditional use permit in five (5) years. He asked what process will ADEC do in a five (5) years.

Mr. Spiers said that during his regular inspection, if the applicant has complied substantially with everything, then there is no reason for the permit not to be renewed.

Mr. McBeath asked **Mr. Spiers** if it would be necessary for the Planning Commission to re-examine the operation of the landfill.

Mr. Spiers does not believe this necessary.

Mr. Cottingham asked what ADEC does if a closure plan is not completed. What are the penalties involved with this closure plan.

Mr. Spiers said that it has never happened on his watch. He would have to look into this scenario.

Mr. Cottingham said that an applicant could go bankrupted. If ADEC cannot penalize the problem, then the public is stuck with fixing the problem.

Mr. Spiers said that for larger municipality landfills, ADEC requires the applicant to show financial assurance for closure and post closure care. The requirement is not required of an inert landfill operation. ADEC can stipulate a requirement if they so desire.

Mr. Marsh asked if there were any other questions for **Mr. Spiers**. He added that the applicant did put forth a financial assurance packet, but it was not required.

Mr. Jacques hopes that the Commissioners can see from the testimonies of the neighbors that reside on Canaday Road that their intent is to have a good project. They have been in business for twenty-eight (28) years. They have operated the Fort Wainwright landfill for several years. They are familiar with landfills. They have taken a true junkyard and have cleaned the property. Asbestos does not leach or dissolve. He explained that there was a thorough all survey done on the Eielson buildings. He believes that they have done a great deal of public outreach to the neighbors in the area.

Mr. McBeath asked if **Mr. Jacques** if he was an expert chemist.

Mr. Jacques said that his background is in engineering. He has been involved in the asbestos industry for thirty-two (32) years.

Mr. McBeath explained that the Commissioners are non-specialists. The Commissioners questions concern any potential contamination in the landfill. He asked if **Mr. Jacques** is willing to state that there will be absolutely no leaching of contaminants of the inert materials that might influence the groundwater.

Mr. Jacques is not obligated by law to say something that would put him at risk. He said that no one can say absolutely. His company will do ever thing possible to ensure that there is not contaminants in their site.

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Mr. McBeath asked if **Mr. Jacques's** personnel would be the only people that would be moving the materials.

Mr. Jacques said "not necessarily." He said that his personnel would be the only people accepting the materials. The people that are accepting the waste have EPA inspector certifications for asbestos.

Mr. McBeath said that your company would have hard copy evidence that the materials were properly removed.

Mr. Jacques said, "That's correct."

Mr. McBeath asked if these personnel are company employees.

Mr. Jacques said yes.

Mr. McBeath asked if the employees would follow a certain training regimen. He asked how many employees would be accepting the waste at the facilities.

Mr. Jacques said that there are two (2) to three (3) people at the facility. Not all employees would be trained for accepting the waste. There would be one (1) person that would be trained, and an operator. He added that his company would make money if they found any hazardous waste because the hazardous waste would have to be cleaned up, segregated, and removed.

Ms. Huntington wanted to see the recommendations for the conditions on the overhead. She asked if the applicant was not in support of Condition #8.

Mr. Jacques said yes.

Ms. Klepaski added that the applicant does not have to have the owner's consent.

Ms. Huntington asked if Condition #8 and Condition #4 are the conditions in question.

Mr. Jacques said yes.

Ms. Huntington asked **Mr. Jacques** if he agreed with the rest of the conditions.

Mr. Jacques said yes.

Ms. Staley understands that **Mr. Jacques'** staff is EPA trained.

Mr. Jacques reiterated that the people that receive the waste are EPA trained.

Ms. Staley asked if there were periods of slow time for the landfill.

Mr. Jacques said yes.

Ms. Staley asked if the employees were local to the area.

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Mr. Jacques said yes.

Ms. Staley thought that an EPA trained employee would be a specified skill set.

Mr. Jacques agreed.

Ms. Staley added that it would be hard to keep a specified skill set employed not having an on-going work schedule.

Mr. Jacques said that he has operated in Fairbanks for more than 25 years.

Mr. Marsh asked if there were further questions for **Mr. Jacques**.

PUBLIC HEARING CLOSED

MOVE to POSTPONE CU2013-001 by Mr. McBeath.

Mr. Marsh MOVED to CONTINUE, seconded by **Ms. Kranenburg**.

Mr. Cottingham asked for what purpose are the Commissioners moving to **POSTPONE**.

Mr. Marsh said that the alternative is to **SUSPEND THE RULES**.

Mr. Pruhs is not in favor of adjourning early.

Mr. Sovde would like to **SUSPEND THE RULES** to get this matter resolved.

Mr. Marsh said that the **MOTION** is for **CONTINUATION UNTIL THE NEXT MEETING**.

ROLL CALL

Two (2) in Favor: **Mr. McBeath, Ms. Staley**

Six (6) Opposed: **Mr. Pruhs, Ms. Huntington, Mr. Cottingham, Ms. Kranenburg, Mr. Sovde, Mr. Marsh.**

MOVE to SUSPEND THE RULES to go past midnight by **Ms. Kranenburg**, seconded **Mr. Sovde**.

ROLL CALL

Eight (8) in Favor: **Mr. Pruhs, Ms. Staley, Ms. Huntington, Mr. Cottingham, Ms. Kranenburg, Mr. McBeath, Mr. Sovde, Mr. Marsh.**

Zero (0) Opposed:

MOTION TO SUSPEND THE RULES, PASSED.

Mr. McBeath would like Staff to go back to the condition amendments on the overhead.

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Ms. Schade said that she is satisfied with the applicant's language on Condition #4 on fencing. She believes that Condition #8 should be left "as is." She stated that it is an opportunity as a Borough to ensure that this landfill is kept to the Boroughs standards in a five (5) year timeframe.

Mr. Hernandez added that over a five (5) year period you can expect conditions to change, land use to change, and road use to change. This is an opportune for the Commissioners to weigh in on these changes. If everything is running smoothly, then the Commissioners can renew the application.

Mr. Marsh would like to see a **MOTION** before discussion begins.

MOTION Move to approve **CU2013-001** with eight (8) conditions and four (4) Findings of Fact by **Mr. McBeath**, seconded by **Ms. Huntington**.

MOVE to AMEND Condition #4 to read as follows by **Mr. Pruhs**, seconded by **Ms. Kranenburg**.

4. An eight-foot (8') fence, or four-foot (4') fence on top of a berm, shall be erected on all four sides of any open cell. The combined height of the berm and fence shall be no less than eight feet in total. The fence will be installed before any waste is placed in the cell and it will be maintained until the waste material in a cell is covered.

ROLL CALL

Eight (8) in Favor: **Mr. Pruhs, Ms. Staley, Ms. Huntington, Mr. Cottingham, Ms. Kranenburg, Mr. McBeath, Mr. Sovde, Mr. Marsh.**

Zero (0) Opposed:

MOTION TO APPROVE, PASSED.

Discussion

Mr. Marsh asked if there were any discussions on Condition #4
None

ROLL CALL

Eight (8) in Favor: **Mr. Pruhs, Ms. Staley, Ms. Huntington, Mr. Cottingham, Ms. Kranenburg, Mr. McBeath, Mr. Sovde, Mr. Marsh.**

Zero (0) Opposed:

MOTION TO APPROVE CONDITION #4, PASSED.

MOVE to DELETE Condition #8 by **Ms. Huntington**, seconded by **Ms. Pruhs**.

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Discussion

Ms. Huntington has not seen this condition attached to other conditional use permits. She is not in favor of this condition.

Mr. Sovde concurs with **Ms. Huntington**.

Mr. McBeath said that the Planning Department is different from the Environment of Conservation. ADEC is part of the state government. The Commissioners have a public hearing process, and this is for people throughout the Community to address their concerns. There does not seem to be a practice for going through a renewal process for conditional use permits, but this case seems to be a special case to review very carefully. He believes this is an appropriate function of the Planning Commission.

Mr. Pruhs will not be voting for the deletion of Condition #8. He finds fault with ADEC in their process of notification. This body will ensure that the public will be able to comment on this conditional use permit in five (5) years.

Ms. Huntington believes that the ADEC process needs to be fixed, but she doesn't believe the Borough should replace or improve on what DEC should be doing in their process.

Mr. Marsh concurs with **Mr. Pruhs**.

Mr. Sovde said that there is an operation very similar to this, almost identical, conditional use that does not have a condition placed on the property. Staff is changing the rules for another conditional use permit. He said that it is very seldom with Government that you get any consistency that is another reason the Commissioners should look at this condition. He does not believe that a person that is issued a conditional use permit should have to come before the Planning Commission for further use of his property. He brought up the increased risk and uncertainty condition #8 would introduce in the business venture, and also was concerned about the additional cost to the property owner to renew the CU permit.

Mr. Cottingham disagrees with **Mr. Sovde**. He said that the omissions of past Commissions are not going to continue on with his vote.

Mr. Hernandez added that the Planning Commission has put conditions on past conditional uses i.e. firework stands, dog yards, and mobile homes. With firework stands they would have to come back to the Planning Commission for a renewal of a conditional use permit. After a series of years, then the Planning Commission decided to grant the conditional use without the renewal clause.

Ms. Kranenburg is thrilled to hear testimony that the applicants are doing a great job. She believes that if the applicants to a great job in a five (5) year period then she will approve the conditional use. She added that at ten (10) years the applicant is still doing a great job, and then the Planning Commission can delete Condition #8.

Ms. Staley will be voting against the deletion of Condition #8. This Condition #8 is like a check and balance situation for the Planning Commission.

Mr. Marsh would like roll call on the **DELETION** of Condition #8.

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ROLL CALL

Two (2) in Favor: **Ms. Huntington, Mr. Sovde**

Six (6) Opposed: **Mr. Pruhs, Ms. Staley, Mr. Cottingham, Ms. Kranenburg,
Mr. McBeath, Mr. Marsh.**

MOTION TO DELETE CONDITION #8, FAILED.

Discussion

Mr. Marsh asked if there was any discussion on the conditional use.

Mr. Pruhs said that when you hear that a landfill is better than the existing use, you take notice. He will be supporting the conditional use permit.

Mr. McBeath did a research of studying environmental conflicts. He said that there are people opposed to the landfill, but the neighbors that are in close proximity of the landfill are in favor of the landfill. He believes that the company has done a good job reaching out to the Community. He will be voting in favor of this conditional use permit.

Mr. Sovde will be supporting this conditional use permit.

Mr. Marsh stated that he believes this is in the best interest of the applicant and the Community.

Mr. Cottingham said that he believes the applicant will be doing a fine job. His concerns are all about state agencies enforce or remediate the damages to the neighborhood. This includes the closure plan and the road maintenance.

ROLL CALL

Eight (8) in Favor: **Ms. Huntington, Mr. Sovde, Mr. Pruhs, Ms. Staley,
Mr. Cottingham, Ms. Kranenburg, Mr. McBeath, Mr. Marsh.**

Zero (0) Opposed:

MOTION TO APPROVE, PASSED.

G. UNFINISHED BUSINESS

H. NEW BUSINESS

I. COMMISSIONER'S COMMENTS

1. FMATS

- **Mr. McBeath** gave an overall report of the FMATS meeting.

2. Title 17 Rewrite Project

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3. Comprehensive Plan Advisory Board (CPAB)

4. Other Commission Comments

- **Mr. Marsh** reminded the Commissioners to review the proposed ordinance concerning Planning Commission rules and procedures.
- **Ms. Huntington** asked when the Borough Assembly will be discussing this ordinance.
- **Mr. Hernandez** announced that the ordinance will be introduced on August 9, 2012, a work session on August 16, 2012, and a public hearing on August 23, 2012.
- **Mr. Marsh** has requested a work session for the Planning Commission on August 21, 2012.

I. ADJOURNMENT

There being no further business the meeting was adjourned at 12:21 a.m.

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Mary Brodigan

From: Stephanie Nowers <sjnowers@mtaonline.net>
Sent: Wednesday, December 14, 2016 9:32 AM
To: Mary Brodigan
Cc: Mark Whisenhunt
Subject: comments for Dec. 19 Planning Commisison
Attachments: 16-Claims and facts_CMS.pdf

Good morning Mary,

I hope your week isn't too busy. Please accept this email and attached .pdf document for submission to the Planning Commission. I also copied Mark as I wasn't sure if he was also supposed to be receiving comments.

Thank you,
Stephanie & Stephen Nowers

Dear Commissioners,

Thank you again for your diligence in this long drawn out process. This is now the third time this issue is before you. I won't add to the already voluminous record, but in the attached document I have summarized some of CMS' statements about their operation and claims about their proposal compared to evidence already in the record to the contrary of those statements. (Relevant page numbers from the packet are added for your reference).

This applicant's seeming inability to comply with its own stated operational controls, dismissal of concerns about water issues on the property, and unwillingness to abide by borough rules even to this day is deeply troubling as are contradictions between statements made by the applicant and verifiable facts. Together these, along with a fair reading of the remainder of the record before you, shows that there is a threat posed by this proposed operation at this location to the public's health, safety and welfare that is not ameliorated by the applicant's original proposal or proposed amendments and therefore the permit should be denied.

Finally, we also for the record take exception to the company's criticism of borough planning staff's professionalism. Although we have not always agreed with borough staff, we have never seen anything that would make us doubt their integrity and desire to conduct themselves in accordance with professional standards.

Sincerely,

Stephanie and Stephen Nowers

2320 S. Killarney Drive

Palmer, Alaska 99645

907-746-3686

<p>CLAIM - CMS HAS STRINGENT STANDARDS IN PLACE: This operation does not pose a threat to public health and safety because hazardous and other prohibited materials <u>such as household waste</u> will be kept out of the dump by the applicant's existing stringent screening process. "Through the recycling process at CRS's facility, C&D waste gets thoroughly inspected at the tipping floor and through the sorting process...As a result the residual waste from the recycling process has been fully examined to assure no unacceptable materials are present." (CMS submission p. 501, Dec. 5, 2016 packet.)</p>	<p>RECORD - CMS' ILLEGAL DUMPING INCLUDED HOUSEHOLD WASTE: CMS in 2013 dumped "screened" fines from their Anchorage facility that included household trash onto the proposed dump site. Stuart Jacques in court admitted the material contained trash in apparent violation of the company's own screening standards. (See 2015 AK Court of Appeals decision affirming convictions for illegal dumping, pgs. 343-347 Dec. 5, 2016 packet). This is especially concerning given the stress placed on proper screening for safe operation of a C&D and asbestos dump.</p>
<p>CLAIM - THE BOROUGH HAS REGULATIONS: "It is important to note that the MSB has an existing ordinance in place that can be acted upon by Code Compliance if debris was found to leave the site." (2014 CMS Application, P. 665 OF Dec. 5, 2016 packet)</p>	<p>RECORD - WHAT REGULATIONS? CMS in 2013 was issued six citations under MSB code 17.60 and 8.50. To get CMS to comply with these regulations has cost borough taxpayers thousands in court costs and countless hours of staff time and CMS is still not in compliance.</p>
<p>CLAIM - THE ILLEGAL DUMPING IS IN THE PAST, AND IS NOT RELEVANT: The violations are in the past and were "resolved to the satisfaction of the agencies..."(CMS letter, p. 521, Dec. 5, 2016 packet and testimony of Stuart Jacques at hearing)</p>	<p>RECORD - CMS REMAINS NON-COMPLIANT: CMS is still not in compliance. The most recent court ruling was a 2015 Court of Appeals ruling that affirmed the lower court's convictions for illegal dumping. (pgs. 343-347 Dec. 5, 2016 packet)</p>
<p>CLAIM - CMS HAD ALASKA DNR'S BLESSING CMS' modifications of the spillway between the gravel pit ponds was done with the approval of the Alaska Department of Natural Resources. (Stuart Jacques testimony at Dec. 5, 2016 hearing)</p>	<p>RECORD - CMS IS NON-COMPLIANT: ADNR did not approve this modification (to the spillway)," (Dec 15, 2014 testimony from Charlie Cobb, Alaska DNR Water Resources Division, Pg. 3413, Dec. 5, 2016 packet) CMS "remains non compliant" with regards to the spillway. (Dec. 1, 2016 letter from ADNR Water Resources Division to Mat-Su Borough p. 62 Supplemental for Dec. 15, 2016 packet)</p>
<p>CLAIM - THE MONOFILL HAS DEC APPROVAL: ADEC has approved the proposed Monofill design and permit. (CMS 2014 permit application to the Mat-Su Borough, Pgs. 646, 663 and 679, Dec. 15, 2016 packet)</p>	<p>RECORD - NOT APPROVED: "ADEC has NOT APPROVED the permit". "ADEC has not issued approval for the design" (Oct. 31, 2014 email from DEC Solid Waste Manager Lori Aldrich to Borough Planner Susan Lee. Pgs. 2108-09 of Dec. 5, 2016 packet) *CMS later withdrew its DEC permit request.</p>
<p>CLAIM - LIKE A CUP OF COFFEE: It was "One sale of scrap metal, less than \$1,000 of scrap metal," (CMS attorney Bill Ingaldson in August 5, 2016 testimony to Mat-Su Planning Commission on transaction between his clients and Commissioner Bill Kendig)</p>	<p>RECORD - A \$10,000 CUP OF COFFEE: "It (a sale of steel pipe) was in the \$10,000 range." (testimony of Mr. Kendig to Mat-Su Borough Ethics Board on Oct. 10, 2016)</p>

SOME CMS CLAIMS

FACTS IN THE RECORD

<p>CLAIM - NEARBY RESIDENTIAL PROPERTY IS MINIMAL: CMS' 2014 application states there is only 16 acres of surrounding residential property. <i>(P. 660 of Dec 5, 2016 packet)</i></p>	<p>RECORD - ABUNDANT NEARBY RESIDENTIAL DEVELOPMENT: Neighboring Canoe Lake subdivision alone has 50 homes on properties of at least one acre lots. According to Mat-Su property records, there are more than 250 homes in the surrounding subdivisions of Crimsonview, Pioneer Meadows, Canoe Lake, and Skyranch. At an average low estimated value of \$200,000 each, this adds up to \$50 million in assessed residential property value.</p>
<p>CLAIM - THIS IS ABOUT RECYCLING NOT DUMPING: This operation will greatly expand recycling in the Mat-Su. <i>(Oct. 26, 2016 CMS letter to Mat-Su Borough with proposed amendments to their application)</i></p>	<p>RECORD - LITTLE MARKET FOR RECYCLED MATERIAL: There's currently little market for the company's recycled materials <i>(Stuart Jacques in Aug. 2016 AK Business Monthly Article, p. 9 Supplemental for Dec. 15, 2016 packet)</i></p>
<p>CLAIM - GRAVEL PIT PONDS AND AREA LAKES ARE NOT CONNECTED: Complaints about the connection between gravel pit ponds and area lakes are not corroborated. <i>(CMS 2014 permit application, p. 662 Dec. 5, 2016 packet)</i></p>	<p>RECORD - THERE IS AMPLE CONCERN ABOUT A CONNECTION: DNR is studying the connection. There are multiple documented complaints to borough and state officials dating back to 2004 about flooding from this property. A 2012 Terrasat report submitted by CMS to the AK Department of Environmental (and submitted by residents to the Planning Commission in 2014) specifically notes on Page 5 a breach in the barrier between two of the gravel pit ponds and that it resulted in rise in Canoe Lake levels.</p>

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Mary Brodigan

From: Stephanie Nowers <sjnowers@mtaonline.net>
Sent: Wednesday, December 14, 2016 11:52 AM
To: Mary Brodigan
Cc: helenvincentak@gmail.com; RICHARD HARBUCK; William Quantick; Stephanie Figon; Lisa Kallander; Vicky Ramage
Subject: Comments for Dec. 19 Planning Commission Hearing re: Monofill Permit Application
Attachments: DEC19_CommentstoPlanningCommission.pdf

Hi Mary,

Please accept this letter for the Dec. 19 Planning Commission hearing on behalf of 69 local property owners recommending denial of a permit for a construction debris and asbestos dump proposed by Central Monofill Services.

Thank you,

Stephanie Nowers
907.229.1982

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December 10, 2016

To the Mat-Su Borough Planning Commission

RE: Application by Central Monofill Services for Construction Debris & Asbestos Dump

First of all, thank you for your dedication to this very long process. At this point, it's time to end this.

According to Mat-Su Borough code 17.60.100, the planning commission must make the following findings in granting a conditional use permit.

- (1) That the conditional use will preserve or not detract from the value, character, and integrity of the surrounding area;**
- (2) That granting the conditional use permit will not be harmful to the public, health, safety, convenience, and welfare;**

There's no way to look at the record before you and do anything but deny this permit. This operation poses documented hazards, including threats to water and air quality, a record of trouble and uncertainty about water on this property, and serious questions about this company's interest in and ability to comply with borough and state laws and conditions needed to properly operate a C&D dump. By their own admission, this type of facility can pose grave threats if not operated properly.

As you make your decision, please consider the following:

- The applicant stated in its first application to the Mat-Su Borough in 2013 that "residential development" on the property was not feasible at this time" (p. 453 of June 17, 2013 Commission packet – see attached page). Given the value this 118-acre property would have for residential development with its views, lakes and ideal commute location, and that Granite, the original owner, had reclamation plans for a subdivision, this is a puzzling statement. The borough should ask the applicant to explain why this property is not suitable for residential development, whether that has to do with the water issues and instability of the pond barriers. And whether the factors that make it not feasible for residential development also make it poorly suited as a dump site?
- This company has a brief but amazingly poor record of compliance on this property, and their proposal, including the latest proposed amendments, continues to lack any binding assurances that it will be operated correctly or effective penalties for operating incorrectly. There is no independent oversight or monitoring, or even a condition to revoke the permit should contamination occur.
- The applicant's illegal dumping and refusal to clean up in spite of borough enforcement orders and court convictions demonstrates an inability and unwillingness to comply with local and state rules. The fact the dumped material contained trash shows the company lacks the operational controls necessary to properly screen material which the applicant's own application repeatedly states is crucial to the safe operation of this dump. It is also particularly troubling since this permit request includes disposing of regulated asbestos, which is a Class A carcinogen, defined as a known human carcinogen.

- The reference in the applicant's Oct. 26, 2016 proposed amendments to the record of its sister companies CEI and CRS should not hold weight given the applicant's adamant stand during the discussion about Mr. Kendig's recusal about how separate these companies are.

In addition, here's a list of some key information contained in the record that details concerns about the proposed site and its impacts:

- There is massive uncertainty about the hydrology on this site and its' affect on the aquifer or aquifers that feed area lakes and possibly area wells and the community well system for the adjoining Pioneer Meadows subdivision. The previous property owner Granite Construction acknowledged dredging into the aquifer while mining for gravel.
- Since 2004, there has been a record of documented complaints to both the state and borough about water problems from this property including flooding and impacts on the levels of surrounding lakes including Canoe and Irene lakes, and other lakes that are part of the Kepler-Bradley State Recreation Area. DNR has an ongoing study into the link between the gravel pit ponds and area lakes and wells.
- Serious flaws were identified in the conclusions of the hydrological studies submitted by the applicant. Jim Munter, an independent hydrologist hired by the Mat-Su Borough to review the applicant's submitted hydrological studies, found multiple flaws and concluded there was serious potential to contaminate groundwater and wells up to a mile away.
- Both the Alaska Department of Natural Resources Water Resources Section and the Mat-Su Borough Staff and Planning Commission have expressed concerns about the groundwater table on the property potentially being a moving target. The Planning Commission in December 2014 denied a permit to the applicant based in part on these concerns.
- The Alaska Department of Natural Resources' Water Resources Section in testimony to the Planning Commission in December 2014 noted that the applicant's measurements of water table levels are based on 2013 & 2014 levels. These levels may be artificial and may change once a spillway between two ponds on the property is fixed and if planned dredging by AS&G on an adjacent gravel pit property moves forward. It does not appear any additional water measurements were submitted to the borough as part of the company's 2016 proposed amendments.
- DNR in its 2014 testimony also stated that "embankments between the three ponds (on the property)... may not be dynamically stable due to the liquefaction potential of silt and sand soils in the vicinity." What standards are in place to mitigate the risk posed to groundwater should these fail?
- Construction and Debris (C&D) landfills across the country have a clear, documented record of health and environmental impacts to air and water quality. These impacts include the release of hydrogen sulfide gas, and leaching toxins such as arsenic, mercury, benzene, and lead at above health and water standards. The state's definition of "inert waste" is material having "low potential to pollute air or water". Nationwide, states have concluded otherwise including in for example Ohio, where the state EPA concluded in a 2009 report that "Leachate from Ohio C&DD landfills poses a threat to public health and the environment if released to ground water or

surface water.” 2006 study of existing state and federal regulations also concluded that “Managed unsafely, these materials can pose a risk to human health and environment.” CMS’ application continues to offers no enforceable restriction on shredding of debris or on limiting the amount of drywall, which is the major source of hydrogen sulfide gas.

- Manganese levels are already high in the Pioneer Meadows subdivision community wells. How does this application propose to protect those wells from exceeding health standards given the applicant’s own leachate testing showed their material leaching levels of manganese above secondary Maximum Contamination Limits (MCL). In addition, the application offers no proposal for abating the potential aesthetic impacts of manganese levels that by their own testing could affect the taste, color and odor of water and cause skin or tooth discoloration.
- Turning this site into a dump will harm surrounding property values. Existing homes and businesses will see an immediate effect, but it will have a long-term impact as well: the gravel pits surrounding this property have long-standing reclamation plans to add high-end subdivisions to the area. These subdivisions will not be built next to a dump.
- The City of Palmer and Gateway Community Council both passed resolutions opposing the placement of the dump at this site. In addition, several other groups have submitted letters in opposition.

Thank you for your consideration and time in reviewing the information we’ve provided. Feel free to contact us if you have any questions

Sincerely,

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