ASSEMBLY STANDING COMMITTEE
COMMITTEE OF THE WHOLE

February 10, 2020, 6:00 PM.
Assembly Chambers - Municipal Building

MINUTES

I. ROLL CALL

Deputy Mayor Maria Gladziszewski called the meeting to order at 6:04 p.m. in the Assembly Chambers.

Assemblymembers Present: Maria Gladziszewski, Loren Jones, Rob Edwardson, Wade Bryson, Michelle Bonnet Hale, Alicia Hughes-Skandijs, Greg Smith and Mayor Beth Weldon.

Assemblymembers Absent: Carole Triem

Staff present: City Manager Rorie Watt, Deputy City Manager Mila Cosgrove, Deputy City Attorney Teresa Bowen, Municipal Clerk Beth McEwen, Finance Director Jeff Rogers, Public Works & Facilities Interim Director Robert Barr, Port Director Carl Uchytil, Parks & Recreation Director George Schaaf, Community Development Director Jill Maclean, Senior Planner Irene Gallion

II. APPROVAL OF AGENDA

Hearing no objection, the agenda was approved as presented.

III. APPROVAL OF MINUTES

A. December 9, 2019 Assembly Committee of the Whole Minutes

MOTION by Ms. Hale to approve the minutes of the December 9, 2019 Committee of the Whole meeting with minor corrections and asked for unanimous consent. *Hearing no objection, the minutes were approved with corrections.*

IV. AGENDA TOPICS

A. Sealaska Heritage Institute (SHI) Arts Campus Project

Dr. Rosita Worl gave a presentation about the proposed SHI Arts Campus Project highlighting the information provided in the meeting packet. They spoke about the importance of this project in helping make Juneau a cultural destination for the whole region. She provided detailed information about the proposed economic impacts to the Juneau community including impacts on the students within the Juneau School District, the employment opportunities, and the operational expenditures and the impact of Celebration every two years. More than 5,000 attended Celebration in 2018. They hope to break ground on this new project at Celebration 2020 being held June 10-13, 2020.

SHI is asking the Assembly for a $1,500,000 contribution towards this project. Ms. Hale asked about the timing of the funds they are requesting from the city. Dr. Worl said they would like to receive partial funding in 2020 and partial funding next year. She went on to answer a number of questions from Assemblymembers related to security, parking, and the fact that they had not yet gone through the Planning Commission permitting process.

Mayor Weldon suggested they move this funding request to the Assembly Finance Committee for consideration with the rest of the budget requests.

B. Ordinance 2020-02 An Ordinance Regulating Commercial Rental, Provision, and Use of Shared Micromobility Devices

Mr. Bryson recused himself from the dais due to a conflict of interest in this matter.

Chair Gladziszewski noted that they would allow for public comment to be taken on this ordinance and that they had two speakers signed up to testify.

Public Comment:

Mr. John McConnochie, owner of Cycle Alaska, provided written testimony as well as testifying in person. He requested that the Assembly consider an amendment to the map (Ordinance 2020-02, Exhibit A). The way the map is currently drawn, it has their business within the boundaries which would be prohibited from renting e-bikes and conducting their tours from their shop location. Their business model is to rent bikes from their shop and they were wanting to offer guided tours from their shop location to the Mendenhall Glacier and back. When asked by the Assembly, Mr. McConnochie said they do approximately 500 rentals of e-bikes from their shop outside of any tours.

Mr. Reuben Willis, owner of Segway Alaska, spoke about the work they have been doing since September 2019 with the CBJ Parks and Recreation staff to ensure that their business model was compliant with CBJ code and regulations for the uses they were building into this new business. Last summer's ordinance regarding the moratorium on dockless vehicles did not seem to apply to the business model they were building with the segways since theirs are not dockless vehicles and they were building tours that would be led by a tour guide. He said the segways are low speed devices and should not be prohibited or limited from the downtown area but if they were to be excluded from the downtown area, he asked that the map be adjusted to allow for them to cross 10th street and to have access to the whale statute in Overstreet Park.

Assemblymembers then proceeded to discuss the boundaries on the map in the packet. They also discussed other areas of town that they may eventually want to look at limiting tour traffic but that was something they felt needed to be part of a later conversation and not part of this ordinance. The main concerns that were expressed about the map and boundaries were related to trying to find a balance between people wanting to use alternative methods of transportation and the need to keep congestion down during the busy summer season.

AMENDMENT #1 by Mayor Weldon to change the definition of "micromobility device" to include the word "segway" so that it would now read ***"Micromobility device means a bicycle, a bicycle with an electric assist, a scooter, a scooter with an electric assist, a segway, and similar micromobility devices."*** *Hearing no objection, amendment #1 passed by unanimous consent.*

AMENDMENT #2 by Mayor Weldon to change the northwestern boundary on the map from 10th Street to end at Glacier Avenue next to Gold Creek.

Mr. Jones objected and suggested the boundary be moved to 12th Street.

Additional discussion took place and Mr. Jones removed his suggestion and his objection.

Hearing no objection, amendment #2 passed by unanimous consent.

Assemblymembers then discussed this ordinance as being a clumsy and blunt way of regulating tourism opportunities. Ms. Gladziszewski noted that if that was the intent behind any additional changes, they may want to accomplish that using a different mechanism. She suggested that they may see a recommendation coming out of the work of the Visitor Industry Task Force (VITF). Mr. Edwardson said that while he was in favor of a moratorium on scooters, he didn't have the same feeling about bikes and segways. He said there have been rental bikes and bike tours in the community and there has not been a problem. Ms. Gladziszewski suggested he may want to consider a change to the definition of micromobility device.

AMENDMENT #3 by Mr. Edwardson to change the definition of "micromobility device" to strike the reference to bicycles and segways so that it read: "*Micromobility device means a scooter and a scooter with an electric assist.*"

Mayor Weldon expressed her concern that this ordinance was primarily about controlling congestion in the downtown area and she objected to the amendment. Additional discussion took place regarding the difference between bike and scooter rentals that were unattended as opposed to tour groups that were led by guides. A roll call vote was taken on Amendment #3.

ROLL CALL VOTE - Amendment #3
Ayes: Edwardson
Nays: Hale, Hughes-Skandijs, Jones, Smith, Gladziszewski, Weldon
Motion failed 1:6

Additional discussion took place regarding any other changes to the ordinance. Mr. Smith said he thought he might have some changes but was not ready at this time. Mr. Jones expressed his concern that in listening to the comments at the VITF, reading the concerns of the neighbors on River Road about the uses of the trail that ends at that road and other areawide issues, that he felt there was a need for a broader discussion on these types of devices.

Ms. Gladziszewski suggested Mr. Smith work with the staff in forwarding any other changes to the ordinance to the Assembly and Mayor Weldon said it was her intent that any of the Assemblymembers with possible changes could work with staff on this further. Ms. Gladziszewski asked if members were ready to move this ordinance back to the Assembly. Mr. Jones objected.

ROLL CALL VOTE on referring Ordinance 2020-02, as amended, back to the Assembly for public hearing and action.
Ayes: Weldon, Edwardson, Hale, Hughes-Skandijs, Smith, Gladziszewski
Nays: Jones
Motion passed 6:1

C. Historic & Cultural Preservation Plan

Electronic copy of the plan is available online at
https://3tb2gc2mxpvu3uwt0l20tbhq-wpengine.netdna-ssl.com/wp-content/uploads/2020/01/Historic-Preservation-and-Cultural-Plan_Final-Version-w-Draft.pdf

Historic Resources Advisory Committee Chair Zane Jones and Community Development Department Director Jill Maclean were present to provide information about the Historic and Cultural Preservation Plan. The Planning Commission, at its November 26, 2019 meeting, recommended the Assembly adopt the Historic and Cultural Preservation Plan (HCPP) as an addendum to the Comprehensive Plan (via ordinance). If this plan was adopted, it would replace the Historic District Development Plan that was adopted into the Comprehensive Plan in 1981. Ms. Maclean explained that there had been a preservation plan brought forward in 1996 but it was never adopted or incorporated into the Comprehensive Plan.

Ms. Maclean gave an overview of the public process undertaken in writing the HCPP and said that Planner Allison Eddins has been the project manager on this since 2016. The development of the plan was made possible through a Federal Historic Preservation Fund grant. They held multiple charrettes, worked with the Historic Resources Advisory Committee, the Douglas Indian Association, the Sealaska Heritage Institute, the Downtown Business Association and other focus groups as well as holding public meetings to identify the goals for future preservation during the drafting of this plan. The purpose of the plan is to guide efforts to preserve and protect the valuable historic and cultural resources within the community.

The 1981 version of the plan was focused on the downtown area and on Juneau's mining history to the exclusion of the rest of the area and other historical eras. This new plan takes a broader approach and expanded on the periods covered and the areas of town to which it applied. She also explained that the organization of the plan document is now set up differently with the anticipation that it would guide CBJ's preservation activities over the next 20 years with implementing progress monitored every two years and updates to the plan anticipated in ten years.

Ms. Maclean said that they hope to be more proactive in surveying and conducting inventory management and anticipate seeking additional national grants towards historic and cultural preservation. She said there is a lot to learn about Juneau's history and this will help CDD staff work with citizens towards preservation. She said that few people know there are property tax incentives for historic buildings. Mr. Edwardson asked about whether this applied to other areas as well as buildings since the National Historic Preservation Act applies to more than just buildings. Ms. Maclean said that yes, it does apply to more than just buildings.

Ms. Maclean said the Planning Commission's recommendation was that the Assembly adopt this plan via ordinance but Option B would be to adopt the plan via resolution. If the plan were adopted by ordinance, if there were conflicts between the Comprehensive Plan and the Historic and Cultural Preservation Plan or if the HCPP is more specific, the HCPP would supersede the Comprehensive Plan. Otherwise, if they chose Option B and adopted the plan via resolution, the HCPP would not supersede the Comprehensive Plan and it would not replace the 1981 plan.

MOTION by Ms. Hale to move this to the Assembly to adopt the Historic and Cultural Preservation Plan via ordinance which would replace the 1981 Historic Plan.
Hearing no objection, the motion carried.

Mayor Weldon extended her thanks to staff, the Historic Resources Advisory Committee and all the people who worked on this. She said that she too was unaware that there was funding available for historic properties. She said that she noticed properties which were listed on the National Register of Historic Places and noted that while it would be a loss if they were torn down, the plan does allow for them to be torn down if necessary.

D. Franklin Dock Lease Request and Seawalk Update

Mr. Watt stated that the packet contained a memo from himself, a letter from Mr. Reed Stoops, a draft resolution with an attachment, some drawings and a section of Alaska statute. As noted in his memo, there are three primary questions for the Assembly to consider:
1) Should CBJ acquire tidelands?
2) Should CBJ lease tidelands that it already owns and that it may acquire to Franklin Dock to allow construction of a floating berth?
3) Should CBJ negotiate for easements to allow extension of the waterfront seawalk?

Mr. Watt said these are all bundled up and Mr. Stoops was present at the meeting. Mr. Watt said that at Mr. Stoops' request, Port Director Carl Uchytil began pursuit of tideland acquisition from the state. Mr. Watt said that he thought from Mr. Stoops' view, it would be easier to work with the city and that revenue from tidelands for a project like this belong with the city. Mr. Watt said everyone involved sees this as a local activity.

Mr. Watt said that with regard to the floating berth, he has given a short summary of Mr. Stoops' view. Franklin Dock is the only fixed pier that we have that accommodates large cruise ships. Last summer, with the installation of the newer big white bumpers/fenders, the largest ships in the fleet did tie up at the Franklin Dock which would be possible again this year and more frequently as the fleet continues to move to bigger ships.

Ms. Gladziszewski noted that the reason they are considering this matter at this meeting was due to a process question that had come up earlier about the leases and whether it was being done in the right order. Their questions were if CBJ needed to apply for the tidelands first or if they had to approve a specific project. She said there was some disagreement about that and that the nut of the issue is on page 51 of the packet which was the Alaska statute 38.05.825 (a). She said that the statute sections 1-5 were pretty easily solved but AS 38.05.825 (a)(6) contained the questions that needed to be addressed. She said the dock project is a separate issue and they have not gone through the process to say that this is a project that they would lease tidelands to. She said the question before them at this time is "When do we ask for the state tidelands?" She asked the manager what he could say about the resolution of AS 38.05.825 (a)(6)(A):

> AS § 38.05.825 Conveyance of tide and submerged land to municipalities
> (a) Unless the commissioner finds that the public interest in retaining state ownership of the land clearly outweighs the municipality's interest in obtaining the land, the commissioner shall convey to a municipality tide or submerged land requested by the municipality that is occupied or suitable for occupation and development if the...
> ...
> (6) land
> (A) is required for the accomplishment of a public or private development approved by the municipality;
> (B) is the subject of a lease from the state to the municipality; or
> (C) has been approved for lease to the municipality.

Mr. Watt said that in order to get DNR to convey tidelands, the Assembly is required to convince DNR that the land is required for the accomplishment of a public or private development approved by the municipality. He said there are different views of what exactly that means. He said that Mr. Uchytil reached out to DNR staff earlier that day to ask them specifically that question and he was unable to get clarification. Mr. Watt said the question comes down to whether this is a specific development or if something like the Long Range Waterfront Plan is sufficient to point out the public and private developments that they had envisioned.

Mayor Weldon said she agreed with Mr. Edwardson's concerns about this putting the cart before the horse and she asked if they could submit the request and keep (6)(A) generic about overall economic development of that area for potential docks or does it need to be tied to a specific private or public development to turn it in. She asked what the ramifications would be if they turn in something generic and it gets turned down, could we reapply with a specific request.

Mr. Watt said we could likely keep applying as long as we want but the question would be if it was likely to be granted. He said we don't know and when we tried to find that out, they didn't get an answer to that. He said that Mr. Edwardson had a related issue in that he was concerned about the public's ability to comment on the project after the Assembly had potentially passed a resolution asking for the acquisition of the tidelands that indicated that we already supported the project.

Ms. Gladziszewski said that she agreed with Mr. Edwardson. She said that there was an argument to be made that we should get these tidelands for a number of economic development possibilities. She asked if it takes a long time to get the tidelands from DNR or if they should just go through the dock issue and then apply.

Mr. Edwardson said that in one of his previous jobs, this would have come across his desk. He said that in that position, they tended not to telegraph any kind of information about what they may or may not approve because people have used that in the past to say that they were told they had pre-approval. DNR's practice is to point them back to the statutes and say they need to comply with the statutes. He said that as for the project itself, he agrees that they should get this land. The bias in the state constitution is that the municipalities do get it if they need it. CBJ just needs to check the boxes in the right order. He said that we don't have a pre-approved plan that he would have accepted when he was working at DNR. He said that a project is a project and a plan isn't a project anymore than an area plan for the state is a project. He said that when you look at (A), (B), and (C) one of them is "Do we have a lease?" He said that when you already have a lease, basically full cost which is in the thousands of dollars and not in the millions, then that is one of the categories that could be used to fill out the requirements under the statute. He said there are a lot of different ways to do it, you just have to check the boxes in the right order.

Additional discussion took place to clarify the statutory requirements. Ms. Gladziszewski asked Mr. Edwardson if he had a motion that he would like to put forward. He said that he did not and was looking to the manager for a recommendation. Ms. Gladziszewski asked Mr. Watt if he had a recommendation.

Mr. Watt said that he did not have a recommendation. He said the tidelands leasing and acquisition experience rests with the Port and it is not something he has any experience in but on the advice of Mr. Edwardson, if it is the most practical thing to do to lease the land from the state first and then apply for the conveyance, that seems pretty straight forward. Mr. Watt said there are other policy issues that the Assembly probably wants to think about in light of the rather intense focus they have on tourism issues in the community. He said that Mr. Stoops is trying to figure out basic project timelines. He has an important timeline that is dependent upon construction season. He is either looking for an indication that is strong enough from the Assembly to proceed with manufacturing that would lead to installation next fall and he has to have a "go/no go" decision within less than 10 weeks. Mr. Watt said Mr. Stoops is likely astute enough to calculate the risks of proceeding without a firm decision by the Assembly. He said there is that as well as the question from Mr. Edwardson's earlier testimony about public input. In some ways, it is hard to know if the public is going to be interested in this or not until they actually have public hearing on a topic. Mr. Watt said that he has paraphrased Mr. Stoops' approach in which he believes the larger ships are already coming here and that this wouldn't represent growth or facilitate growth but it would actually facilitate easier movement of passengers. Mr. Watt said that members of the public might come and testify before the Assembly and argue differently. He said that the Assembly has a lot of issues before them.

Mr. Watt said that the last question is with regard to negotiating for the seawalk, is the Assembly comfortable moving forward the pieces as they are ready or is the Assembly going to ask staff to put together a more global deal.

Assemblymembers then discussed the processes (6)(A) and (6)(C) under the statutes and the options before them as well as the public process.

MOTION by Mr. Edwardson to apply for a lease. *Hearing no objection, the motion to apply for the lease passed by unanimous consent.*

Ms. Gladziszewski said that the next thing would be to have a public process in the COW about the project. Mr. Edwardson said that is correct and that would be an entirely different thing.

Mr. Smith asked about the next steps in that process and if a conditional use permit would be required and what the public comment process would be. Ms. Gladziszewski explained that following their recent meeting with the Docks and Harbors Board, the Assembly is the initial body to determine yes or no to a lease request. If yes, then it would continue with the Docks and Harbors Board and Planning Commission.

Mr. Watt asked that they go back to Mr. Edwardson's motion. He said that he didn't know if Mr. Edwardson or Mr. Uchytil know the answer to this. He said that Mr. Uchytil was advised that he needed a resolution from the governing body to get tidelands conveyed. Mr. Watt said that what he does not know is if a resolution from the governing body is required to get a lease and if that was the case, he wanted that to come from the COW tonight. Mr. Edwardson was shaking his head and said that getting the resolution is an entirely different process than the AS 38.05.825 process. He said it is necessary to have that process complete in order to meet (6)(A) but the requirement to have a resolution is only needed for (6)(A) and not required for (6)(B) or (6)(C).

Ms. Gladziszewski noted that the motion was for the city to apply for a lease so whatever is required to do that is in the motion.

Ms. Hale asked Mr. Edwardson if the city were to apply for a lease, why we don't want to apply to acquire the tidelands at the same time and she asked if that would complicate this and it would go to the bottom of the DNR stack if they tried to do that. Mr. Edwardson said it wouldn't necessarily complicate it but it would extend the time that it would take because CBJ would have to do a public process first to approve a project that would qualify for (6)(A). Ms. Hale asked about proceeding under (6)(C) and applied simultaneously for the lease as well as the acquisition of the tidelands. Mr. Edwardson said that would be a question for the current regional manager if they could apply for both at the same time. He said that when he was in that position and he received an application for something that they weren't ready for, it would have gone to the bottom of the stack and they had 900 applications. He said he had applications in his office that were older than two of his managers. Ms. Hale said that is what worries her that we are talking about a process that could take decades. She said she didn't feel that she had enough information at this meeting and would appreciate hearing from DNR.

Mr. Smith asked if the Assembly could just provide more general guidance on this to have the tidelands conveyed to CBJ and that we know that the Assembly will continue to have oversight of the tidelands lease when they actually apply to them for it.

Mr. Palmer said that what he is hearing is that the body is giving direction to staff to pursue a lease of this area and that when that process is ongoing, staff can maybe have an informal conversation with DNR about what their position is on a concurrent conveyance application as well or if there needs to be a pause between the lease and the conveyance application. Mr. Palmer said he was hearing the direction to pursue the lease in order to get the conveyance. Ms. Gladziszewski said that implicit in the motion to apply for a lease means we want these tidelands by whatever is the proper way to get them.

Mr. Edwardson said that when he worked at DNR, this was one of those statutes that he suggested they clean up and make a little easier to understand.

MOTION by Ms. Hale to change the wording of the previous motion to say they are pursuing a lease and pursuing conveyance of tidelands.

Ms. Hale said she didn't feel that pursuing a lease necessarily implied that they were also pursing the conveyance of tidelands and this would be an amendment to the previously adopted motion. *Hearing no objection, the motion carried.*

Mr. Smith asked if they proceed any further if they could get some verification that what they are doing is useful to both staff and the proposed developer. Ms. Gladziszewski said they will hear about the project at the next COW. Mr. Watt said to clarify Mr. Smith's earlier question on public process, any lease of municipal tidelands takes an ordinance so there will be public hearing when that happens. He said that projects have to get permits and he doesn't know if a floating berth requires a conditional use permit or not but maybe Mr. Stoops knows or doesn't know.

Mr. Stoops spoke on behalf of Franklin Dock Enterprise and said that in listening to the discussion, he was somewhat confused. He said they could go straight to DNR and apply for a lease from the state. He said that it seemed to him that since they already lease the adjacent tidelands from the city, it would be in the interest of the city as well as Franklin Dock to lease from the city instead of the state. In order to lease from the city, the city has to request conveyance from the state to the city first and then consider his tidelands lease application which they could approve or disapprove. He said that what their proposal was and would make logical sense would be for the city to endorse the application for conveyance of those tidelands to the city from DNR and not presuppose the outcome of that. He said there is a reasonable chance that the state would convey those to the city. He said that at the same time, they could begin the process of negotiating a lease with the city assuming that conveyance from the state to the city took place with a conditional approval. He said at that point, there would be all the public process that the Assembly has been discussing. By requesting those tidelands from DNR, they are not presupposing the outcome of the lease with them. They would have had an appraisal and they would have to agree on an appraisal amount. There would be an opportunity for the public to testify, whether that is to the Harbor Board or the Assembly, that would be their choice. He said that in the interest of time, it would be his hope that they can get through this quickly enough to make a decision to try to get started later this year. He said that if that proves to be impossible because of a road block that comes up, it will take however long it takes and then it would be a year or more before they could do their project.

Additional discussion took place between Mr. Stoops and Ms. Gladziszewski regarding the language of the statutes and what the action would be in order to convey the tidelands to the city. Ms. Gladziszewski thanked Mr. Stoops for attending the meeting and for his testimony.

V. ADJOURNMENT

There being no further business to come before the committee, the meeting was adjourned at: 8:09pm

Submitted by,
Beth McEwen, MMC
Municipal Clerk