ASSEMBLY STANDING COMMITTEE
COMMITTEE OF THE WHOLE
THE CITY AND BOROUGH OF JUNEAU, ALASKA

October 22, 2018, 6:00 PM.
Assembly Chambers - Municipal Building

Immediately following Special Assembly Meeting; Assembly Work Session - No Public Comment

I. ROLL CALL

Mayor Weldon called the meeting to order at 6:06 p.m. Mayor Weldon noted that Ms. Gladziszewski was traveling and would be joining the meeting telephonically when her plane landed.

Assemblymembers present: Mary Becker, Jesse Kiehl, Loren Jones, Rob Edwardson, Carol Triem, Michelle Hale, Wade Bryson, Maria Gladziszewski (joined telephonically at 6:48pm)

Assemblymembers absent: None

Staff present: City Manager Rorie Watt, City Attorney Rob Palmer, Deputy Manager Mila Cosgrove, Municipal Clerk Beth McEwen, Chief Housing Officer Scott Ciambor; Housing/Homelessness Coordinator Irene Gallion; Parks and Recreation Director George Schaaf

II. APPROVAL OF AGENDA

III. APPROVAL OF MINUTES

A. August 20, 2018 Assembly Committee of the Whole Minutes

MOTION by Ms. Becker to approve the minutes of the August 20, 2018 Assembly Committee of the Whole Meeting. *Hearing no objection, the minutes were approved.*

IV. AGENDA TOPICS

A. AMCO On-Site Consumption Regulations

Mr. Jones declared conflict of interest due to his role as a member of the Marijuana Control Board (MCB). He said that the State's attorney has noted that if he takes action at the CBJ Assembly, he is conflicted out from taking action as a member of the MCB so with only 5 members on the MCB, he prefers to step down from any discussion and action on the Assembly. Mayor Weldon and the Assembly agreed Mr. Jones and excused him from the room during this discussion.

Mr. Watt stated that the packet contained a brief memo from himself along with the draft regulations from the MCB for On-Site Marijuana Consumption Regulations which are currently out for public hearing to be received by November 1. He noted that he brought these forward to the Assembly's attention to accomplish two things:
1) He is hoping the Assembly will make a perfunctory comment that the office should preserve the local option in the regulations; and
2) To make sure it is on the Assembly's thinking that this is a topic that it should calendar at some point if these regulations get adopted.

Mr. Watt said he thought this would become a topic of interest to the Assembly and the public and that it would be prudent to submit a comment from CBJ that the local option is a necessary part of the regulations.

Assemblymembers discussed the work of the previous Assembly's ad hoc Marijuana Committee and the process that was underway at the same time the State's regulations were being developed for Marijuana licenses. Mr. Kiehl, as former chair of that committee, said they had not reached any recommendations on the question of on-site consumption. He said that there was a split among the members of the committee and it wasn't included up or down in the committee's recommendations.

Clarification was made by Mr. Watt that the comment he is looking for approval to send to AMCO would be that the discretion on whether or not to allow on-site consumption remain with the municipalities.

Mr. Bryson said that as he read the regulations, he did not see if the city would be prohibited from charging a fee for allowing someone the privilege of being able to smoke on-site. He said he thinks that would be a really easy tourism funded revenue source if the city could charge a fee for on-site consumption. He said he did not see language either for or against that option.

Mr. Watt explained that the first key point to make with respect to that is the fact that with the CBJ smoking ordinance and the State's Indoor Clean Air Act, indoor smoking or vaping would not be permissible in a place of employment or commercial establishment. He said that on-site consumption would be only permissible for products being ingested via food or drink. With regard to a fee, he said that he thinks CBJ would be unable to impose a fee unless there is a rational basis for that. He deferred to Mr. Palmer. Mr. Palmer said that he does not have a specific answer to that but in looking through the fees, the State has an endorsement for consumption and that it appears to be no limitation at this time but he could look into that further.

Additional discussion took place regarding various sections of the the language of the state regulations and how the "endorsement" is an additive provision to an existing license.

There being no further discussion, the Assembly invited Mr. Jones to return to the meeting.

B. **State of Alaska Smokefree Workplace Statute**

Mr. Watt explained SB63 was passed and signed into law prohibiting smoking in certain places and he is bringing this to the Assembly's attention for a number of reasons. We already have a municipal law in effect under CBJ 36.60 which limits smoking. The question before the city is whether or not to bring our local ordinance into conformance with state statute. He noted that is normally done as a housekeeping measure but with smoking, this has been widely discussed and debated in the public and he felt it was important to bring it to the committee first. His recommendation is to mirror the state law for the purposes of enforcement and public understanding as one law is most likely to be most effective. He noted that there are some differences with the big difference that the public and business might notice is the required distance that people must be when smoking outside. Under SB63, the distance in some areas changes from 10 feet to 20 feet. He said that if that is followed and enforced, it will have a consequence in the downtown core in particular where 20 feet from a door/window opening on Franklin and Front Streets will prohibit outdoor smoking in our core and could push outdoor smoking to the edges.

Mr. Watt's recommendation would be to get a motion asking for an ordinance that updates the CBJ code include the more stringent provisions of SB63. He also pointed out, as stated in his memo, that in terms of enforcement, it will always be difficult for JPD to prioritize enforcement of this type of issue over crimes against people and crimes against property. He said there is a challenge and a big educational component that the State itself recommends to try to achieve compliance first through education and then fines later.

In terms of enforcement, it will always be difficult in prioritizing enforcement of these laws over those of crimes against persons or property.

Ms. Hale noted that when CBJ 36.60 was passed, one of the unintended consequences was that inebriated or partially inebriated people went out on the streets of S. Franklin and Front Street and smoked. Right after 36.60 passed, the atmosphere downtown at night became measurably worse because there were a lot of people out on the street smoking. She lived downtown many years and saw that first hand. She suggested it may be advisable to have a map plotted out where there are areas that people can legally smoke. If CBJ was going to adopt the 20 feet distance, it would behoove them to look at what the unintended consequences might be.

Ms. Weldon said she didn't think we have a choice on whether or not we can conform with the State Law. Mr. Palmer said that the question about conforming with state law is a little nuanced. State law authorizes the city to be more restrictive. He said there are a lot of similarities between the new state law and our existing city code. He said there are some differences and the 10 foot vs. 20 foot difference is one of those. He said that if CBJ doesn't amend its code, the 20 foot rule still exists as state law unless we opt out through the public vote process. He stated that there are some potentially minor nuances but they may be important to certain constituency but he doesn't know yet. When he did the initial review of this a couple of weeks ago, the protected places are slightly different between CBJ code and state law. He doesn't know if some of the differences are meaning but he wanted to be sure to point those out.

Mr. Jones said that the opt out option is for a complete opt out which would mean repealing our current ordinance banning the indoor smoking and it would allow people to smoke any place. He said that Sitka just had that election where that was on the ballot to opt out of the statute and it was voted down.

Additional discussion took place on what the differences between the CBJ Code and State laws really mean and they asked staff to provide additional information before they chose to take further action. Mr. Edwardson and Mr. Kiehl disagreed with Mr. Jones' opinion that it was an all or nothing opt out provision and they felt that if CBJ voters decided to opt out, then CBJ could still have its own law which had different provisions from those in the state law. Mr. Palmer said he would try to bring back a comparison document to explain the differences between the CBJ Code 36.60 and SB63 and what the Assembly's options would be.

Mr. Bryson said that currently the 10 foot smoking standard is not currently adhered to. He also stated that the ash tray receptacles are located within 20 feet of entrances to businesses so that whichever decision is made, those would need to be relocated.

Mr. Watt said they could try to provide a representative map as to what areas would or would not be prohibited in the downtown area. He said that as a practical matter, the likely places where smoking would be allowed downtown are at Marine Park or the vacant property at Ganakadeit Park or south of the Red Dog at Manila Square. He said the best course of action, given the Assembly's interest, is to develop some more information and bring it back to a future meeting.

C. **Affordable Housing Fund Update**

Chief Housing Officer Scott Ciambor gave a presentation and the history of the Affordable Housing Fund with recommendations on how to best move forward with the use of the Affordable Housing Fund dollars. He noted that they receive dozens of requests for housing development incentives each year and he is hoping that the topics he is primarily concentrating on at this time is the use of the Affordable Housing Fund through grants or loans and ways that program could be improved upon. He said other strategies such as tax abatement or CBJ land at less that fair market value for housing development would be separate issues and something that may come back to the Assembly in the future. Tonight the request from the COW would be for approval or alter the course of action for some of the proposed changes in the memo for the Juneau Affordable Housing Fund and to also approve a streamlined process and request a draft ordinance that would implement those changes as set out in Mr. Ciambor's memo in the packet.

Mr. Ciambor provided an update on how the fund came about in 2010 and was additionally funded through a $2 million dollar over five years going into the fund from a portion of the sales tax.

The recommendations for COW consideration are as follows:

1) Clarify use of the Juneau Affordable Housing Fund by creating and defining two categories for funding eligibility:
   a. Affordable Housing is in the category of 0%-80% AMI (Area Median Income), this is typically used by non-profit projects such as Housing First, JAMHI and other supportive housing, targeting low-income or special needs housing.
   b. Workforce Housing projects is generally 80%-120% AMI and is used by for-profit or non-profit developers who would use the fund for zero-interest loans. He said that across the country, workforce housing has been recognized as a huge and substantial need and some of the affordability language that would be attainable for for-profit developers would state:
   Affordability: *At least 20% of the units must be reserved for tenants with gross incomes at 80% or less AMI for ten years or the life of the loan.*
2) Establishing a grant or loan limit of $50,000 per unit created.
   a. Currently the maximum loan is lesser of $150,000 or 50% of projects cost and no more than 5% as zero-interest loans. This would address the affordability gap of at least $45,000 outlined in the Housing Action Plan.
3) Streamline the Application Process
   a. Annual application process;
   b. Similar to Community Development Block Grant program; and
   c. Create Manager's staff application review committee
4) Continue City funding stream and advocate for State match

Mr. Edwardson asked what was considered "Affordable." Mr. Ciambor said that there are two definitions of "Affordable Housing" and it is frequently confused.

A) Comes from the U.S. Housing Act in 1930 that says "Every single individual should not pay more than 30% of their income towards housing;" and

B) The Affordable Housing Industry which is 80% AMI and below type projects, typically defined by federal programming such as HUD or USDA or other agencies who are investing in housing.

Mr. Ciambor stated that "Workforce Housing" has been in use the last 10 years primarily because for-profit, affordable rentals or home ownership opportunities in this income range are hard to do without some kind of subsidy.

Mr. Edwardson expressed concerns about the fact that these aren't really affordable as they are being subsidized in through tax payer monies and that the tax payers still ultimately end up paying for it in the form of taxes.

Additional discussion took place with Mr. Watt giving the new members an overview of how we arrived at this point in time through the adoption of the Housing Action Plan. He explained that housing has been a top issue for the Assembly and there was language in Housing Action Plan which stated that the housing market was "stuck" and there were a number of ways identified on how to get "unstuck." He said that when you talk about housing the and ways the municipality can affect it, there generally are things we can do with municipal land such as property disposal to leverage an outcome that you want. Secondly, there are land use regulation codes which are always balancing the needs and desires of developers and the needs and desires of the adjacent neighbors. He said there is one of those later in the agenda. The third option is money; is there a municipal function of providing money that can provide the grease to get unstuck. Those are the tools available to the city. He said that what Mr. Ciambor is trying to do is to essentially streamline the process so the Assembly has the broad discretion to choose how to allocate the funds the Assembly has already programmed.

Mr. Watt said that is not a good point that Mr. Edwardson raised, and not that he doesn't think that the Assembly should be wary of giving public funds to developers, they should be very wary of that, but this is to balance that with the desire to get the market "unstuck."

Mr. Jones asked what the current AMI for Juneau was. Mr. Ciambor stated that the 2018 AMI is $104,900.

(Ms. Gladziszewski joined the meeting at 6:48p.m. via telephone.)

Mr. Jones and Mr. Ciambor discussed the numbers, what that looks like and some of the various options for development subsidies, grants, loans etc… that are all options in the tool box that were included in the Housing Action Plan.

Mr. Bryson asked if there was a fund for potential home owners for access to grants or loans for home buyers to purchase these homes. Mr. Ciambor said that there is not something along those lines but the programs the city does have in place are the Mobile Home loan program and also the Accessory Apt grant program.

Mr. Jones asked about the proposed review committee and asked why there are not any members outside of CBJ staff on the review committee. He said when they looked at bond issues for senior housing/assisted living, he learned a lot by having a banker and a developer in that group and he thought it would be nice to have somebody with that expertise. Mr. Ciambor explained that the current ordinance has the review and recommendation process goes through the Affordable Housing Commission but in looking at streamlining the application process and creating synergy within city staff who are already working on these projects is the goal and it is similar to the Community Development Block Grant program and they would provide information to the Assembly.

Mr. Watt explained that with respect to the granting of funds is an Assembly duty that they cannot outsource. Additional discussion took place regarding process.

MOTION by Ms. Hale that a draft ordinance be prepared reflecting the recommendations provided staff to be brought back to the Committee of the Whole.

Mr. Kiehl said he is concerned with regarding to whether these $50,000 per unit aren't addressed as to whether those would be grants or loans and his concern would be that the funds would be depleted right away if they were all grants.

Mr. Ciambor said that we currently have an application and guidelines which requests a large amount of information from these projects and this would be tweeked within these categories that were just discussed so that all the information to make very concrete well informed decisions, not only staff and the review committee, but to the Assembly. He said if they can think of all the projects that have come to the Assembly in the recent years have come outside of a process and with whatever information the project developer wants to provide. This is formalizing that process and making sure all relevant details from a consistent pro forma site plans, where it is located, how many units are going to be affordable housing, who the target population are all there within the current application guidelines and it just needs to be edited and utilized.

Mr. Jones objected to the motion. He said he doesn't understand it enough to know whether he thinks it would work or not and he is not at a stage that he is ready to make a decision as he doesn't know what the alternatives might be as they haven't received information about any possible alternatives. He said he thinks going to an ordinance now locks them into a track that prohibits them from looking at other options.

Mr. Bryson said they are missing a giant component by leaving out the citizen buyers. He said that if they granted $45,000 per unit to those who are buying the houses vs. the people who are building the housing, they would be moving a lot more houses and making houses a lot more affordable. He said he is all for making affordable housing but that the emphasis has been placed so much on the for-profit developers. He said if they are truly trying to lower the cost of housing, they are talking about mortgage payments and subsidies for first time home buyers and/or income challenged citizens.

ROLL CALL:
Yeahs: Becker, Bryson, Gladziszewski, Hale, Triem, Kiehl, Weldon
Nays: Edwardson, Jones
Motion carried 7:2

Mayor Weldon called for a 10 minute recess.

D. **Resolution in Support of Alaska Salmon Hatchery Program**

Mr. Watt noted that Mr. Jim Becker and Mr. Eric Prestigard, General Manager from DIPAC, were present in the audience and could answer questions if the Assembly had any. Mr. Watt said he included a memo in their packet along with a draft resolution that was forwarded from the Docks and Harbors Board that was brought to them by Mr. Becker. He stated that when he first read the resolution, he was in favor of it as it supported DIPAC but then he realized that there was a backdrop issue at the State Board of Fisheries which has been grappeling with "Big Fish Politics." As a result of that, Mr. Watt's general advice to the Assembly is to be careful of getting into that arena and as a result, he steered this resolution to the Committee of the Whole. He said that in interim, the Board of Fisheries rejected two very serious proposals that intended to limit hatchery production. He said that DIPAC provided some nice informational brochures on the success and economic benefits of DIPAC in terms of jobs, employment, and income into the community. He said we also recognize that DIPAC plays a big role in tourism as a visitor destination, is well loved by our school group. He said there is no longer a need for a resolution but he thinks it is important for them to know that the bigger fish politics happening at the Board of Fisheries that isn't targeted to Juneau or Southeast but could have consequences or could be pretty serious for our local hatchery (DIPAC). He said there is nothing that is required now but is a topic that will be coming back to the Board of Fish in March/April 2019 and he will try to be well ahead of the Board. They will want to balance our need and desire to protect our local business while also being careful as their role as the Capital city commenting on statewide issues. He said there is no recommendation for a resolution at this time but he wants to make them aware of this bigger battle underway.

Assemblymembers asked questions about the recent Board of Fish meeting and the two proposals that were defeated by them. Mr. Edwardson asked if they could get more up to speed on this and to hear more about it and to hear from those who are impacted by this.

Mr. Watt commented that Mr. Prestegard was present if they wished to ask him for additional information and that others could be asked to come and provide information as well. Mr. Watt stated that it appears the statewide issue, in his understanding, there is a much larger population interested in sport fishing in Cook Inlet and they have much more developed advocacy group in the interests of sport fishing and it is more difficult to balance their needs with that of the commercial gill net fleet, balanced with the needs of commercial charter fishing, and the needs of hatcheries. There are arguments about the science and what the science means and he said that he doesn't think they would get one perspective on those issues but that Mr. Prestegard is as well suited to answer any questions.

Ms. Gladziszewski said they would need a lot of information and to hear from multiple sides to give them a better idea of what they are stepping into.

Mayor Weldon said that the manager is recommending no action at this time but since Mr. Prestegard was present they would like to ask him to speak to this issue.

Mr. Eric Prestigard, Executive Director of DIPAC, addressed the resolution that was provided in the packet. He noted that most of the Southeast communities all signed this resolution including Southeast Conference. Ketchikan, Wrangell, Petersburg, Sitka, have all signed and possibly also Klawock. He said that up in South Central many of the communities, including Anchorage and several of the native organization area signed this resolution also. He said that he was at the Board of Fish meeting and this was the fourth Board of Fish meeting this year alone on this issue. He said he understands there are multiple sides and he is a hatchery person so his side is pretty obvious. He said he was well versed on the issue and was able to answer any questions they may have.

Ms. Triem asked if all the other communities who signed it, signed the same resolution language. Mr. Prestigard said yes with one exception in this resolution which included a reference to DIPAC's contribution. He stated that both the ACRs that were submitted were voted down strongly at the Board of Fish and those had followed two emergency petitions prior to those and those were also voted down in July and in March. He said they are going about it wrong but they are challenging some of the science. He noted that Juneau has some extraordinary local experts having the NOAA Lena Lab and two of scientist from out there, Bill Hurd and Alex Werheimer, who are both now-retired, long time NOAA scientists wrote a response to the ocean carrying capacity that was raised. He said if the Assembly would liek to get really involved, he could ask Alex to attend a meeting and he could spin their heads around on the subject. Ms. Triem asked Mr. Prestigard what his opinion would be on the timing of further action by the Assembly.

Mr. Prestigard stated that the Board of Fish, through a joint protocol resolution that they signed back in 2000 had formed a "Hatchery Committee" and they are somewhat reviving that committee and they will be taking a day out in the March statewide meeting to discussing hatchery issues. He said there were two very good presentations done by the Department of Fish and Game at last week's meeting. Either one of those presentations would be good for the Assembly to review if they wanted to get into it deeper.

Mayor Weldon said the Manager had asked for no action at this meeting but there is obvious appetite for more information from the Assembly if he could take that under consideration.

E. **Ordinance 2018-41 An Ordinance Amending the Land Use Code Relating to Alternative Residential Subdivisions.**

Ms. Maclean gave a presentation regarding the proposed Ordinance 2018-41 Amending the Land Use Code Relating to Alternative Residential Subdivisions (ARS).

Ms. Maclean explained that currently there are some limited options in which to undertake development. She said with a traditional subdivision, the developer has to meet the minimum lot size and other requirements of the underlying zoning district. For instance in a D1 zoning district which is much of Douglas and more out the road, they need a minimum of 36,000 square feet and there is one single family dwelling with one accessory apartment on that parcel. Another option is the planned unit development. Right now there is one being constructed on North Douglas Highway called Sunset Heights. In the case of a planned unit development, there is a minimum requirement of 2-3 acres of land to begin with, regardless of the zoning district. It is allowed in RR, D1, D3, D5, D10, D10SF, D15, D18 and Light Commercial which is similar to the one they are proposing this evening. Within that, they can make small lots or they could all be on one large lot and all the land would be in common ownership. With the planned unit development, they have notices some difficulties as they have to set aside 40% of the land for open space which is a lot of land in Juneau when there is so little build-able land to begin with. She noted that on top of that, 70% of that 40% has to be contiguous which makes it really difficult to do development. It also requires a 25 foot undisturbed buffer around the perimeter of the property which also adds to the difficulty of doing this type of development.

She said that housing is expensive in Juneau but so is development and she said they saw this as an opportunity for another tool for developers to use with the idea being similar to a staircase process of homeownership. First level of the staircase might be a homeowner purchasing a condo which would provide them ownership of the condo and maybe a balcony but they do not own the land upon which it sits and they pay fees for the common land around it and access to that. The next step might be a townhouse which is similar to condo ownership but in a multi-level structure but you still don't own the land around it. Beyond that, would be lots similar to Bonnie Brae which have homes with common walls where you do own your structure, some of the land around it but you share a common wall with your neighbor. The idea with the Alternative Residential Subdivision is to fit in the middle between the Town House scenario and the Common Wall model. Beyond common wall, the next step is single family homes.

The ARS would allow you to subdivide a property where someone could have their single family and a little bit of land around and the size of the land could vary and it can vary within one development. There could be lots that were 2,000 square feet, 5,000 sf or whatever size you wanted. You would own the structure, a bit of land, and the remainder of the parent lot would be in common ownership so that is what is lowering the price somewhat for home buyers because you are buying a smaller piece of the bigger property.

Assemblymembers asked a number of questions regarding to what types of lots would be eligible for the ARS, what uses would be allowed, as well as the open space requirements, buffers, setbacks and how this ordinance may be expanded. They also asked how this was different from "cottage housing." They also asked what the definition of "developer" was and if that would apply to private individuals as well.

Ms. Maclean explained that the ARS would not be allowed for commercial uses. They could have a recreational center, a community center, a home occupation as long as you do not have any employees there, or a child care center. The PC discussed these at length and determined that those types of needs would be permissible but they excluded other commercial uses so it didn't impact the neighbors adversely. She also noted that ARS would allow for "tiny homes" which many people have asked about. She said that with respect to the cottage housing, there is a very specific design requirement with a maximum of 12 units that was a detraction for development. This ARS ordinance would not have as strict of design requirements. Ms. Maclean explained that a "developer" in the context of this ordinance would mean anyone private or commercial wishing to develop property. She also noted that the ARS ordinance complies with Title 49 and its requirements.

Additional discussion took place regarding the Planning Commission (PC) review of this ordinance, the PC's recommendations vs. those of staff, and the types of buffers and the ability to increase density based on certain bonuses as well as identifying specific language in the ordinance that may need some additional tweaking.

Staff noted that additional study and work to be done on this ordinance it Mr. Watt stated that the idea would be to bring this back with a version (b) at a future COW meeting. This is a fairly substantive change to the land use code and it is worth spending time on this topic.

V. ADJOURNMENT

There being no further business to come before the committee, the meeting was adjourned at 8:22p.m.
Respectfully submitted,
Beth McEwen, MMC
Municipal Clerk