

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

March 13, 2017, 5:30 PM.

Municipal Building - Assembly Chambers

This is an Assembly Work Session - No public testimony taken

I. ROLL CALL

Deputy Mayor Jerry Nankervis called the meeting to order at 5:30 p.m. in the Assembly Chambers.
[Clerk's note: the audio recording for this meeting begins at 5:35p.m.]

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

Assemblymembers Absent: None.

Staff present: Rorie Watt, City Manager; Amy Mead, Municipal Attorney; Mila Cosgrove, Deputy City Manager; Beth McEwen, Deputy Municipal Clerk; Rob Steedle, Community Development Director; Roger Healy, Engineering/Public Works Director; Bob Bartholomew, Finance Director; Assistant City Attorney Robert Palmer.

II. APPROVAL OF AGENDA

Mr. Watt requested that the Assembly COW switch the order in which the agenda items A & B will be taken up so that the meeting will begin with the Auke Bay Marine Station topic and then take up the topic of Ordinance 2016-26.

III. APPROVAL OF MINUTES

A. February 27, 2017 Committee of the Whole Minutes

Hearing no objection, the minutes of the February 27, 2017 Committee of the Whole meeting were approved with corrections provided to the Clerk.

IV. AGENDA TOPICS

A. Ordinance 2016-26 An Ordinance Amending the Land Use Code Relating to Access Standards.

The primary purpose of this ordinance is to create a new access option for certain subdivisions. If approved, the shared private access option would exempt lots in certain subdivisions from the requirement that lots have frontage on a public right of way, and instead allow the lots to be accessed via private shared access located in a private easement. Private shared access ways would be maintained solely by the homeowners.

In August, 2015, the Assembly directed staff to codify the existing practice of allowing shared access. Since then, Community Development staff has been working with the Subdivision Review Committee, a subcommittee of the Planning Commission, the Public Works and Engineering Department, the Fire Department, the Law Department, and the Planning Commission to develop the proposed changes.

On October 25, 2016, the Planning Commission approved moving the ordinance to the Assembly for its consideration.

This ordinance was introduced at the November 7, 2016, Assembly meeting and referred to the November 21, 2016, Committee of the Whole meeting. At that meeting, it was referred to the January 9, 2017, Committee of the Whole and was continued for additional consideration to the January 30, 2017, meeting. On January 30th, the Assembly and Planning Commission, at a joint meeting, discussed the ordinance. No date for a public hearing and Assembly action has been set.

The "strikethrough" version of 2016-26 included in your packet shows the changes (in italics) made by the Planning Commission at its last Commission meeting from the version of the ordinance as it was originally presented.

CDD Director Rob Steedle stated that there was a memo in the packet prepared jointly by City Attorney Amy Mead and CDD Senior Planner Laura Boyce that captures the issues previously discussed. Mr. Steedle said he was present to answer any questions the Assembly may have.

Ms. Mead said that her goal at this meeting was for the Assembly to provide the answers to the following questions, as well as those found at the end of the memo.

1. **Should private shared access be allowed in the case of hardship (topography or access limitations) or allowed outright?**
2. **Should the uses allowed on private shared access be limited?**
3. **Should private shared access be limited to single family zoning districts or should it be allowed in multifamily districts, too?**
4. **Direction on staff recommendations. (as outlined in the memo)**

Discussion took place re: question 1 above. The Planning Commission recommended that the shared access be allowed outright. Mr. Steedle noted that the ordinance that went to the Planning Commission made it hardship based and although the decision was not unanimous, the commission did make it outright. Mr. Steedle also noted that staff disagreed with that recommendation.

Ms. White said she would side with the Planning Commission on this and felt that it should be allowed. There has been a lot of talk about making housing more affordable. She pointed to the ordinance on page 2, line 23 and asked why the language was being changed as follows: "In addition, improvements must be designed and constructed to allow the potential ~~provide~~ for future extension to adjoining lands." Mr. Steedle responded that it was a wordsmithing change and not substantive. Ms. White said that she feels that is a very substantial change as "providing for" says we are going to allow you to do something, whereas, "allow the potential" means you can spend thousands of dollars and then still be told no. Ms. Mead said an example that illustrates the difference is with sub-streets. We require developers, when there is a subdivision being built when it is tying into an existing subdivision, to build a sub-street. Ms. Mead said that this change would not necessarily require that and when she discussed it with Ms. Boyce, she stated that was not the Planning Commission's intention. Ms. Boyce said she thought this was nothing more than wordsmithing and that Mr. Voelckers's intent was to make the language more clear. Ms. Mead said that she disagrees with that and would recommend that the Assembly leave the language alone as it appears in code right now which is to keep in the word "provide" and not substitute it with the words "allow the potential."

Ms. Gladziszewski asked if they could characterize the reasons regarding "hardship" or "outright" and what the argument that the Planning Commission had regarding "outright."

Mr. Steedle stated that with respect to "hardship," the Planning Commission felt that too much judgment was required in order to determine that a hardship existed. He said a hardship generally comes down to money and they felt it was easier to just make it an outright provision. Staff felt that was not a good idea and that it should be hardship based and would like to provide the orderly development of the street networks and not have shared access driveways wherever someone wants to put them in. Staff would like to see roads developed where roads can be developed and only provide these shared access roads where there is a hardship.

Ms. Mead stated that she wanted to remind everyone where this came from and why they came up with this ordinance. When the subdivision ordinance was passed, staff brought up the question about where they should put access language. Staff had a long standing practice of allowing variances for access issues. Staff wanted to get away from that and bring to the Assembly a shared access ordinance that would put into code staff's longstanding practice of allowing these types of things in certain situations. What they did in the temporary time being, was to put access in a place in the code where variances would be allowed for while they worked on this draft ordinance. The way staff had been using this in the past in cases of infill development. Staff was allowing these to go in places where development wouldn't occur otherwise because it was too expensive or the topography wasn't practical or access issues would prevent the development. That was the genesis of this ordinance but at the last Planning Commission meeting, this went in a very different direction. She advised the Assembly to keep in mind that if they do open it up as a matter outright, they have to be very careful not to devalue or conflict in any way with the street standards. She noted that the memo mentions a couple of places where that occurred in relation to some of the other points covered in the memo.

Ms. Gladziszewski asked where specifically the language changes the words "hardship" to "outright"? Ms. Mead explained that it doesn't say "outright" exactly but pointed to pages 5 & 6 of the draft ordinance under 49.35.260 the strikethrough language of items (a) and (b) are what required the hardship. Allowing it outright shows in the strikethrough of that language as well as some of the other things the Planning Commission did with the code, which are addressed in some of the other questions in the memo.

Mr. Nankervis asked Mr. Steedle and Ms. Mead for confirmation that when the Assembly revised the subdivision ordinance, they limited it to a specific geographical area. Mr. Steedle stated that this was not codified at all in the subdivision ordinance. The direction they got at that time was to attempt to codify the current practice. The ordinance currently in front of the Assembly, departs somewhat from their practice. He thought Mr. Nankervis may be referring to the limitation on private driveways in the public rights of way which is limited to the area outside of the urban service boundary. Mr. Nankervis asked about that not being in front of them right now. Mr. Steedle stated that language is contained within this ordinance but it is not part of the code modification of this ordinance. On page 10, line 11, he read the language of 49.35.270. Mr. Nankervis asked if they were to eliminate the geographic language which currently has that provision only occurring outside the urban service area, would it solve any of the questions in the March 9 memo. Mr. Steedle said that it would not, it is a separate question. He pointed out that there were a couple of property owners near Twin Lakes that have sent messages to the Assembly concerning development on Bauer Lane and Hooter Drive. This limitation of keeping it outside the urban service area affects those property owners but that is not one of the points that is summarized in the memo.

Ms. Mead stated that additionally, the privately maintained access roads in public rights of way are in a public right of way on public lands whereas those relating to this ordinance are solely on private land.

Mr. Jones pointed out on page 7, line 15, that the Assembly had originally limited this to D1, D3, D5, and D10 SF zoning districts but what the Planning Commission did was to allow it in RR and ALL residential zones, so that was a major expansion in lot size and all kinds of things.

Mr. Steedle suggested they may wish to address each of the questions as outlined in the memo. They have discussed the topic about the hardship vs. the outright question and he suggested they decide which way they want to go and give direction to staff on that topic and then move onto the next question about uses.

Mr. Nankervis asked if there were any additional Assembly questions relating to the hardship vs. outright question. Mr. Gregory asked if one would permit more development than another. He said his impression would be that allowing it outright would permit more development easier for the land owner. Ms. Mead said she doesn't think that is the right way to ask the question. She said that if someone is capable of putting in a street in a public right of way, the preference of staff is that the

code requires them to do that. It eliminates a lot of issues that can occur when shared access occurs on privately owned land, it minimizes neighbor disputes. It allows the CBJ to maintain what is a public road, and this would allow developers who could otherwise put in a road to choose to put in private access on private land instead. This was intended to increase development by loosening standards where it would just be too expensive or impossible for the landowner because of disproportionate costs to otherwise develop his or her property.

Ms. Gladziszewski asked Mr. Steedle that if this was initially an attempt to codify what had already been the practice, that was based on hardship and special circumstances. Mr. Steedle said that yes, for the most part, that has been the case but there have been instances in which this has been allowed and the hardship is not readily apparent. Ms. Gladziszewski asked what the experience of those access issues were. Mr. Steedle said that there can be disputes among neighbors over what is in the access maintenance agreement and they will want to turn to their local leaders to resolve those disputes which are civil disputes. He said that is one potential problem with shared access.

Mr. Nankervis said he would not share the attorney's concerns, personally, he thinks that shared access is private access and it is not the city's concern with disputes between property owners or use agreements. Ms. Mead said she would not necessarily disagree with that but there is one other issue that she wanted to alert them to and that is by allowing these outright, it is envisioning that they be allowed in places where there could be development in and around them. If that were to occur and there were a development that wants to go through or somehow use the same access, that would require either the land owners to give CBJ property or for the city to somehow "take" the property in order to turn that into a public right of way. She said she alluded to this earlier in the meeting when she mentioned that they need to be careful not to dilute their street standards. That topic came up as they were discussing the privately maintained access within the public rights of way with the subdivision ordinance. There was a lot of concern about what happened when development happened behind one of those things and who paid for that. She said the same concerns would be present if these are opened up and allowed outright but this would be an even greater concern because this would be on private property.

Mr. Nankervis said the conundrum he is having is that they tried to fix this because they were told they needed to fix this and they did but now it is before them again and needs to now be fixed again with all sorts of warning labels attached.

Ms. Mead said she wouldn't be bringing the warning labels if the ordinance came through as it was originally brought forward to the Planning Commission. CDD staff and Law worked on a draft ordinance for quite a long time and had a comprehensive package brought forward in an ordinance to the Planning Commission that was based upon their recommendations from the Title 49 committee and discussions that staff had with the Planning Commission on this issue and staff's past practice. It was at the last Planning Commission meeting that there were some tweeks that were made to the ordinance. She compared it to an ordinance that was a very structurally sound "House of Cards" and the Planning Commission went in and changed a few things here and there and now the whole thing is quite shaky. She said that is the reason there are so many issues for the Assembly to address right now. That is also why she provided a strikethrough version of the ordinance to show them what it looked like when it was first proposed vs. what it looks like now.

Discussion took place about the process and the review by the Planning Commission. Ms. Gladziszewski said she would find it very difficult to go against the recommendations of the Planning Commission since they have deliberated long and hard on this issue and they have the time and expertise on their side vs. the Assemblymembers. Mr. Jones explained that the bulk of the changes to the ordinance by the Planning Commission were not passed unanimously and were discussed and rejected at previous meetings and only passed at the very last meeting and the issues before them now, only came through at the last minute.

Ms. Mead said that this could be brought back to the Planning Commission as it cannot be passed in the way that it left the Planning Commission. She said that there are pieces that internally conflict and something has to be done to it. There are changes that were made that have other consequences that

have not yet been discussed that would require other code changes. It either needs to be the Assembly that considers those changes or it needs to be sent back to the Planning Commission.

Mr. Nankervis asked what she meant by that. Ms. Mead said that one example has to do with question # 2) "Should the uses allowed on private shared access be limited?" As the ordinance originally went forward to the Planning Commission, what had been discussed in the Title 49 Committee and with staff and what had been developed in the ordinance was a concept where these would be allowed on a maximum of four lots, 70ADT (average daily trips), uses would be limited to a single family home and an accessory apartment. The change that was made was to allow any use allowable under the TPU (table of permissible uses) for that zoning district. She said that cannot be applied as written. If there were a single family home and a duplex and someone wanted to put in a child care, you are way over 70ADT. The concept would have to be such that when a developer comes and says they want to subdivide into two lots, CDD would have to allot the allowable ADT to two lots and that would somehow be put on the plats. What if the subdivider wants to put in a third lot? They can't because that is prohibited by the ordinance. What if someone wants to open a business that is allowable under the TPU, they would somehow have to bargain with their neighbor or figure out who gets the majority of the ADT to allow the business to go forward. That would potentially require a plat amendment and we do not have any process in the code for a plat amendment. CDD also does not have a process for determining how to allot the ADT if applications come forward for competing uses. That would have to be codified to be fair and appealable, etc... so that is just one example.

Ms. Gladziszewski said this has taken so long already but that if the actions taken by the Planning Commission resulted in things they didn't understand were affecting the rest of the chess board, she feels this should be sent back to the Planning Commission so they can make their recommendations consistent with something that can be enacted. If they are giving the Assembly something that cannot be enacted for various reason, it should go back to them to make a version that can be enacted since they have more expertise and more hours spent on these issues than the Assembly will ever have and she would not want to replace the Assembly's judgement for theirs.

Mr. Nankervis recessed the meeting for a 7-minute at ease. [7:05p.m.]

Mr. Nankervis said he was concerned that they may not be able to make it through all the questions raised with this ordinance during this meeting and he thinks they may get hung up on question #1 so moved the discussion to question #3 in the memo as follows:

3. Should private shared access be limited to single family zoning districts or should it be allowed in multifamily districts, too?

Mr. Gregory said he thought it would be to limit it to single family zoning based on the number of trips but he would be happy to hear from staff to find out what their recommendation is. Mr. Nankervis said this goes to the strikethrough language on page 7 of 16 on lines 15-16 that someone mentioned earlier. Mr. Jones said that he was the one to bring that up earlier and he feels it should revert back to the original language as written prior to the change by the Planning Commission. He said he feels that the ADT speaks to that and we need to be clear that if they are going to put a D18 and build to the allowable use under a D18, it would far exceed the ADT that is in the ordinance. If they will allow that to happen, builders will be substantially under the capacity by the zoning and the Assembly doesn't want to encourage that. If someone rezones or buys property to D18, they should build to that standard.

AMENDMENT #1 Mr. Nankervis clarified that what Mr. Jones was asking for was to change the language on page 7, line 15 to strikeout the word "residential" so that it would read as follows:

(8) Shared access is only allowed in RR and the D1, D3, D5, and D10 SF zoning districts defined by CBJ 49.25.210.

Mr. Jones confirmed that was the amendment he would like made to the ordinance before them.

Ms. Gladziszewski asked if this amendment would address the ADT issue? Ms. Mead explained that it would not.

Mr. Steedle explained that the reason the Planning Commission made this change was that they felt that zoning could be a very coarse instrument for defining how development would take place in the borough and that there were areas that may be zoned D18 but that there were parcels within that D18 zoning district that lend themselves to only to single family development. Mr. Voelckers pointed out that in Douglas, there are large areas that are zoned D18 but the way the lots are configured and potentially accessed, only single family housing development is feasible and that is what drove this decision.

Mr. Gregory said that he has often heard about up-zoning and he was wondering if there was such a thing as down-zoning in that situation so they could conform to this standard. Mr. Steedle said that is possible if the area in question is two acres or greater or if you are extending the zoning of an adjacent zoning district. He said he did not think either of those would be possible in the area of Douglas that he was referring to so they would not be able to downzone in order to make use of a different development type.

Ms. White objected to the motion to amend the ordinance under Amendment #1 above. Ms. White said that the way Mr. Steedle explained it now makes sense to her. She said they have struggled for years to try to come up with a land use code that can be uniformly applied to property that can't be uniformly developed. She said the Planning Commission spent a great amount of time and explained their reasons and she would like to stand by what the Planning Commission has said and that the Assembly needs to respect the job that they do and the product of their work.

Roll Call Vote on the AMENDMENT #1

Ayes: Jones, Weldon, Kiehl, Gladziszewski, Gregory, and Nankervis

Nays: White, and Koelsch

The motion on Amendment #1 passed 6 ayes and 2 nays.

Ms. Mead recommended for the next steps, the committee should take up the three changes recommended by staff at the bottom of page 2 of the March 9 memo:

1. Amend the "vested rights" provision. 2016-26 includes a very broad, unlimited "vested rights" provision. (See 49.35.263(f), at p. 9.) In order to avoid unintended consequences, staff recommends that the Assembly amend 49.35.263(f) as follows: "The standards identified in this article do not apply to any preexisting shared access previously permitted by the department."

MOTION by Ms. Gladziszewski to adopt staff recommendation #1 as listed above.

Hearing no objection, the recommendation #1 was approved.

Ms. Mead explained the recommendation regarding amendment #2 as shown below: 2. Amend CBJ 49.35.262(b)(1) (at 2016-26 page 6), to remove the requirement that shared access be completely on and fully cross all lots served by the shared access. This section is inconsistent with the provision authorizing the director to allow for a reduction in the width of shared access. (49.35.263(d), at p. 9). Staff recommends preserving the director's discretion to reduce the width of the access. Ms. Mead explained the this recommendation was due to an inadvertent inconsistency created at the last meeting where there was a motion made to require the access completely be on and fully crossed all lots served by the access. It conflicted with the provision allowing the director the discretion to reduce the shared access width when the director found that certain conditions had been met. Staff's recommendation is to preserve the director's discretion to allow for narrower access where the director deems it reasonable to do so and eliminate the inconsistency. This was a topic discussed at the joint meeting with the Assembly and Planning Commission Ms. Weldon said this was one that she had questions on and she asked staff to explain it further. Mr. Steedle explained the issue and drew a diagram on the board to illustrate the concept. Then Mr. Kiehl had questions about the language on page 7 regarding the strikethrough language as follows:

~~(9) Shared access is prohibited if street connectivity would be impaired.~~

(10) Shared access is prohibited if the subdivision abuts a parcel that does not

have alternative and practical frontage on a publicly maintained right of way.

Mr Steedle provided a different diagram to explain the alignment of ROW on the shared access and how the strikeout language in 9 above how it would be different from the recommendation 2 on page 2 of the memo. Mr. Kiehl said he is satisfied with staff recommendation 2 from the memo.

MOTION by Ms. Gladziszewski to adopt staff recommendation #2 as listed above.

Hearing no objection, the recommendation #2 was approved.

Ms. Mead explained the recommendation regarding amendment #3 as shown below:

3. CDD staff advises that the Commission did not intend to make a substantive change to 49.35.262(b)(2) (see 2016-26 at page 6).³ Law recommends this change not be made.

[³ 49.35.262 (p. 6): The developer ... may be required to make improvements beyond the development boundary in order for all of the improvements to function properly. In addition, improvements must be designed and constructed to allow the potential provide for future extension to adjoining lands.]

After much discussion, it was determined that the reference to 49.35.262(b)(2) on page 6 of the draft ordinance was an incorrect reference. Ms. Mead said the correct staff recommendation was to leave the language as found in 49.35.120 (a) as it was originally drafted (removing “**allow the potential**” and keeping the word “**provide**” as follows:

"The developer ... may be required to make improvements beyond the development boundary in order for all of the improvements to function properly. In addition, improvements must be designed and constructed to provide for future extension to adjoining lands."

MOTION by Ms. Gladziszewski to leave the word “**provide**” and take out “**allow the potential**” on 49.35.120(a).

The committee and Ms. Mead referred back to the earlier discussion regarding wordsmithing vs. this being a substantive change.

Ms. Gladziszewski said that she made the motion because it was the attorney’s recommendation to revert this back to the original language so that there was not a substantive change, however, Ms. Gladziszewski said she thinks the words “allow the potential” are less mandatory whereas “provide” says you shall do it now. Ms. Mead explained the reason for her recommendation was due to the fact that she was told it was not the intention of the Planning Commission to make a substantive change. She said that if it was the intent of the Assembly to change practice, the language change in the ordinance removing “provide” and replacing it with “allow the potential” would be appropriate. If the intent is not to change practice, she feels the language is clearer as originally written.

Mr. Gregory asked if this ties back to the first question on page 1 of the memo regarding these being allowed only in a hardship case or if it should be allowed outright. He said he is curious about a piece of property that has been developed all the way around it and maybe abuts next to a park area or other piece of land that may not get developed. He said if that would have to have a hardship situation there or if it would be allowed outright in that type of situation.

Ms. Mead said she does not think so. She said that this doesn’t really apply to shared access if shared access can’t go in when there is future development behind it that is going to tie into it. That is not the intention of these things. This really applies to other types of development and it was not her understanding that the Planning Commission intended to change current practices back to those others types of development.

Hearing no objection, the motion to revert back to the original language keeping in the word “provide” and removing the words “allow the potential” passed.

Ms. Mead said they are now down to other questions. Question #1 is answered in part by how they answer question #2. She said that #2 is a change to the type of use that would be allowed on the lots. Originally, it was intended to be residential parcels only, single family homes with accessory apartments, they limited the ADT to 70, the reason being that our street standards right now are tied to ADT (average daily trips). Depending on what the estimated ADT is on the access way, will determine the intensity of the development on the street that needs to be developed. The Planning Commission originally started out with an ADT of 70 on these things and a total of 4 lots. That would give them a single family on each lot with an accessory apartment. At the last Planning Commission meeting, there was a motion to allow any use allowable under the Table of Permissible Uses (TPU) for that zone. If that is the direction the Assembly wants to go, she will need to pull this ordinance back and make a number of changes. She said she is not sure what those changes might be as it will be difficult to codify. That was the example she gave at the beginning of the meeting regarding the child care scenario. If they were to pre-allot ADT to each lot, there would need to be some way to memorialize that, such as a plat note. The idea that as uses change, ADT could be bartered back in forth in some way like with credits, there would need to be something in code that would allow for plat amendments which we do not have right now. Those are the types of tricky things that come up if it is opened up to allow any use to be allowed on shared access. She said the original intent was to limit it to single family homes and accessory apartments.

Ms. Gladziszewski said the original intent of this whole thing was to encourage infill development and she doesn't think they could even get to all the ramifications of all the ADTs in option B so she would be in favor of option A which accomplishes the original goal and puts this down into the code.

Mr. Kiehl asked for staff to give a brief synopsis on why 70 ADT is a hard and fast limit and why it should or shouldn't be.

Ms. Mead said that was the calculation for a single family home with an accessory apartment with up to four lots. Further discussion took place regarding limiting this to residential zones or any use, changing the ADT numbers or not and whether or not this should go back to the Planning Commission.

MOTION by Mr. Kiehl to refer this back to the Planning Commission to develop this further under Question 2 - Option B.

Ms. Weldon and Ms. Gladziszewski objected to the motion and Ms. Weldon stated that she would prefer to go with Option A.

Roll Call Vote on Question 2 – Option B and remand the matter back to the Planning Commission

Ayes: Kiehl

Nays: Jones, Weldon, Gladziszewski, Gregory, Nankervis, White, and Koelsch

The motion failed; 1 aye and 7 nays.

MOTION by Ms. Weldon to adopt Question 2 – Option A

Roll Call Vote on Question 2 – Option A

Ayes: Jones, Weldon, Gladziszewski, Gregory, Nankervis, White, and Koelsch

Nays: Kiehl

The motion passed. 7 ayes and 1 nay.

Discussion then took place regarding the language on page 3 of the TPU and the intent of requiring paving or not since the Yes/No language in the last line of the table under the column Paved Roadway Required does not match up with the strikethrough note under iii below. Mr. Steedle said it was the intent of the Planning Commission to require paving. He said the original ordinance called for the first 20 feet of the driveway to be paved in order to keep gravel off the publicly maintained right of way and that was changed by the Planning Commission to require they pave the entire length of the driveway.

They then discussed the strike though language on page 7 and Ms. Mead said she would make sure that the language was consistent in the final ordinance. Discussion took place regarding whether the entire driveway should be required to be paved or not.

MOTION by Ms. White to change language in TPU back to “No” and return the strikethrough language on page 7 to require only the first 20 feet from the edge of the public roadway be paved.

Discussion took place about this proposal and what the discussion at the Planning Commission. Ms. Gladziszewski objected and deferred to the Planning Commission recommendations to this matter. Additional discussion took place regarding the “portion within the right of way.” Assistant City Attorney Robert Palmer did a diagram showing rights of way, paved areas, how this would affect the 20 feet from the edge of the public rights of way. Mr. Watt also talked about the differing widths of rights of way in different areas of the borough and gave the example of the North Douglas Highway large swings in the widths of those rights of way.

Ms. White withdrew her motion.

They then discussed whether this ordinance would need to go back to the Planning Commission for additional review. It was decide to take up Question #1 regarding hardship or allowing outright.

MOTION by Mr. Koelsch that when this matter is forwarded to the Assembly, the word “**outright**” be included in the language.

Ms. Gladziszewski then asked the attorney if the word “outright” needed to be added or if by the removal of the other language, it was the result of that change. Ms. Mead explained that the language in the original draft that talked about a showing of hardship, either by topography or limitations with respect to access, those were removed which then made the ordinance a matter of outright.

Hearing no objection, the motion to include the word “outright” when this matter is referred to the Assembly, passed by unanimous consent.

Mr. Nankervis asked the committee if anyone wished to visit page 7 of 16, line 21 and 22 since it had been previously discussed.

MOTION by Ms. White to restore the strikethrough language on page 7, lines 21 & 22 and to also make the change to the TPU line 17 to change the Paved Roadway Required section back to “No.”

Ms. Gladziszewski objected to the motion.

Roll Call Vote

Ayes: Jones, Weldon, Gregory, Nankervis, White, and Koelsch

Nays: Kiehl, Gladziszewski

The motion passed. 6 ayes and 2 nays.

MOTION by Mr. Koelsch to forward the ordinance as amended to the Assembly for adoption.

Mr. Kiehl asked for clarification as to what actually changed or did not change when the motion to adopt Option A under question 2 passed. Ms. Mead explained that the only change would be to add section (6) back in on page 7 under 49.35.262(b). Mr. Kiehl asked if that meant that the language on page 9, section 49.35.263 previous section (f) was then being added back in. Ms. Mead explained that language was the vested rights issue that the Assembly previously took out and that amendment passed. Mr. Kiehl removed his objection.

Hearing no objection, this ordinance as amended will be forwarded to the Assembly.

B. Auke Bay Marine Station (Verbal Update)

Mr. Watt explained that he has been involved in ongoing negotiations and discussions with the University of Alaska and Docks and Harbors about the disposition of the Auke Bay Marine Station property that the federal government is proposing to dispose to one or both parties. He said they have been trying to find the middle ground and it has been difficult. He said that part of the reason it has been hard is that both entities have missions that don't really align and that is not the fault of either party.

Docks and Harbors is commanded by the Assembly to manage tidelands, provide harbors, small boat moorage, run revenue neutral. In that mission, they are finding it hard to accommodate some of the university's requests. Similarly, the university is a land grant university and the way land grant universities work, they gain title to land and they use those land assets to leverage their university programs. The university does not have at the top of their thoughts, how they mesh with enterprise harbor operations so there is a bit of an institutional culture clash. Mr. Watt said that he had hoped to get the parties a little closer together. He feels they are close but he would like the Assembly, as the owner of the Docks and Harbors system, to confirm or adjust the Docks and Harbors position and determine if they can bring these negotiations to a conclusion. If they can't reach a conclusion, that leaves it up to the GSA to decide the outcome. He said that fundamentally, he would like to avoid that and that we should be able to make better decisions at the local level than a federal employee in another state can.

Mr. Watt said that he gave three handouts to the committee members:

- 1) an email he sent last week to Chancellor Caulfield and Port Director Uchytel,
- 2) an aerial photo of the property, and
- 3) an engineering drawing of the site.

He explained that the email sets out the four key issues that are the crux of the matter with the first three being mainly administrative but the fourth issue is the key sticking point. That dealing with the NOAA "Fish House" that was constructed on State tidelands which have since been conveyed to the ownership of CBJ Docks and Harbors. The tideland lease to NOAA runs through 2020 and it has been proposed that UAS be given the right to use the Fish House for ten years, and Docks and Harbors objects to a further encumbrance of tidelands that they control (outside of GSA conveyance).

Along with Mr. Watt, Docks and Harbors Board Chair Tom Donek and Port Engineer Gary Gillette were present and answered a myriad of questions related to the property, the process, and where to go from here.

The Mayor suggested that anyone direct their ideas to the City Manager and put an update on the April 10 Assembly COW agenda so the Assembly can deliberate to get it by May 1 into the proper form and submitted.

Mr. Watt said the main purpose of having this topic on the agenda was to educate the Assembly about the issues, hear from them any suggestions and concerns and go back to the two parties and bring the final pieces back to the Assembly in April. He said, they will bring a concrete choice back to the Assembly the next time it is before them. Mayor Koelsch asked for a date certain to which Mr. Watt said it would be coming back no later than April 10.

C. **RecycleWorks Update**

Link to RecycleWorks Presentation, Please Read in preparation for 3/20/17 Assembly COW:
www.JuneauRecycling.com Click on 'Hot Topic'

Mr. Watt asked that the Assemblymembers read the information that is available on the link in the packet in advance of the March 20 COW meeting.

V. ADJOURNMENT

There being no further business, the meeting was adjourned at 8:16 p.m.