

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

August 10, 2017, 5:30 PM.
Assembly Chambers - Municipal Building

Assembly Work Session - No Public Testimony

I. ROLL CALL

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

Assemblymembers Present: Mary Becker, Maria Gladziszewski, Norton Gregory, Loren Jones, Jesse Kiehl, Ken Koelsch, and Debbie White.

Assemblymembers Jerry Nankervis, Beth Weldon.

Staff present: Rorie Watt, City Manager; Amy Mead, Municipal Attorney, Mila Cosgrove, Deputy City Manager; Laurie Sica, Municipal Clerk; Roger Healy, Engineering and Public Works Director; Rob Steedle, Community Development Director; Tom Mattice, Emergency Programs Director; Dave Scanlan, Eaglecrest Director; Greg Chaney, Lands and Resources Manager.

II. APPROVAL OF AGENDA

Hearing no objection, the agenda was approved.

III. APPROVAL OF MINUTES

A. July 12, 2017 Committee of the Whole meeting minutes

Hearing no objection, the minutes of the July 12, 2017 Committee of the Whole meeting were approved.

IV. AGENDA TOPICS

A. Hecla / Greens Creek and Coeur / Kensington Update (verbal update)

Greens Creek:

Mike Satre, Manager of Government and Community Relations, Greens Creek was present to provide information to the Assembly. He said the General Manager, Keith Malone, passed on his regards and was not able to attend the meeting. He gave an update regarding operations at Greens Creek Mine. Hecla is the 100% owner of the Greens Creek Mine. It is a north American mining company, corporate headquarters in Coeur d'Alene. They primarily mine zinc, lead, silver and gold. 365 acres of the property is within a National Monument. There is a nine year life in front of the mine now, but there was the same 9 year life predicted in 1989 when the mine opened. He explained innovations in "auto-mining" which allows trucks to be operated remotely by computer to haul product during blasting times when human operators cannot be safely in the mine. This allows production to continue safely. He spoke about a final EPA approved TMDL issued by DEC in June 2017 that concluded the water quality is not impaired in Hawk Inlet, among other findings. He spoke about a McDowell study done in 2016. Greens Creek has 414 employees, a \$50.9 million payroll and 47% of their employees live in Juneau, 35% live in the lower 48 and they are required to pay for their own travel out of town. 8% live in Southeast Alaska and 10% live in other parts of Alaska. The

average annual wage is \$123,000. There has been some outmigration due to a number of factors but they work to keep their employees local. The mine creates \$58 million in spending locally, \$600,000 a year in sales tax, and they are the largest property tax payer in Juneau at \$1.7 million last year. 193 employees live in Juneau, 133 are homeowners, 144 children are attending school, and employees donate over 36,000 volunteer hours in the community.

Ms. Gladziszewski clarified the information that the spill at the Hawk Inlet dock was a one time spill which had been cleaned up. Mr. Satre said that was the case.

In response to Mr. Kiehl, Mr. Satre said the current mine life is to 2026, and they may be able to work within the confines of the monument to extend the life of the mine.

Ms. Gladziszewski asked about the employees that don't live in Juneau and the needed skills for mining work. Mr. Satre said that a local workforce is a long term commitment. They start in high schools by giving students a class at UAS in mining and he spoke about the diesel mechanic training. They offer an "in-mine" training program as well. There are positions of need that they recruit nationally and internationally.

Kensington:

Wayne Zigarlick, General Manager for Coeur Alaska – Kensington Mine said they found the Jualin deposit three years ago and have been working to develop the deposit. It is a higher grade than the current Kensington deposit that they have been mining. The body of ore is smaller and the mining techniques will be different, but they are excited about the return they will see. They are only producing gold from this mine. Coeur acquired 100% ownership in 1995. There was a substantial amount of effort to facilitate the opening of the mine. In 2009, the Supreme Court upheld the 404 permit as issued in 2005, and in 2010 the mine opened for production. In 2016 they produced 124,000 ounces of gold, which was near their record. Their recovery is 94.7% and this year's gold sold for \$795 per oz. Their annual operating budget is a little more than \$100 million and they will be making a large investment in development this year to open the Jualin body. They have 367 employees with similar percentages of locals to "out-of-towners" that the Greens Creek mine has, with 151 employees residing in Juneau. They have gone to a 2 week on 2 week off schedule, which is improving turnover rates in workers.

B. Meander Way Local Improvement District (LID)

Mr. Watt referred to a memo to the Assembly regarding the options before the Assembly.

Mr. Healy said the CIP by agreement held challenges equal to or more than the LID, including the need for 100% neighborhood buy-in. He said that assessing an individual owner's cost of the project based on scientific data of the factors found on each lot could be done, but this would come at a cost, and that assessment could still be debated.

Mr. Gregory asked about the cost of the project to date. Mr. Healy said that CBJ has not spent funds on this to date. Mr. Kiehl asked about logged staff time logged to an account and Mr. Healy said that was true, Mr. Bohan and Mr. Healy's time were logged and it was not significant, but he could provide that amount at a later time.

Mr. Kiehl said he was confused about the level of confidence in the assessment method. Mr. Watt said that deriving an assessment method was difficult. If we bring forward an LID, we have to defend the method of assessment from those who oppose. An equal assessment method follows the code and provides equal benefit, but there will be property owners who challenge the equality, based on level of need for protection and value of homes. Doing a LID with unwilling homeowners will drive us to an assessment based upon the value of the home or protection of the asset - tying to the value of the property protected.

Ms. Gladziszewski said it could be based upon riverfront footage as well. Ms. Mead said state law and CBJ code are similar. An LID is apportioned based upon the benefits derived. A flat apportionment is very unusual and she only knew of one case in Mat-Su, in the case of roads, where this had been done. The ordinance requires a rationally based assessment method, whether that be the footage of riverfront or the value of the home. The CIP required 100% voluntary agreement of all affected property owners. Ms. Mead said the CIP was a contractual agreement that required all participants in the contract to agree. Mr. Jones asked if, in the CIP, was there more of an opportunity for the city to contribute to the costs, rather than in the LID process. Ms. Mead said either process allowed the city to contribute to the costs.

Mr. Kiehl said he thought he had seen flat assessments in sewer LID's, and perhaps in paving LIDs. Ms. Mead said they had been flat, and this particular project flat assessments have been promoted because all of the homes are at equal risk, given the uncertainty of the river, which mean that the loss to the homeowners is the loss of the home. The homes are not equally valued, which by definition means they can't be equally benefitted. Mr. Kiehl asked about the value to the public, to the city as a whole and Ms. Mead said that did exist.

Mr. Watt said there have been many paving and sewer LIDs where they found equal benefit. There have been sewer assessments based on the potential development of the lots, and this is a more recent assessment method.

Ms. Gladziszewski said that conditions have changed and the vote on the LID is no longer the same, there are now people who are not supportive due to increased costs. She asked when the informal vote happens. Ms. Mead said the ordinance would be drafted, and there would be a hearing on it, which can be commented on in writing or at the hearing. Mr. Healy said that staff took an informal vote from the neighborhood before the beginning of an LID ordinance to get a sense of the support of the neighborhood commitment at a certain level of assessment. Ms. Gladziszewski said in this case it seemed that another informal vote may be needed. Mr. Healy said the largest uncertainty in costs is the NRCS funding condition to have access for construction. CBJ is required to acquire temporary construction easements from each property owner and if they don't want to give that, CBJ would have to pay for that and that was the uncertain cost. She said if the majority of the neighbors wanted this she was willing to support because of the potential funding from the federal government.

Mr. Jones said because the value of potential costs for the LID, the city would be tested in court. The defensibility of the LID is a concern. At the same time, this group of citizens pay property taxes and feel they are at risk. Some don't feel they are at risk. He did not want to support a fix where it benefitted only some homes. He thought CBJ needed to do something, given that a home may go into the river. If CBJ can put some funds in to defray the homeowners costs, it would be worth participating. He said he would support an LID. If the CIP by agreement is possible he wanted to find a way for the CBJ to participate monetarily. He understood that the value of those homes has decreased. His first option would be to come up with a dollar amount to lower a CIP by agreement, and second, the LID.

Mr. Kiehl said he thought the city needs to act for many reasons. We need to look at protection of public safety, health and welfare. He said the CBJ had withheld land for public sale that was in the avalanche zone and had installed breakwaters in the harbor to protect private property. Putting some CBJ resources into this project will still be 'getting off cheap' and he thought it was in the public interest. If we do an LID, and the bids come in high, the Assembly still has a decision point. We wouldn't let a naturally caused wildfire spread through the valley without fighting the fire.

Ms. White said the Assembly needs to look at this with a long view of precedence. This may open CBJ up to fix White Subdivision homes, or homes within wetlands. There will be an expectation from the public that the city will take care of things.

Ms. Becker asked why at the beginning it was stated the CBJ would not financially contribute, and what has changed to the point now where I hear we are considering contributing. Mr. Healy said the staff position in the August 29 memo from staff to the Public Works & Facilities Committee said CBJ

would act as the conduit of federal funds. We recommended at the time to move forward with an LID Process. Ms. Becker asked if there is a detriment to CBJ offering to pay, would CBJ receive less funding?

Mr. Healy said the NRCS looks at the estimated local contribution to this project with certain assumptions, such as a limited amount of money for construction easements, with a value of about \$2.2 million, with the remainder of the money provided by the NRCS. The NRCS does not pay attention to the color of money coming from the local sponsor as long as it is not another federal funding source.

Ms. Gladziszewski said she thought CBJ was already contributing, in staff time and the promise of maintenance for ten years. There are risks to this that CBJ is taking on already. There are properties falling into the river and we need to do something to prevent that. She wanted to move forward with an LID because the CIP by agreement was not likely to happen. She wanted to poll the neighborhood again.

Mr. Jones said it was true that staff time had been put in and CBJ would have ten years of maintenance, but none of that reduced the homeowner's 25% cost. In that \$2.2 million is staff project time, there are permitting costs. If we as an Assembly authorize that portion to not be passed on to the homeowners, but contribute to the 25%, that is a significant contribution.

Ms. Mead said for clarity, the first piece is the creation of the LID district. The ordinance includes the total construction cost, the amount paid by CBJ and the amount paid by the homeowners. Then, any eminent domain actions or takings, then construction, and then the assessment is done, because the final cost of the project is apportioned according to the apportionment method. She cited Article 4, 15.10.120.

Mr. Kiehl referred to 15.10.050 and asked about the process. The Assembly took a recess at 7:04 p.m.

Mr. Jones asked if CBJ pursued an LID, the rules say if 51% agree, or not, the Assembly could force all owners to pay the assessment whether they support it or not.

Ms. Gladziszewski said that a \$10-20,000 study per lot to identify individual benefit would cost more.

MOTION, by Gladziszewski, to apportion the cost of this project by property values, to take this information to the neighborhood and gauge the level of support, and to return the matter to the Committee of the Whole.

Ms. Gladziszewski said that staff charges time to projects and they are actual costs borne by the city that has to be paid. The costs would have to be taken from another CIP eventually if there is no project.

Mr. Gregory said that the neighborhood can propose an alternative method based upon a premise of equal benefits and he would like to know if the neighborhood has discussed this and has agreed upon a method. Ms. Gladziszewski said she was willing to amend her motion to apportion the cost by property values or by a method the neighborhood could agree upon.

MOTION, by Gregory, to amend the motion, based on paragraph 3, page 22 of the packet, in the staff's memo, to allow the neighborhood to propose an alternative assessment method based on a premise of unequal benefits.

Mr. Kiehl asked if that would fit into the LID law. Ms. Mead said if the neighborhood proposed a method determined to be rationale that would be acceptable. Mr. Kiehl said he did not object to the amendment.

Mr. Jones objected to the amendment. The federal appropriation does not exist, we are not on a

timeframe of yesterday due to some of the flooding already happening this year. Without a timeframe, we could be here for months with alternative proposals and votes on those. If we stick with the main motion we can address this more quickly. That option already exists and the neighbors have not found agreement.

Mr. Kiehl asked about the adjustment made to the assessment of the properties by the assessors. Ms. Cosgrove said she understood that it was a temporary adjustment on properties affected by disaster for one year. Ms. Mead said the reduction was capped and not all properties applied for the exemption. The assessor can assess at full and true value and the apportionment could be based on the full assessed value of the project minus the adjustment.

Roll call on Gregory amendment:

Aye: Becker, Gladziszewski, Gregory, Koelsch

Nay: Jones, Kiehl, White

Motion failed, 4 ayes, 3 nays (5 required to pass).

Mr. Kiehl said he was confused on the vote.

MOTION, by Kiehl, to rescind the last vote.

Roll call:

Aye: Becker, Gladziszewski, Gregory, Kiehl, White, Koelsch

Nay: Jones

Motion passed, 6 ayes, 1 nay.

Ms. White said if this agreement could be reached we would have been there by now and it may delay this.

Ms. Becker supported and hoped for a neighborhood agreement but it was not binding.

Roll call on Gregory amendment:

Aye: Becker, Gladziszewski, Gregory, Kiehl, White, Koelsch

Nay: Jones

Motion passed, 6 ayes, 1 nay.

MOTION, by Jones, that costs provided to the homeowners by CBJ in the informal poll exclude the project costs attributable to the payments for city services, up to the value of \$260,000.

Ms. Mead asked exactly what city services, there will be law department services and financial costs associated with the project.

Mr. Jones said the pro formas provided showed the only costs affecting the homeowners costs were the numbers provided by Mr. Healy. If there are additional costs that will eventually get rolled in to the homeowners, we have failed to disclose.

Ms. Mead said the creation of an LID requires authorization to the manager to initiate any eminent domain proceedings and those are the unknown costs that were assessed at the end of the project.

Mr. Jones said then we have not disclosed all full costs and it is unfair to charge neighbors for the cost of eminent domain for those were were unwilling participants.

Ms. Gladziszewski said she thought that those costs had been included and she was also surprised.

Mr. Healy said the estimate included in the March memo included an estimate in the amount of \$50,000 for land and easement prep, assuming the necessary easements for construction would cost that amount. If we have to purchase construction easements, that cost will go up.

Ms. Mead said the Assembly creates the LID district and estimate the cost borne by the property owners. Before the construction begins, if the CBJ knows the cost will be higher, we have to go back to property owners. Part of the risk to CBJ is that if property owners are not willing to provide easements and CBJ has to go through an eminent domain process, it is a lawsuit which requires payment of the property value and any legal services, and at the end of that process, if that cost exceeds Mr. Healy's estimate, the Assembly could go back to the property owners. It is not something that can be known before the LID ordinance is created with certainty.

Mr. Watt said that an informal poll of the neighborhood could include the property owners willingness to provide the easement.

Mr. Jones said, if, for the sake of this motion, we use Mr. Healy's numbers and the ordinance is drafted and approved, and two years down the road the cost were exceeded, under one option we go back to the homeowners - can we exempt that cost retroactively? Ms. Mead said the Assembly had that option.

Roll call:

Aye: Becker, Gregory, Jones, Kiehl, White

Nay: Gladziszewski, Koelsch.

Motion passed, 5 ayes, 2 nays.

MOTION, by Kiehl, to amend the motion to state that the default means of assessment be an equal amount for each property.

Mr. Kiehl said he was talking about protecting a neighborhood from a natural disaster and protecting the city. We do this in a number of ways and we don't do that to the value of the protection.

Mr. Gregory asked how other natural disasters had been handled such as a landslide. Mr. Watt said he could only think of one project to pave in White Subdivision in an avalanche area they consciously built a road and "landing pad" turn around culdesac for emergency vehicles, and the properties were assessed for a paving and utility LID.

Ms. Gladziszewski said she like the simplicity of equal assessment, and she believed all properties would equally benefit. The continued unease of the city attorney formed her motion, as an equal assessment will be more difficult to defend.

Roll call:

Aye: Becker, Kiehl

Nay: Gladziszewski, Gregory, Jones, White, Koelsch

Motion failed, 2 ayes, 5 nays.

Ms. Mead restated the main motion as amended: To apportion costs by property values, to take the number to the neighbors and ask them if would support it or to allow neighbors to propose an alternative assessment method, based on the premise of unequal benefits, with the cost provided to homeowners to exclude project costs associated with city services up to an amount of \$260,000. As part of the process, to ask the neighbors in the informal poll, if they would provide an easement for the temporary construction process. Hearing no objection, the motion passed.

C. Legislative Update from CBJ Lobbyist (verbal report)

Kevin Jardell, CBJ lobbyist, provided an update to the Assembly on actions taken by the legislature. He said this session had passed the fewest bills and spent the most time, but there were big items for discussion and a lot of time was spent figuring difficult issues out. The leadership in the House changed and there is a difference in philosophy between the House and Senate, but he believes the elected officials did their best for the people of Alaska.

He said there is an operating budget of \$4.1 Billion unrestricted general funds. Of that, \$2.4 Billion was a draw on savings. There was discussion about tapping the earning reserve of the Permanent Fund and the result was taking money from the Constitutional Budget reserve. The pro and cons included that the bond rating agencies want to see the will to go into the permanent fund to feel more comfortable on the debt. Alternatively, the CBR earns less than the money in the PF earnings reserve.

K-12 education was fully funded and is status quo. School Bond debt was vetoed last year, but we were able to fully fund it this year. Community Assistance (previously known as revenue sharing) is funded at \$8 million above the statutory amount and will result in \$470,000 to CBJ. The individual Permanent Fund Dividend was funded at \$1,100. Marine Highways received money in the capital budget for the Tustemena replacement and services is funded at status quo for existing service levels. Juneau Access was left with \$22 million in funding and \$22 million going to Northern Lynn Canal transportation projects.

Regarding revenue sources, the income tax passed the house with \$700 million in projected revenue. The Senate failed to pass it. The motor fuel tax increase (\$80 million over two years projected revenue) is still in committee. The permanent fund restructure (\$1.2 billion) passed the House and Senate and is in conference committee. The education head tax was introduced but got no movement. The oil tax credit reform passed and is a component of the plan. The Governor has discussed calling a special session at the end of October to look at revenue measures, including a gross receipts tax, a sales tax and/or an income tax.

Legislation passed includes SB100, introduced by Senator Egan, to fix a 1998 bill that created a problem to file municipal liens - that was fixed. The bill also allowed more flexibility to municipalities to extend property tax exemptions to manufacturing properties.

The Petersburg land selection passed and CBJ supported this.

Transportation Network Companies were allowed and though CBJ opposed the legislation, it was modified to allow municipalities to collect sales tax and to have the TNCs abide by traffic and parking regulations. There is an opt out clause that allows municipalities to ban TNCs by a public vote.

The crime bill is in house state affairs and there has been discussion on whether a call for a special session in October will include this. Mr. Jardell said that Ms. Mead had been great to work with on this.

Mr. Jardell said he would get information to Mr. Jones on the ban on smoking in public and the proposal to allow on-site consumption of marijuana in licensed facilities.

The Assembly recessed shortly at 8:20 p.m. and Ms. Becker left the meeting.

D. Pederson Hill Project

Mr. Watt said contrary to the information provided at the April 10 COW, staff has evolved the project into three phases, which will make development more streamlined, save money, and by not having the whole plat recorded at once, selling and building can move forward without utilization of a central treasury loan. This accomplishes the same goals in a less confusing way. Staff took the complete scope of the project to the Planning Commission for review, so this is not "piece-mealing" or phasing, but just scaling back on the method of development.

E. Annexation

Mr. Watt referred to the January memo on Annexation. He said that staff had reached out to Angoon

to meet but had not had success. He asked for the Assembly's direction.

Ms. Mead said there has been a pending application on file for the area which Petersburg was awarded, including area "A" in Tracy Arm that Petersburg was not awarded. That application needed to be withdrawn or amended. As submitting an amendment for just the area of Tracy Arm would require extensive work, if the Assembly was interested in including the other areas to the model borough boundary, including the tip of the Mansfield Peninsula, including Funter Bay, Horse and Colt Islands and the area including Pack Creek, it would make sense to include other areas into the amendment of the currently pending petition.

Following discussion by the Assembly, the matter was referred to a future Committee of the Whole meeting.

V. STAFF REPORTS

A. Hearing Officer Appointment

Ms. Mead referred to a memo sent to the Assembly with options for a hearing officer for the two pending appeals, and potentially a number of others pending.

MOTION, by Kiehl, to use the Office of Administrative Hearings for the two pending appeals. Following discussion, and hearing no objection, it was so ordered.

VI. ADJOURNMENT

There being no further business to come before the Assembly, the meeting adjourned at 8:45 p.m.

Submitted by Laurie Sica, Municipal Clerk