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

November 20, 2017, 6:00 PM.
Municipal Building - Assembly Chambers

Assembly Work Session - No public testimony heard

I. ROLL CALL

Mayor Ken Koelsch called the meeting to order at 6:00 p.m. in the Assembly Chambers.

Assemblymembers Present: Mary Becker, Rob Edwardson, Maria Gladziszewski, Norton Gregory, Loren Jones, Jesse Kiehl, Ken Koelsch, and Beth Weldon.

Assemblymembers Absent: Jerry Nankervis.

Staff present: Rorie Watt, City Manager; Mila Cosgrove, Deputy City Manager; Laurie Sica, Municipal Clerk; Roger Healy, Engineering and Public Works Director; John Bohan, Chief CIP Engineer; Bob Bartholomew, Finance Director; Rob Steedle, Community Development Director; Tom Mattice, Emergency Programs Manager; Beth McKibben, Planning Manager; Jill Maclean, Senior Planner; Allison Eddins, Planner I; Michele Elfers, Chief Landscape Architect; Julie Jackson, Aquatics Manager; Sonia Del Gado, Accountant II.

II. APPROVAL OF AGENDA

Hearing no objection, the agenda was approved as presented.

III. APPROVAL OF MINUTES

A. August 10, 2017 Committee of the Whole Minutes

Hearing no objection, the minutes of the August 10, 2017 Committee of the Whole meeting were approved.

B. October 23, 2017 Committee of the Whole Minutes

Hearing no objection, the minutes of the October 23, 2017 Committee of the Whole meeting were approved.

IV. AGENDA TOPICS

A. Pools Governance

Max Mertz, Chair of the Aquatics Board, Ritchie Dorrier, Pat Watt, and Tom Rutecki were present to provide information to the Assembly COW. He spoke about the pending termination of the Board in May 2018. They do not believe the work of the board is complete and they are attempting to define the future of the board.

Mr. Mertz discussed the memo from the board, "Juneau Swimming Pools Managemenet Alternatives Analysis." Preliminary alternatives include:

Option A: No Action

- The Assembly takes no action and the Aquatics Board is automatically repealed on May 28, 2018 and management reverts to the City Manager.

Options B: No Change/Extend the Term of the Existing Pool Board

- Option B1: Retain the feature of having the Aquatics Board and the City Manager jointly supervise the Parks Director in his/her capacity overseeing the Aquatics programs.
- Option B2: The Parks Director solely is supervised by the Aquatics Board in his/her capacity of overseeing the Aquatics programs.

Option C: More Fully Empowered Aquatics Board

- Option C1: Retain the features of the existing Aquatics Board but with the addition of hiring and supervision authority over the Aquatics Manager.
- Option C2: The Aquatics Board has hiring and supervision authority over the Aquatics Manager. The Board is expanded to possibly include the Parks and Recreation Director, the School District Liaison, and a representative of Glacier Swim Club as voting members.

Option D: Contract with an Outside Entity to Manage the Pools

- Option D1: Identify Existing Nonprofits to Manage the Pool
- Option D2: Create a New Local Nonprofit
- .Option D3: Create a Local Branch of the Alaska YMCA

Option E: Aquatics Board Merges with Other Recreational Facilities

- This is outside the purview of the Aquatics Board, so it is not in a position to evaluation this option.

Mr. Mertz said the board anticipates reporting back to the Assembly in March with a plan and said he would entertain questions from the Assembly to gain feedback.

Mr. Jones appreciated the report to the COW. Mr. Jones said he would leave all proposed options on the table.

Mr. Gregory said option A, the "no action" option, was curious and asked Mr. Watt for his thoughts. Mr. Watt said no action might be a viable alternative but it was worth looking at all options. Three years ago the aquatics community was not satisfied with the management of the pools. It was premature to think of a no action alternative until exploring the other options. When the Assembly created the Aquatics Board, it was done with a "wrinkle" of joint supervision of the Parks and Recreation Director by the board and the manager for the operations at the pool.

Mayor Koelsch asked how the options would be fleshed out. Mr. Mertz said the board has been considering these ideas for several months. Option D would require the heaviest lifting, so they have been gathering more information and looking at a financial model and there was still work to be done. We hope that we will have answers on that by February. Option C also needs more research. We will reach out to the public and protect all interests.

Ms. Weldon asked if Option A could be deleted from the list. Mr. Watt said it should be left on for consideration. We know more about that option than Option D. Ms. Weldon asked Mr. Mertz if he felt any option was not viable. Mr. Mertz said there are more challenges to D1 and D2 than D3. We have learned more about the YMCA management of pools and it is a model, but it would take a lot of work to start a non-profit from scratch.

Mr. Gregory said Option D3 has merit and he was curious about what had been learned so far. Mr. Mertz said the board has met with the YMCA and reviewed operating agreements with other communities. They have the ability to do the programming and administration of the pools. He said the YMCA seems to be very flexible and the agreements they have with other communities seemed wide, and based on the communities needs.

Mr. Gregory said there may be another option - the Aquatics Board remains in tact and the YMCA manages the pool. Mr. Mertz said that the YMCA structure is similar to that and CBJ would be a satellite to the Anchorage organization with a local board. Mr. Watt said it is his recommendation to have organized community input for whatever option taken.

Ms. Gladziszewski said the memo offered a good process. D1 and D2 seem the most logical to her.

Ms. Weldon asked about public process. Mr. Mertz said they felt that they would have sufficient information by early January and within the existing twice a month meeting they would expand the opportunity for presentation and public comment from mid- late January through February with 3-4 public meetings, and then preliminary recommendations to the Assembly.

Ms. Weldon said this is an aggressive time schedule. Mr. Mertz said he anticipated a 12-month window to fully develop would be needed to fully develop the plan.

B. **RecycleWorks Update**

Michele Elfers spoke about recent public process regarding the RecycleWorks program. When she last spoke to the COW in the spring 2017, expenditures were higher than the revenues and this was discussed, along with possible program relocation. We discussed this at the Lands Committee and the Finance Committee. We requested $2 Million in the 1% sales tax ballot measure. We have gone out with two contracts for junk vehicles and household hazardous waste and have been able to lower our costs in both to some extent. There will be some staff changes in spring that will also bring the costs down. The voters approved the sales tax measure and this has been included in our modeling. Another issue is that China is the biggest importer of recycled materials and has tightened their regulations regarding accepted materials, reducing the level of contamination. Waste Management will start charging for plastic 1 and 2 and mixed paper, which is a hit to the budget. The CBJ sponsored program is source separated, which provides a less contaminated product. We will receive the highest value that we can on our products, but we will increase education about how to recycle. She did not see the ability to recycle going away based on China's policies, but did foresee tighter regulations.

Mr. Gregory asked if there is advantage to only recycling aluminum separately from everything else. Ms. Elfers said that aluminum is the highest value, and cardboard also brings good value, less with plastic and tin. Ms. Elfers discussed the two different programs - the CBJ source separation, and Waste Connection - a private company doing co-mingled recycling.

Ms. Gladziszewski asked about the relative use of both. Ms. Elfers said CBJ has taken in 1700 tons of source separated material and estimate 700 tons taken in by the co-mingled program. The CBJ program has increased, despite the co-mingled program being offered. We have hit capacity on our facility and budget.

Mr. Gregory asked how to incentivize the most valuable material. Ms. Elfers said the future seems to be in the drop box program to increase the convenience. They are popular but are at capacity, and that is the route to increase the program.

Ms. Weldon asked about doubling the billing and if there was any consideration for people who purchase the co-mingled service. Ms. Elfers did not have an answer for that as the co-mingled program was private. CBJ is helping that program by running their materials through the CBJ owned baler and they are not paying for that. She would be surprised if they are making money on the program, but it is reducing volume at the landfill.

Mr. Kiehl asked if CBJ employees / vehicles empty the drop boxes and Ms. Elfers said yes. She said the facilty at the landfill had structural issues. She explained the operation and the restrictions on operations between CBJ commercial / private uses.

Mr. Gregory asked if there is a way to change the community's recycling habits to make this more profitable, considering that some are paying for recycling twice, including the private co-mingled and public source separated services. Ms. Elfers said the value is in source separation, no one is sure about co-mingled. The cleaner the product the more valuable. She did not discourage co-mingling, which goes to a "MRF" (Materials Re-use Facility) for processing.

Ms. Elfers proceeded with her prepared presentation. Staff is proposing an increase in user rates and she outlined the potential rate increases. There are many commercial users but few commercial permits and current operations are being greatly supported by residential users, in addition to the motor vehicle registration fees.

Mr. Gregory asked why there are two different options and asked how to get to one option for recycling as there are duplicate efforts. Ms. Elfers said the CBJ program began in the early 2000's and it was the only program. In 2012 a private company started curbside co-mingled pickup. She would not suggest moving to co-mingled with the uncertainty in the market. She understands the difficulty of paying two rates, but the source separation is popular, used, and people choose to use the co-mingled service. Moving to one option is likely for the future and there is opportunity for partnerships with Waste Connections. CBJ can't regulate commercial vs. residential at the drop boxes.

Mr. Watt said CBJ explored mandatory garbage pickup, which was not popular. It is difficult to blend the CBJ service with the market-offered service. The key is that Waste Connections provides a service for a fee and people can choose to participate. The service provide by CBJ is popular but no one is forced to use it.

Mr. Edwardson asked if the idea is to have the commercial service become mandatory. Ms. Elfers said she is proposing that commercial users be charged a fee on their utility bills similar to how residences are now charged. Mr. Edwardson asked about the types of commercial entities. Ms. Elfers said there are now about 700 commercial utility accounts and they generate materials. The biggest product is cardboard.

Mr. Kiehl asked if CBJ charges for use of the baler and she said no, which costs CBJ about $.5 million. Mr. Kiehl said there are more types of plastic accepted by the co-mingling, in addition to convenience. He asked how recycling could be charged fairly on a commercial utility bill. Ms. Elfers said the $100 fee could be charged to all commercial entities and if the user was over a specific tonnage, that charge could be done in a different way. Those heavy users are easily identified.

She spoke about relocating the recyclable collection site. The CMI property on Anka St. is a good potential site, with a large lot, some pavement and existing structures. A pilot composting program could be started and Skookum vehicle recycling is contracted with CBJ for ten years and is adjacent to the property. Other properties have been considered. She spoke about landfill diversion goals that can potentially be achieved with increased recycling, with increased capacity, facilities and budget. 50% waste diversion would extend the life of the landfill by ten years. CBJ does not own the landfill, but we still are responsible for waste and biosolid waste. Composting of organic matter is a large part of the waste stream.

Mr. Gregory said it would be beneficial to increase the number of people recycling and how can this be incentivized, and to incentivize sorted recycling. Ms. Elfers was not sure about how many people are recycling. Convenient access to recycling is the largest incentive.

Mr. Edwardson asked if the revenue from sale of the lots was designated for recycling or could it go for any other program. Mr. Watt said the sale of land would go to the lands fund for use by the Assembly for any program. Ms. Elfers said the water department and haz-mat site property has been sought by the Alaskan Brewery for their expansion. Mr. Edwardson asked if the sale could be over the counter and not competitive. Ms. Elfers said that the Assembly can authorize the manager to negotiate a sale directly.

Mr. Kiehl asked about a location to stockpile recyclables to wait for the fluctuating recyclable market. Ms. Elfers said plastic 3-7 have no value in the market now, which is why CBJ does not accept them. There is a lot of space on the CMI property for storage of materials.

Mr. Gregory asked about relocation of the recycling program. Ms. Elfers said the baler would be relocated and some electrical work would be needed. Some type of additional structure would be needed and it could be similar to the tented salt storage structure at the public works facility. Mr. Watt said there is also a cost to not moving, as the current storage at the landfill is failing, and CBJ would need to cooperate with the private entity on investment in a new facility. Ms. Elfers spoke about the current contract with the landfill.

Mr. Edwardson said he would like to see a fiscal note - a spreadsheet that outlined all the costs and revenues that explained the options. We are extrapolating information from the presentation.

MOTION, by Jones, to direct staff to draft an ordinance to authorize rate increases and negotiate the purchase of the Anka Street property.

Mr. Edwardson objected. He said he would like more organized information on the subject of the vote.

Ms. Gladziszewski appreciated Mr. Edwardson's comment and said that could be forthcoming during the work on the ordinance.

Mr. Jones said he had sat through many presentations on this topic and was comfortable moving forward in a timely manner.

Mr. Edwardson said that it would be illustrative for the public to see a fiscal note on this matter.

Mr. Kiehl supported the motion and said there would be more opportunities to analyze and discuss the matter.

Mayor Koelsch asked how the $2 million voter approval factored into this equation. Ms. Elfers said that would supplement the user rates to avoid more rate increases.

Roll call:
Aye: Becker, Gladziszewski, Gregory, Jones, Kiehl, Weldon, Koelsch
Nay: Edwardson
Motion passed, 7 ayes, 1 nay.

C. **Lemon Creek Neighborhood Area Plan**

Ms. Maclean said spoke about the origins of the plan, the public process and the outcomes of the plan, in a similar manner that she had reported to the Planning Commission. She acknowledged the work of steering committee members, including:

Stephen Johnson, Chair
Michael Lukshin, Vice-Chair
Tom Chard
Daniel Collison
Wayne Coogan
Sandra Coon
Susan Erben
Dave Hanna
Mark Pusich
Patrick Quigley
Michael Short
Paul Voelckers, Planning Commission Liaison

Community Development Department (CDD) staff conducted focus group meetings, met with the steering committee in public meetings, and the steering committee considered information from the focus groups and an open house. She said this is a 20-year plan for development of the Lemon Creek area, including the area of from Vanderbilt Creek to Fred Meyer, incorporating Sunny Point and back into Hidden Valley. With the closure of Walmart, Fred Meyer area was included as the major shopping area for consideration of transportation issues. She displayed an area plan from MRV Architects and Skye Stekoll with CBJ Engineering. She noted major themes of the plan heard from the public and listed priority actions from the steering committee. The plan conforms with the Comprehensive Plan Maps and the plan is anticipated to be adopted as a part of the Comprehensive Plan. Items needing an amendment to Title 49 have been noted as "action items." The Planning Commission has reviewed and forwarded the plan to the Assembly for adoption.

Mr. Jones said he attended many of the meetings during the development of the plan and he complimented Jill Maclean and Allison Eddins for their work on the plan. He said it was a good process and he was impressed with the committee's and public's work and interest in the area. He thought the plan was good and he supported its adoption.

Mr. Kiehl asked about an organic waste facility in Lemon Creek. Ms. Maclean said the idea refers to a "stump dump." Mr. Watt said CBJ does not operate such a facility, there were two private dumps in Lemon Creek and a few others in other locations. The cost of transport is a factor to contractors. Mr. Kiehl said the area plan was not normally a tool to use to change the policy on gravel resources. Ms. Maclean said the discussion arose due to the potential in the Hidden Valley area. Mr. Watt said the issue of whether to sell CBJ resources to the private sector may or may not belong in the area plan, as it is a "sticky issue."

Mr. Jones said that there was significant discussion about the transport of gravel through the area and they were trying hard to say "we are open for business" if we can ameliorate the impacts of the trucks traveling through the neighborhood. Because the area includes so many mixed uses, they want to keep those mixed uses but want to make the function work better. Mr. Kiehl noted the lengthy discussion about CBJ's approach to use of publicly owned sand and gravel and his concern about discussing policy in this plan, when it is a separate conversation.

Mr. Kiehl about this plan superseding the Comprehensive Plan. Ms. Maclean said this plan is more current than the Comprehensive Plan and has had recent and thorough public process, and staff believes it should supersede the older Comp plan. This area plan has more detail and provides more public direction. One of the actions will be to work closely with Parks and Recreation. So far, we have not found any conflicts with the Comprehensive Plan, it is just more specific.

Ms. Weldon asked about extending Glacier Highway to "McNugget" intersection. Ms. Maclean said they have worked with DOTPF and they have received this information, and we are attempting to work compatibly with them.

Mr. Kiehl said some actions recommended keeping zoning the way it is, and he asked about a request to change Lemon Creek Area Plan A3 and what did that reference? Mr. Watt said it referred to the area accessed off of Mountain Avenue. Mr. Kiehl said he had advocated for that area to be available for the next CBJ housing development. Ms. Maclean said the wording was to consider rezoning from D5 to D10sf. This is a vision of what people would like to see, but there are no property lines on the area plan design. This doesn't overlap precisely with the CBJ land management plan, and the ownership of the land is varied. The committee felt it should blend with the Pinewood Subdivision and allow extension of the mobile home park. Mr. Kiehl appreciated that this was a recommendation as it was currently split zoning between D-5 and D-15. Mr. Kiehl said the ability to have a mixture of single and multi-family was key to the viability of the economics of development in the area.

Mr. Gregory said the area by DZMS has been said to have enough land for a second school and asked if that was in the plan. Ms. Maclean said the plan recognizes the need and option for an elementary school near DZMS and recommends reserving land for such future use. She was not familiar with the question about an access road to the police department. Mr. Jones said he thought the discussion regarded a potential firehouse in the area. Ms. Weldon said that at one time JPD was considering access from Alaway Drive all the way to Egan Drive.

MOTION, by Jones, to recommend the plan to the full assembly for adoption into the comprehensive plan.

Mr. Kiehl said he had more questions about CDD's analysis about the areas in conflict with the existing Comprehensive Plan.

Mayor Koelsch asked if people were comfortable with the LC plan superseding the Comprehensive plan, the gravel extraction, the stump dump issue, and asked if there a need for further consideration. Ms. Weldon said she agreed with Mr. Kiehl to see this one more time at the COW.

Roll call:
Aye: Gladiszewski, Gregory, Jones
Nay: Becker, Edwardson, Kiehl, Weldon, Koelsch
Motion failed, 3 ayes, 5 nays.

D. **Meander Way - Mendenhall River Bank Stabilization**

Mr. Watt referred to a memo from Roger Healy, Engineering/Public Works Director, and a letter from Nico Bus, representing a proposal from the Meander Way neighbors.

Mr. Healy reported on staff action to re-poll the proposed LID participants based on the following direction provided at the August 10, 2017 COW meeting:

- Reduce the proposed LID assessments to cover 25% match for construction costs only. The COW has offered for the CBJ to cover costs of the other associated project sponsor responsibilities (NEPA, permitting, land/easement preparation, maintenance for 10 years). This results in an estimated contribution to the project by the CBJ of $260k or greater for permitting, easements acquisition, administration, etc.
- Revise the proposed LID assessment method with proposed assessments calculated based on property values with each property being apportioned based on their property value (combined land and building value). The proposed assessments are still an estimate based on the NRCS construction estimate.
- Request for a yes/ no question on the ballot regarding willingness to provide all necessary easements (design, construction, and maintenance) for the project at no cost to the CBJ.

The results of the poll indicated that 15 were in favor of the LID and 9 were opposed. 20 were willing to provide no cost easements for the project and 4 were not willing.

The COW also asked for a proposal from the neighborhood to meet the definition of a Capital Improvement by Agreement (CIBA), which requires 100% agreement within the neighborhood, to enter into a contract between the neighborhood and CBJ. The neighbors provided their components of such an agreement, including a $40,000 cap to each neighbor, and $1.12 million or more contribution by the CBJ. Debt options of 15- 30 years were discussed and both exceed the term of CBJ's participation in the project and CBJ does not recommend a 30-year period. The neighborhood also wants a clause to allow the sale of property in the LID without completion of the LID payment. Staff has summarized the neighborhood's requested CBJ actions and the ramifications of such action in its memo dated November 20, 2017 in the packet. The CIBA is opposed by one property, and the code requires 100% agreement, so unless that owner changes their mind, this approach cannot be used. If the owners do not provide cost-free easements, the value of those easements have not been determined at this time. There are risks and costs to CBJ in the CIBA. The National Resources Conservation Service (NRCS) requires CBJ to maintain any project for 10 years. CBJ would need to be an active participant in other projects as the project could have upstream impacts on additional neighboring properties. This project must be constructed for a public purpose for NRCS funds and that definition can be met. The assessment and containment of CBJ risk in this project is of paramount concern, including a potential calculable increase in the base flood elevation. If it is the request of the COW to further pursue a CIBA we can forward to the neighborhood to see if it can obtain complete support. The initial idea of CBJ participating in a project on Meander Way was to be a conduit for federal funds, but CBJ's responsibilities have grown.

Mr. Kiehl asked about the "likelihood of upstream impacts" and FEMA flood zone maps. Mr. Healy said that given the close proximity of the homes to the river and the slope of the rip rap bank needed to protect the properties, the current channel would narrow with the stabilization work. A model shows a potential rise in the flood plane level by up to six inches at the top end of the project, which has unknown upstream impacts at this time. The NRCS request is that CBJ accepts a six inch increase and coordinate between NRCS and FEMA for project impacts on flood elevations, such as creating additional liability for flooding and/or requiring flood insurance and potential re-mapping.

Mr. Edwardson asked if engineering work has been done for this project. Mr. Healy said the design has been completed by the NRCS. Mr. Edwardson asked if NRCS understood the increase to the flood elevation level. Mr. Healy said NRCS notified CBJ of this fact during their design and modeling and their current proposal has the least impact on flood elevations. Mr. Edwardson spoke about his experience as a Natural Resource Manager for the Alaska Department of Natural Resources (DNR) and Mr. Healy said CBJ had received a position statement from DNR.

Ms. Becker asked for clarification of the decision before the Assembly.

Mr. Healy said when this project began through discussions with the neighborhood and Tom Mattice, CBJ Emergency Programs Manager, the initial assumption was the property protection was an individual property owner's responsibility. CBJ does have one lot in this group of properties. Mr. Mattice sought a variety of programs for assistance and found the NRCS - Emergency Watershed Protection Program to be the best suited to meet the financial demands and had the most flexibility, with provision of design and planning from the federal government, and CBJ and the neighbors would not be charged for those costs. Other costs include permitting and land acquisition of easements for construction and maintenance. The program requires a local sponsor - CBJ. Our initial position is that we are a conduit to federal funds. Mr. Healy said the question is, what is the CBJ's level in participation in risk and cost. There was always a component of risk as the local sponsor due to the need to maintain the project, and with this new item of elevation of the flood plane there is increased risk. If the neighbors only pay $40,000 per parcel, this assumes a larger financial responsibility by CBJ.

Mr. Kiehl asked if financing longer than the time line of the project might make sense if CBJ was a banker and he asked about any security by a lien. He asked about the risk if they loans are secured as an obligation to the property.

Mr. Bartholomew said he initially looked at three financial factors and was concerned about all three factors. In subsequent analysis, he has found CBJ has an ability to collect similar to its taxing authority, and our position is probably strong enough to enter into an agreement. It would come down to terms, and he preferred a 15-year term, which is 5 years longer than a normal LID at ten years. CBJ is in second position, and a source of CBJ funds for the project could be a bond. That 15-year term started when the cost was $80,000 per property, but he still recommended the 15 years.

Mr. Jones said CBJ has looked at this for about a year and a half, the neighbors have hung in there and are at 99% agreement and have come up with this proposal. None of us wanted to impose an $80,000 burden on unwilling homeowners. With the neighbors coming up with this agreement, it puts more burden on the CBJ and its resources. The COW has continually gone back to the neighbors to come up with something to make our choice easier. He said the Assembly is at the point to move forward with the neighbors proposal if they can get 100% agreement, or we discontinue these efforts, and stop the work of the NRCS. He did not feel that this project is at a stopping point. He understands the risk, and would like to know more. The remaining question is if NRCS is funded. There have been some national disasters that fund NRCS programs, and he asked if there was more information about any potential federal funding. Mr. Healy said he had no news, but had heard that a relief package had been proposed at a national level for hurricanes, but not for fires in California, and has not heard about any NRCS funding. Mr. Jones said he did not want to abandon the neighborhood that had worked through many issues, and he wanted to see this continue as far as CBJ can take it. He wanted to honor the work done to this point.

Ms. Gladziszewski said CBJ does have an obligation to continue to work towards a solution. There was never unanimity, this project met the threshold for an LID, and that is still an option, and it was the path that she favored. CBJ has put in a lot of time and money to date as it should, but assuming more risk was not something she favored and pursuing an LID was a responsible option over the CIBA.

Ms. Weldon congratulated the neighborhood on the work and Mr. Bus for his coordination, but this was not the proposal that she expected, with the increased costs and risks to CBJ. We are working with the federal delegation, we should not give up, but she didn't prefer the neighborhood proposal.

Mr. Edwardson said that river erosion is not a disaster. It is predictable and there are tools available for armoring property. The property owner is responsible for river armoring. That is the perspective that he views the project from. He did not understand the ability of the neighborhood to cap their contribution, and the project would cost what it costs. He favored the LID.

Mr. Jones said the Assembly asked the neighbors to get together and look at the costs and we got back a 99% agreement on a particular approach. If our action was to go back to the $80,000 LID, there would not likely be agreement towards that approach. The neighborhood is almost reaching the CIBA 100%. We have continued to ask the neighborhood to come up with a solution where we don't have to pick one side or the other and they have come back and told us what they can agree to. It is a lift for the Assembly, it puts more risk on the CBJ and transfers risk to us, but having walked the site, there is potential for further damage and CBJ has a lot of investment out there. That development should have been set back further from the river long ago, but we have an obligaton to public safety. Individual lots would be another story but this is 26 properties now over the initial 8 properties. They didn't come up with the answer we want to hear, but they came up with a proposal that gives us the best chance to protect their property, protect our assets and get the job done. He suggested waiting to see if the federal government provides funds to say yes or no. He supported the work of the neighborhood.

Mr. Kiehl said he did not imagine the proposal brought back would be this much of a bill to CBJ. On the other hand, this river will be armored at some point, and perhaps the neighbors can move forward without federal participation. We will see more erosion and property loss. The best case scenario if we don't find a way forward, eventually the city will pay to armor the riverbank at the edge of the road and this will require house parts to be pulled out of the Mendenhall River. Since we don't have unanimity, even at this pretty amazing request level of the city, how would you propose we move forward? What mechanism do we use without 100% agreement.

Mr. Jones suggested the COW recommend that CBJ engineering and finance move forward with this proposal to cap the homeowners participation at $40,000, to use the CIBA mechanism, and if it doesn't get 100%, that is it. If that owner understands the support, they may join. If feel that is the only way to move forward. otherwise the support will go down and I don't see another way forward. If that 100% is achieved, we have more information from staff to move forward. Unless we want to impose something on a majority of homeowners that don't want it.

Mr. Edwardson asked if the Assembly made a decision that forces that homeowner to change their mind, would that be a taking? Mr. Healy said no, it is ultimately a contract between CBJ and the homeowner. Ms. Gladsizsewski said that an LID only requires 51% of the homeowners agreement.

Mr. Watt said "by agreement" means everyone agrees, and LID is a process by which people who don't agree still have to participate. We have done many in which we have not heard from all the property owners and we typically get 2/3 agreement to much smaller dollar amoutns.

Mr. Healy said there was 80% support initially for the $80,000 contribution. If there is less than 50%, it takes an affirmative vote of eight members of the assembly.

Ms. Gladziszewski asked the cost of an easement if it was not provided at no cost by a homeowner. Mr. Healy said it was a negotiation, and if the negotiation is not successful, we would need to proceed with eminent domain and consider the value of construction and long term maintenance. Mr. Watt said it would be a discussion about how much is a certain portion of your back yard worth - there are no good benchmarks to measure. Ms. Gladziszewski said this was a liability and extra cost to the CBJ.

Mr. Gregory referred to a Lakewood Subdivision plat note stating that the area is subject to erosion. He spoke about the cost to the city to date regarding the exposed sewer pipe and the potential for further erosion. He expressed concern about taking action and still having erosion issues. He proposed a return to an LID with an $80,000 contribution.

Ms. Weldon asked if it was possible to do and LID for $40,000 each with no NRCS participation and only dump rock in the area. Mr. Healy said the NRCS funding is subject to using its design concepts. Mr. Healy said anything different would lose their design and funding contribution. At that point, he suggested that the project be taken on solely by the neighbors.

MOTION, by Jones, to instruct manager and staff to begin to work on putting this project together, capping this cost at $40,000 per parcel and use the CIBA process if they can get 100% and if that is done, have the manager bring forward the appropriate ordinance / resolution to get the project done along these lines.

Ms. Weldon objected to the cap at $40,000.

Ms. Gladziszewski objected and said the distribution of costs would not be fair. This would require $1.94 million for a local match, and this would be $.82 million from the property owners with the balance from Juneau residents through CBJ funding. She supported the LID, if anything, and did not want to set CBJ up for future liability and costs for other parts of the river and avalanche areas.

Mr. Jones spoke about actions taken by the Mat-Su and Kenai Boroughs regarding river flooding and felt those showed a level government irresponsibility and said he did not want to see Juneau go those ways.

Mr. Kiehl asked what the odds are of getting to 100%. Mr. Healy said he could not give percentages, but if there is an effort by CBJ staff to identify the specific homeowners issues and try to resolve those that he could try.

Mr. Edwardson spoke against the motion but supported the idea of a cap at $80,000 through an LID.

Roll call:
Aye: Jones, Kiehl, Koelsch
Nay: Becker, Edwardson, Gladziszewski, Gregory, Weldon
Motion failed, 3 ayes, 5 nays.

Mr. Gregory made a motion below, which upon further discussion was clarified:

MOTION, by Gregory, to cap the property owner's contribution at $80,000.

Mr. Jones objected.

Mr. Gregory said the river moves, and we need to heed plat notes. He feels terrible for the homeowners. The fixes proposed by the NRCS may not solve the problem, and there are a lot of properties that can be potentially affected. We need to do our part as a city and getting federal funding for the project is important.

Mr. Jones said this is a motion to say no to this project. At $80,000 we will lose any majority that we had and few of us want to impose $80,000 on 60% of the homeowners that he anticipated would say no the next time.

Ms. Weldon agreed with Mr. Jones.

Mr. Kiehl asked if $80,000 was the number to work with. Mr. Healy said he understands the motion to be an $80,000 cap and he believes there is an additional amount of money, roughly less than $200,000 that would need to be paid by the CBJ.

Mr. Jones said the final cost is calculated at the end of the project.

Ms. Gladziszewski said that the original calculation was $76,000 or $78,000 but the unknowns were the original concern and caused people to drop out. If we don't get "no-cost" easements, that adds to the city's cost. CBJ is assuming more risk if this passes than if the original LID had gone forward. Mr. Healy said the previous assessment without valuation of easement was $78,000. A very rough estimate of easement raised the cost beyond $80,000 but it was speculative. Ms. Weldon said she recalled an estimate of $100,000 - how much risk would this motion add to CBJ. Mr. Healy said that uncertainty of cost increases, discussion with FEMA on flood level and easements are factors.

Ms. Weldon asked if CBJ made its one parcel cost much more if that would affect the cost or reduce risk. Mr. Watt said the concern was financial risk and the estimating was fairly safe from the upside cost of the bidders. The risk is the amount above $80,000 and he thought that was a fairly low risk. Ms. Weldon said she was also concerned about the 6 inch flood level rise adding additional risk. Mr. Healy said the biggest risk is acquisition of the easements and if property owners were unwilling, it would be unpleasant. Ms. Gladziszewski asked if the easements could be sought first. Mr. Healy said that LID easements anticipated eminent domain.

Mr. Watt said asking the owners for agreement on the project would be simple for a few but very difficult for many of the owners so it would be a little grasp in the dark.

Mr. Jones said if this motion were to pass, the homeowners will take their own poll and the public testimony will be reflect their sentiment regarding the ordinance.

After a short recess Mr. Watt said staff took the opportunity to review the LID code and in Mr. Gregory's motion, he proposes an $80,000 cap. At the last COW in August staff sent out an assessment based upon the value of property because we were making the finding of proportional benefit. If we want to go to an assessment of equal benefit, it is a separate finding. There are a couple ways you can go at it. With the variable assessments, you can cap the highest of the variable assessments, maintaining the proportional spread, or we can go to equal assessments / equal benefits and cap that at a dollar amount. What type of cap is important.

Mr. Gregory said he would like the cap to be maximum, after they go out and figure out what it needs to be proportionately based on the benefit that that property owner is going to receive.

Ms. Gladziszewski said that means some property owners would pay less than $80,000 and that means the city amount would be higher and she did not favor that.

Mr. Gregory said he saw the cap as proportionate to the benefit that the property owner receives, so if you were going to receive a $92,000 benefit it is capped at $80,000. Mr. Healy said that Mr. Gregory was referring to use the existing assessment based upon property value, which proportionally assessed each property and the ultimate cap is $80,000, so that no property would pay more than $80,000, but a significant portion would pay less than that.

Mr. Watt said that the attorney might object and there either needs to be an assessment method that relies on a proportionate benefit based upon the value of the property protected and if we reduce the cost we somehow uniformly lower the cost for all the owners, or do an equal benefit finding in which it is shown that every property benefits equally and they have an equal assessment to which the bar is set.

Mr. Kiehl said he thought the proportionality among the homeowners based on the value of the property, and what changes is the total percentage contributed by homeowners so the highest, most valuable property, pays $80,000 and the city picks up the remainder. Instead of homeowners paying 25%, to do this proportionally, so that the highest one comes in at $80,000, homeowners are going to do 22.25% or such.

Mayor Koelsch asked Mr. Gregory to clarify his motion. Mr. Gregory asked Mr. Watt for additional information.

Mr. Watt said six months ago the project was conceptualized as equal assessments and the intent of that method was the belief that all properties in the project area would equally benefit and therefore their assessment would be equal because the benefits would be in proportion to the benefits derived. The LID code states that assessments shall be in proportion to the benefit derived. If one believes they all benefit equally, a flat assessment among them all, and there is an argument to be made for that.

In one meeting, Ms. Mead offered an opinion that it may be difficult to defend equal assessments and CBJ could be subject to an argument from a property owner that their benefit was not equal to their neighbors. In response to that we developed a proportionate assessment method that was based on the value of the property protected. The theory is that if a home is worth $500,000 and another is worth $350,000, the person protecting the $500,000 home would benefit more. So there is a proportional method that was based on the value protected and this was the method the neighborhood voted on after the August 10 COW meeting.

Mr. Gregory said he supported a proportional assessment. Mr. Watt said in that case, the highest amount that any homeowner would pay is $80,000 and the effects would ripple through the other properties, so it would be a uniform lowering of the bar. He could not state the dollar value of the municipal contribution, but estimated (along with Mr. Healy) a value of $3 - 400,000. Mr. Watt said it may be easier to discuss what the Assembly is willing to pay.

Ms. Gladziszewski thought homeowners preferred equal assessment if they all agreed to $40,000.

Ms. Becker asked if there was a homeowner that said they had no affects from the river at all. Mr. Healy said all the properties are a little different. Some say the river is in the same place as when they purchased the property, others have significant erosion, but the challenge is you can't start and stop revetments and achieve a benefit to all along the river.

Mr. Jones said the Assembly was at this same point in the discussion months ago and we have had this same argument before. We asked the neighborhood to come up with their plan. This is not the best public process.

Mr. Gregory said in response, we asked them to do that but the number was significantly lower than the engineer's estimate. We may not have been clear when we tasked the neighborhood.

Ms. Gladziszewski said [the motion] means that CBJ will assume more financial cost in addition to risk, and the Assembly is charged with the overall budget. Capping it at $80,000 means more money that other taxpayers would be paying.

Mr. Edwardson said there were more than two solutions, it is not this project or nothing.

Ms. Gladziszewski asked about the six inches of flood level increase. She asked if other properties are affected by that river rise, who is liable. That seems like a big risk to the area outside of the project zone.

Mr. Healy said that he understands with FEMA flood insurance it will cap a payout at a certain level, and if there was flooding, there is an issue of who "owns" the six inches, I guess CBJ would be involved at a certain level. Mr. Mattice said he understood the same, that additional water upstream could go up river or all the way to the lake, it could create new homes in the flood zone. He spoke about rain and flood events overlapping - if the homes can show that we are the cause, we may be the deep pocket. There is increased liability upstream - it will change the flood maps, change the base flood elevation and may add more homes into the flood zone. A new river study would need to be done.

<u>MOTION</u>, [restated] by Gregory, to establish an LID based on using a proportional value based upon property value and capping the property owner's contribution at $80,000.

Roll call:
  Aye: Edwardson, Gregory, Kiehl, Koelsch
  Nay: Becker, Gladziszewski, Jones, Weldon
Motion failed, 4 ayes, 4 nays.

<u>MOTION</u>, by Kiehl, to direct staff to bring back an LID ordinance that assesses each property at $80,000.

Mr. Jones objected.

Roll call:
  Aye: Becker, Edwardson, Gladziszewski, Gregory, Kiehl
  Nay: Jones, Weldon, Koelsch
Motion passed, 5 ayes, 3 nays.

Ms. Gladziszewski asked for more information about the six inch flood level rise and the risks and liabilities involved. Hearing no objection, it was so ordered.

E. **Juneau Economic Plan Update**

Ms. Cosgrove said she and JEDC had both submitted a summary of actions that have been taken toward the JEP. The period since the last update has been marked by continuation on projects previously discussed at other meetings, including the pilot road to West Douglas, senior living facilities, the Auke Bay Marine Station, housing, a transportation summary, "Best Starts" child care provision, downtown planning, and 1% sales tax planning. The Assembly retreat on December 2 will touch on many of the items in the plan, including mining, the Commission on Aging and the work of the task forces. Staff is beginning efforts on data collection to gauge progress on the economic plan.

Ms. Gladziszewski asked if the energy plan would be on the next agenda. Mr. Watt said he believed so, but there were many items on the pending list.

V. ADJOURNMENT

There being no further business to come before the committee, the meeting adjourned at 10:10 p.m.

Submitted by Laurie Sica, Municipal Clerk