

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

May 1, 2017, 6:00 PM.

Assembly Chambers - Municipal Building

Assembly Work Session - No public testimony

I. ROLL CALL

Deputy Mayor Jerry Nankervis called the meeting to order at 6:00 p.m. in the Assembly Chambers.

Assemblymembers Present: Mary Becker, Maria Gladyszewski, Norton Gregory, Loren Jones (teleconference), Jesse Kiehl, Ken Koelsch, Jerry Nankervis, Beth Weldon and Debbie White.

Assemblymembers Absent: None.

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; Samantha Stoughtenger, Utility Operations Superintendent; Rob Steedle, Community Development Director; Bryce Johnson, Police Chief; and Ed Mercer, Deputy Police Chief.

II. APPROVAL OF AGENDA

Hearing no objection, the agenda was approved as presented.

Chair Nankervis requested that the July 10, August 7 and August 28 COW meetings be rescheduled to July 12, August 9 and August 30, with Finance having a preference for those nights if a meeting was needed. Hearing no objection, it was so ordered.

III. APPROVAL OF MINUTES

A. March 20, 2017 Committee of the Whole Minutes

Hearing no objection, the minutes of the March 20, 2017 Committee of the Whole meeting were approved with non-substantive corrections.

B. April 10, 2017 Committee of the Whole Minutes

Hearing no objection, the minutes of the April 10, 2017 Committee of the Whole meeting were approved with non-substantive corrections.

IV. AGENDA TOPICS

A. Utility Advisory Board FY 16 Annual Report

Utility Advisory Board Chair Leon Vance, Vice Chair Geoff Larsen, board member Janet Schempf, Utility Operations Superintendent Samantha Stoughtenger, and Engineering and Public Works Director Roger Healy were present to answer the Assembly's questions about the CBJ Utilities FY16 Annual Summary Report, dated March 9, 2017.

Mr. Vance said both Wastewater and Water have been performing excellently in terms of coming in under operating costs and expenses, but despite that, the outlook for future expenses and revenues

indicate a continued eating away at fund balance, even taking into account the scheduled rate increases, additional funding will be needed. They were not in a position to say the best route at this time.

Mr. Larsen noted that the revenue and expenses for FY14 - FY2024 show the utility rate increases approved end in FY19. The rate model anticipated the use of sales tax revenues. Sales tax revenues were not added in the revenue / expense model because they are an unknown at this time, but there will need to be action taken on this to match expectations.

The Assembly asked for information on fund balance targets, future utility rates and revenue bonds. Ms. Stoughtenger said that information would be provided and reviewed at an upcoming Public Works and Facilities Committee (PWFC) meeting.

Mayor Koelsch said he was not on the Assembly when some of the decisions were made and would like the newer members on the Assembly to be brought up to date. Mr. Watt said CBJ held utility rates flat for too many years and lost ground on updating the physical plant. The facilities were built in the late 1970's and early 80's. In FY14, the Assembly agreed to assume that half of the projected sales tax from FY19-24 would go into the utilities, but that has not happened and there is a range of options, including rate increases or 1% sales tax funding.

Mr. Nankervis asked if the rate increases have kept up with operations, but not with capital expenses. Mr. Vance said for years and years the rates were kept the same, things weren't replaced, and the rates were not paying for what was actually constructed. With reduced alternative revenue sources and rates that were not paying for what was built, the hole just keeps getting deeper. Ms. Stoughtenger said it was hard to quantify, but a lot of infrastructure was paid for by state grants and we did not budget for replacement, so on top of new infrastructure, we are needing to do replacement. Mr. Watt said this is a nationwide problem. The Clean Water Act in the 1970's built a lot of infrastructure and locally we have aging infrastructure. We built our system with sales tax starting in 1983.

Mr. Nankervis said the 6.5% increase annually now is not based on consumer price index (CPI), so this is not just current cost, but replacement costs. Mr. Vance said that the reason this board was formed about 12 years ago was that this gap exists and was acknowledged. There was a huge rate increase in 2004 and the goal was to try to address in a meaningful way that gap. There was a herky-jerky process of a rate increase, then the avalanche taking out the Snettisham power line gave sticker shock to the electric bills, and the rate increase was stalled. We have been on a smoother path for the last several years but we are still trying to address the hole that existed that we are trying to fill.

Mr. Gregory asked about the debt service described on page 2 and page 9 in FY20. Ms. Stoughtenger said this is for loans for Salmon Creek and LCB, based on incurred and needed projects.

Mr. Larsen said in 1989, the Mendenhall Waste Water Treatment Plan (MWWTP) received \$22 million from the Environmental Protection Agency (EPA). It is now 30 years later and the depreciation was never implemented in a way to build a reserve for replacement. The legacy of not putting money in the savings account for that need is why we are at the place we are. Addressing the biosolids project going forward is imbedded in the model. It will require Assembly action to address our model. We did not put state funding in to the model. The staff has been able to reduce operating costs, and we are at a juncture in 2-3 years that we will need to do something. We need to be mindful and determine if that will be from rate payers or sales tax or a combination.

Mr. Kiehl said he recalled the conversation of a half of one percent of sales tax for this program. He is concerned about rate shock and not capping this discussion at 2024. Ms. Stoughtenger said they are reviewing how to address this topic going into the future and staying current.

Mr. Jones said the rate study called for ten years of rate increases plus use of sales tax funds. It was determined that another study should be done before the end of the ten year period. He encouraged

people to re-read the rate study.

Mr. Nankervis thanked the Utility Advisory Board for its work on behalf of the community.

B. Alcohol Sales at Eaglecrest Ski Area

On January 12, 2017, Eaglecrest Board Chair Mike Stanley sent a memo to Human Resources Committee (HRC) Chair Loren Jones regarding "Eaglecrest Alcohol Restrictions." A copy of this letter is in the packet.

On February 13, 2017, the HRC met with Mr. Stanley and Eaglecrest Director Matt Lillard.

Mr. Stanley explained that there are two separate issues the board is requesting the Assembly to consider.

- 1) The first request is to expand the premises currently covered under Resolution 477 to allow for private parties to have alcohol catering in Eaglecrest facilities other than the day lodge.
- 2) The second concept is to allow the Eaglecrest Board to lease a portion of its premises for the sales and consumption of alcohol to the public, similar to the Airport. Eaglecrest would contract with a licensed vendor who would then obtain all licenses, permits and staff.

The HRC voted to direct the Attorney to draft an resolution regarding alcohol consumption on an expanded Eaglecrest premises, not limiting it to just the day lodge, for special events as currently allowed in Resolution 477. The HRC voted to forward the question pertaining to alcohol sales to the public at Eaglecrest to the Assembly.

On February 27, 2017, the Assembly COW met in joint session with the Eaglecrest Board. Mr. Jones updated the Assembly on the HRC's request for a draft update to Resolution 477. Following discussion, the Assembly did not object to further investigation of alcohol sales to the public at the ski area.

On April 3, 2017, Mr. Jones reported at an HRC meeting that he had met with the Eaglecrest Chair Mike Stanley and discussed some concerns that the Law Department had raised. He then subsequently met with Ms. Mead, who has provided a draft Resolution 2793 in the packet.

Mike Stanley, President of the Eaglecrest Board of Directors and Nate Abbott, Interim General Manager, and Bruce Garrison, Board Member were present. Mr. Stanley thanked Assemblymember Jones and Ms. Mead for their work on the issues and the draft resolution is a product of our discussions.

Mr. Stanley reviewed the sections of Resolution 2793. Sections 1, 3 and 4 update current operations and Section 2 is new. Section 1 expands the areas where caterers are currently allowed to serve alcohol during private events. Section 3 allows the ski area manager, rather than the city manager, to approve a caterer to serve alcohol for a special event, on a case-by-case basis. Section 4 would give the board the authority to approve on a case-by-case basis the sale, possession and consumption of alcohol in connection with a valid permit issued by CBJ Regulations Title 11, Chapter 7, such as the zipline business.

Section 2 would allow alcoholic beverages to be sold on site with a valid liquor license. We would do this through a vendor that is properly licensed. A facility at the ski area would need to be defined. The vendor would be under contract, subject to review by the risk manager and municipal attorney. We call it a "day pub," and in the 2012 master plan, the users identified this as a desirable service. It is common at many ski areas. Some people in Juneau do not want to see this and are concerned about drivers and road conditions. The Assembly and the Board discussed the public process to date

on this idea.

Ms. Becker said she was surprised and was not aware that alcohol was allowed now to the extent it was as she thought the Assembly had voted to not allow alcohol at the ski area. Ms. Mead said Resolution 477 did allow private parties in the Eaglecrest Day Lodge to serve alcohol, and it was adopted in 1977. Title 20 in the city code allows the manager to approve alcohol in city facilities for special events.

Mr. Kiehl asked for information on what the sale of alcohol could do to accident rates on the slopes. Mr. Stanley did not have a direct answer, but being at many ski areas, he did not think it would be significant. For insurance purposes, the increased cost was relatively modest so the people who write the policies do not think this will be a large risk. Mr. Kiehl would like some comparative information on accident rates with ski areas that serve / don't serve alcohol. Mr. Kiehl asked for information on how much alcohol would be served. Mr. Stanley said they were thinking they might have revenues of \$30,000 a year in additional revenue, and perhaps some additional food service revenue, and he would obtain and share the information that Mr. Lillard had gathered. Mr. Kiehl said he was very concerned about accidents on the ski area road and North Douglas Highway, so perhaps JPD could provide some status quo numbers.

Ms. Gladziszewski asked what analysis that the board did when discussing the issues of concern, and she would like to see the data, regarding accidents, revenue, etc. Mr. Abbott called Mountain Guards and found that 85% of ski areas allow alcohol sales. The most important key was responsible sales and the idea is to bring in a professional caterer.

Mr. Stanley said the license type would likely be a recreational site license, but there may be another type of vendor that could make this work. If the assembly says no sales - that is the answer. But if the Assembly gives permission to go forth then we can pursue more information. The Board fully understands the concerns and was not looking for a full service bar. It would not be in our interest to keep the facility open after hours. The Assembly could always withdraw the authority. The tenor of the board is a modest enterprise implemented through small steps. Mr. Kiehl said this language clearly limits a vendor to beer/wine/cider, and for special events it just says alcohol. Mr. Abbot - said at a special event, beer is the typical drink.

Mr. Nankervis asked if people were drinking at the ski area. Mr. Stanley said he thought it was common for people to pack their own in and tailgating went on in the parking lot. Mr. Nankervis asked about the intended hours of service of alcohol. Mr. Stanley said sales would likely not start until noon and would go through approximately 5 pm, and it would take place within the normal confines of the lodge use. The board did not anticipate keeping the door open longer just for alcohol or food sales. Mr. Abbott said he did not anticipate any sales after an hour after the last chair run. Customers have indicated that they would like this service, we would like to drive current activities inside and perhaps gain some revenue. Ms. Mead reiterated that tailgating activities are illegal.

MOTION, by Gregory, to forward Resolution 2793 to the May 22 Committee of the Whole meeting. Hearing no objection, it was so ordered.

C. **Mining Ordinance**

Ms. Weldon said that she is interested in economic development. We are losing government jobs and mining is part of the economic plan and a priority of the Assembly. All members of the Assembly were approached by Jim Clark and others and were asked to look at the CBJ mining ordinance and remove duplicative code language from state and federal law. She would like a robust public comment period and after the COW discussed this matter, she would like to move this issue to the Planning Commission.

Mr. Watt said that in 2011, the Mayor created the AJ Mining Committee, and he served on a committee of seven people, along with Ms. Gladziszewski, and they prepared a report, which can be

found now on the CBJ website home page. He encouraged people to review the work done in 2011.

Mr. Nankervis said the revised ordinance in the packet was provided to the Assembly without any Assembly input, and any changes to the ordinance would require significant public comment.

Ms. White asked for examples of other communities with mining ordinances other than those covered by state and federal statutes, and it did not have to be Alaska specific.

Mr. Watt said that question was asked in 2011 and we found that there were very few, and he would provide an update.

Ms. Gladziszewski showed a notebook of three months of work for the AJ Mining Committee service. The question to that committee was "Under what circumstances should the city review opening the AJ mine?" This was a limited question for this committee. The city is an owner of the rights to the AJ mine and it is our responsibility to investigate the use of our assets. The ordinance was written in 1989 and noted many newspaper articles from the writing of the ordinance. The work on the ordinance was performed by a 30 - member committee chaired by Ethel Lund. The Assembly hired a mining attorney and the committee work started in May. They worked very hard, and in November, mine ordinance revisions were unanimously approved. She listed the Assemblymembers who voted for the ordinance. She was confident that the Assembly could do something like this, and given that this issue is so contentious, she hoped to get something durable and unanimous. The 2011 committee did not look at the ordinance. Seven members of that committee agreed on a lot but we had dissenting opinions. A well designed public process would be needed. There is a baseline of knowledge that the Assembly needs. She thinks this work is a heavy lift and doing it right in a durable manner is required.

MOTION, by Weldon, to forward the draft mining ordinance to the Planning Commission for review.

Ms. Gladziszewski and Ms. Becker objected.

Ms. Gladziszewski said she did not believe the Planning Commission was prepared for this task. She felt it belonged at the Assembly level or a subcommittee. It is more work than just taking a version of the ordinance and sending it to the Planning Commission.

Ms. Becker agreed with Ms. Gladziszewski and said the Assembly needs to know more and there is a difference between what the 2011 committee worked on and what we have before us.

Mayor Koelsch asked about the Planning Commission's role. Ms. Mead said that any change to Title 49 was required to go to the Planning Commission. Mayor Koelsch said that should be the starting point.

Mr. Kiehl disagreed and said it is important to put policy first before drafting an ordinance, so policy that can get a large community buy in is important. The question is whether this change is the direction the community wants to go. To take a massive policy shift to a technical review team is not a recipe for success. If you want to develop the mine, the public needs to know the deck is not being stacked to get it to happen, and we should avoid the perception that the deck is stacked. The people in the middle are concerned and interested and it takes a careful process with a lot of people to get something that is fair.

Mr. Jones agreed with Mr. Kiehl's concerns and he said we have struggled to get legislation from the Planning Commission, we have looked at reducing their budget and giving them the work would not get it done expeditiously. The federal and state permitting process in the next few years could substantially change and we may not feel that we can be adequately protected. If we give up our responsibility to control who gets a permit, we need to be assured that we are giving the authority to something that is equal to what we want. There needs to be a lot of work done and at the manager's level.

Ms. White said that the Mayor has in the past created committees from the Planning Commission and the Assembly and we drafted regulations on the commercialization for marijuana, and those regulations seem to be working well. She suggested that process.

Mr. Nankervis said he would like to hear alternative ideas for handling this before its required work by the Assembly.

Ms. Gladziszewski said that there were multiple ways, getting citizen involvement of people that everyone trusts, or members of the Assembly and Planning Commission. She said through the 2011 process, she came to understand that a mine could be permitted here, and we need to do this in a fair and unbiased manner. It is astonishing that the Assembly did the job in 1989 unanimously. Ms. Gladziszewski said she did not know if the decision needed to be made at this meeting. We should take the time to do the job right.

Mr. Jones suggested that there would be a significant amount of staff time spent and he asked to defer the matter to the next COW to get more information on options to put any structure on this.

Mr. Watt asked the Assembly if it is talking about a mining ordinance borough wide or about the AJ mine, which is the "gorilla in the room." If the goal is to analyze and reduce redundancy in the local mining ordinance and we agree with Mr. Clark, that is a technical question and different from picking up the AJ Mine committee's work.

Ms. Becker felt it was important to review the ordinance submitted by the group and get an explanation for the proposed changes and see if we agree with their comments.

Ms. Gladziszewski said that this will take some expertise and time, and the manager will need to consider who will shepherd the facts. The mining ordinance is only one part of opening the AJ mine. Getting recommendations from the manager would be helpful.

Mr. Nankervis said he would be amenable to the Mayor and Manager presenting the Assembly with a committee structure.

MOTION, by Weldon, to amend her motion to keep this draft ordinance in the COW while the Mayor and Manager come up with a plan. Hearing no objection, so ordered.

Mr. Nankervis said the May 22 COW meeting is full, and this could be forwarded to the June meeting.

D. Public Safety

Mayor Koelsch said 50 years ago people in Juneau did not lock their cars or homes and always made eye contact and in the last four months we have seen four arson fires, slashed tires and numerous burglaries. He does not want to see this being the new norm. This is budget time and he wanted to hear from JPD if resources were needed in order to give the people on the front line the support they need.

Mr. Nankervis said he and Mayor Koelsch were walking downtown and he was surprised at how many complaints that the Mayor received that the Assemblymembers do not hear.

Chief Johnson thanked the Assembly for the invitation and he said he was biased but he feels this topic is of utmost importance. Crime has and is projected to continue to go up, and he provided statistics. There has been a fundamental shift in the criminal justice system at the state level and the laws are not working for us on the ground. We have lost sanctions and deterrents and the good proposed to come has not come, and we have an epidemic of drugs. We need more prosecutorial support and more sanctions. We need structural law change. He has been at the state level

encouraging change in the law. We may not see that change. The officers are doing good work. We have requested an increase for a sergeant to supervise drug crimes. We have a state investigator to help with our drug unit. The postal inspector is here and we have seized pounds of methamphetamine. This position is working well and Hoonah is seeking cooperation. The CSO position needs to be supported and it is a productive position. Prosecutorial support at the state level is needed. We need to look at our city ordinances and start prosecuting and this may require more attorney staff.

Ms. Mead said JPD gets prosecutorial support for CBJ misdemeanors and the problem is the prosecution of state misdemeanors. Chief Johnson said he would come up with a list of state ordinances that could become city prosecution..

Chief Johnson spoke about stolen and recovered property, a "take home" car program, staffing levels and other matters. The Assembly asked questions regarding costs of housing people in jail, dash-cams, the lack of follow-up from burglaries, and how SB91 was affecting operations. Ms. Mead reported on a pilot program in which prosecutors can utilize JAMHI to sentence people for cognitive behavior counseling through a Department of Justice grant.

Mayor Koelsch said it is an important topic and he wanted to address it in the budget cycle. We have done a good job holding the line but I won't be comfortable voting on the budget without doing something to help. He asked the manager to meet with the police chief to go over options. Mayor Koelsch said this should be an issue that all members of the Assembly can support.

V. ADJOURNMENT

Hearing no objection, the meeting was adjourned at 10:00 p.m.

Submitted by Laurie Sica, Municipal Clerk