

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

October 31, 2016, 6:00 PM.
Municipal Building - Assembly Chambers

Assembly Work Session - No Public Testimony Taken

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 Gladziszewski, Norton Gregory, Loren Jones, Jesse Kiehl, Jerry Nankervis, Beth Weldon and Debbie White.

Assemblymembers Absent: Ken Koelsch.

Staff present: Rorie Watt, City Manager; Mila Cosgrove, Deputy Manager; Robert Palmer, Assistant Municipal Attorney; Laurie Sica, Municipal Clerk; Scott Ciambor, Chief Housing Officer; Beth McKibben, Planning Manager; Rob Steedle, Community Development Director; Bryce Johnson, Police Chief, Bob Bartholomew, Finance Director.

II. APPROVAL OF AGENDA

Hearing no objection, the agenda was approved as presented.

III. APPROVAL OF MINUTES

A. August 29, 2016 Committee of the Whole Minutes

Hearing no objection, the minutes of the August 29, 2016 Committee of the Whole meeting were approved.

B. October 10, 2016 Committee of the Whole

Hearing no objection, the minutes of the October 10, 2016 Committee of the Whole meeting were approved.

IV. AGENDA TOPICS

A. Ordinance 2016-30 An Ordinance Amending the Comprehensive Plan by Adopting the Housing Action Plan.

Mr. Watt referred to the memo from Scott Ciambor and Beth McKibben contained in the packet, along with the Planning Commission report and the Housing Action Plan. Staff has set a course for decision making by the Assembly. He said additional decisions would be made in the future by the Assembly through the CIP process, through future land disposals such as Peterson Hill and in any future code amendments.

Ms. McKibben said the Affordable Housing Commission sought funds from the Assembly to complete this Housing Action Plan as a recommended action by the Economic Development Plan. The plan author, the firm CZB, is a housing specialist in Alexandria, Virginia which drafted this plan, with input from the Affordable Housing Commission. There were meetings with focus groups, public meetings with presentation of the draft plan, and the Planning Commission has

recommended this plan be adopted as a component of the Comprehensive Plan. This plan is a toolbox to use to address the housing issues in Juneau. The plan recommended creation a position for housing and the Assembly was proactive in doing so and Mr. Ciambor is now in that position.

Mr. Nankervis opened the meeting for Assembly questions.

Mr. Jones said the nine solutions are listed in priority order from the AHC, and this seems to be in opposition to the statement that this is a toolbox for the Assembly to use. There is no mention of zoning changes and small area plans. He said he was lost - is this a plan with priorities or will the staff pick and choose.

Ms. McKibben said there are nine recommended actions that were prioritized by the Affordable Housing Commission (AHC) - the implementation tools for those actions are not prioritized. The AHC made their recommendations in June 2016 and Mr. Ciambor has since worked with them on their action list.

Ms. Becker asked for more clarification on the nine solutions. Mr. Ciambor said the 9 solutions are in the plan and the sequence of events/ prioritized list are some of the thoughts of the AHC - which gives counsel and guidance to the Lands Committee and on to the Assembly. He said his role is to be a conduit of the dialogue and he can take the Assembly's message to the AHC to tell them the priorities. This begins the dialogue.

Ms. Gladziszewski sought clarification on the priorities. Mr. Ciambor said that the memo captured the thoughts of the AHC and their interest and direction they wished to take.

Mr. Jones said there is nothing in the memo about production targets. We have discussed that we need to know how many homes of what types are needed and I don't see that information. If this is priority orders, why are we not looking at production targets - this memo jumps all over. The implementation strategy in the memo is not close to what is recommended by the plan or what we have sought.

Mr. Ciambor said the detail is in the plan - the needs are in chapter four, there is a wide range of options to get there. The memo doesn't correspond directly with the plan but the details are there.

Mr. Kiehl we discussed a few paragraphs in the plan that were not clear - regarding the "color of money." Mr. Ciambor said he would prefer to remove language from the plan that does not reflect the community but is in the language of the consultant.

MOTION, by Kiehl, to remove the statements in the plan about not having a "free market." Hearing no objection, it was so ordered.

Ms. Gladziszewski asked how decisions were made to edit the plan based on comments made. Ms. McKibben said comments were solicited and taken and that concern did not come up through the public and/or planning commission part of the process.

Ms. Becker asked if Mr. Ciambor is going to do research on blighted property, is that research completed. Mr. Ciambor said the plan is a 30-year plan and these are items that the commission has stated they are interested in pursuing. Ms. McKibben said the matter was a tool recommended that the AHC felt they could start on without having the plan be adopted.

Ms. Becker asked about neighborhood plans. Mr. Ciambor said the AHC feels this is one of the wide range of activities that can be done. The entire plan needs to be adopted by the Assembly. The consultant said Juneau's housing market is "stuck," and a wide range of activities is needed and the plan reflects that wide range.

Ms. Becker asked about updating the zoning tools with an eye to housing. Ms. McKibben gave examples and said that several options have been provided for changing zoning densities, looking

at transit oriented development, and inclusion zoning that requires a new development of residences to have a certain percentage of workforce housing, for example.

Ms. Weldon asked about the adoption by ordinance in the comprehensive plan or by resolution as a guide. Ms McKibben said that if the plan is adopted by resolution, future permits will not be viewed with an eye to comply with a code-adopted plan.

Mr. Jones asked about the Lemon Creek planning effort. Mr. Ciambor said the Lemon Creek area plan would have a housing section and he has worked with the CDD staff to fine tune what that would look like, including data and metrics. We will look at how we can target funds for community development plans. Depending on how the Assembly wants to target resources, there can be funds from the housing fund, there can be partnerships, depending on the goal.

Mr. Nankervis said the plan was before the committee to make a recommendation to the Assembly to not adopt, adopt by resolution, or adopt by ordinance as an addendum to the comprehensive plan.

Ms. Gladziszewski said the plan contains much work, and more work can be done. She would like to see this adopted as part of the Comprehensive Plan to run through the Planning Commission filter. The type of work that needs to be done can be done more successfully through the Planning Commission process.

Mr. Kiehl agreed.

Ms. Becker did not agree. When it becomes part of the comprehensive plan it is law and there is no flexibility - it becomes too strict. We would like more teeth than a resolution but we want flexibility. I don't believe this plan is ready for that type of firm interpretation.

Ms. White understood Ms. Becker's concerns. The tools in the toolbox become a requirement, and with words like incentivize, that means waiving fees, giving gravel or giving land and we need to be very careful. I don't want to put things in the plan that requires us to put more money into it considering our budget issues.

Mr. Gregory said Juneau has struggled with housing for a very long time, a report states we have the highest cost of living in the state, and he has struggled to work and stay here and now has been fortunate to purchase a home. The plan says the key constriction to our economy is housing and this plan is a guideline for making decisions. He supported adopting by ordinance. If we pass a resolution, it seems we are saying that is nice, but we can put it on the shelf. It is important to take action. We have learned from this plan that we need to make changes to how we do business and that is not always comfortable.

Mr. Jones says his initial thought is that this plan should be part of the housing section of the Comp Plan, but at the same time he sees items in it that he supports but knows will not be implemented. Should it be a nice plan to be out there - or be part of the Comp Plan and put our feet to the fire to direct development.

Ms. Weldon said she was concerned about the items in the plan that seemed to direct budget appropriations and therefore supported adopted by resolution.

Ms. Becker said the Assembly is committed to housing and we have hired a housing director, and we don't need to lock in to a plan. She spoke about going to a DIG meeting and discussing paving and she was told by DOTPF that the city's transportation plan requires costly action on their part. This illustrates that there may be unintended consequences to adopting a plan and the way it is interpreted. There needs to be common sense.

Mr. Kiehl said the comprehensive plan is explicit in stating it is aspiration and it does not require us to complete every implementing action (performing arts center, comprehensive mental health program, etc.) - there are many things we are working toward that we have not budgeted money

for. These are concrete steps and points of evaluation. If we adopt by ordinance it will be criteria by which we will make decisions. The Comp Plan is meant to guide our work and staff's on major issues. The Comp Plan does not tie our hands as some have suggested.

Ms. White reminded the Assembly that the high paid consultant told us we had a government problem, not a housing problem, and that a project has to be entirely engineered when it is brought in for permitting - there is no way to walk in with a concept and move forward. After a plan is engineered, then developers have been told that they have to re-engineer to meet code requirements. We are making a lot of steps toward subsidized housing, but we are failing in building new homes and this doesn't solve that problem.

Mr. Nankervis said he was conflicted - the Comp Plan is already very long and we have all stated that it is cumbersome. My concerns are financial - how much does this proposal look at government housing in a variety of shapes and forms. He did think that the Assembly would make financial decisions at the time of each project, so he would support adopting the plan by ordinance.

***MOTION** by Gladziszewski to direct staff to draft an ordinance to adopt the housing action plan as part of the comprehensive plan.*

Ms. Gladziszewski said the Comp Plan is not a law and does not commit us to any specific funding - that is a separate decision of the Assembly. It discusses aspirational and conflicting issues and goals - it is a way to measure an activity to community goals. This directs staff to help with the housing problem as the number one barrier to development in the community. Any concrete action to move us forward will put us a step closer to making action happen.

Ms. Becker asked if this passes - does this require us to maintain a housing director - the plan says on page 16 to create and fund a housing director.

Mr. Nankervis said the Assembly had the option on an annual basis to fund or not fund a position.

Ms. Becker objected.

Roll call:

Aye: Gladziszewski, Gregory, Jones, Kiehl, Nankervis

Nay: Becker, Weldon, White

Motion passed, 5 ayes, 3 nays.

B. Fireworks

Ms. Cosgrove spoke about the effort to obtain comments from the public and compile those comments for the Assembly to use to base its decisions upon. All individual comments and a synopsis were provided.

Mr. Nankervis passed the gavel to Ms. Becker. He said the draft ordinance was far ahead of the Assembly. Staff was directed to up with ideas and we got an ordinance. We keep chasing our own tails. He referred to the noise ordinance and said it was drafted with the intent that it be used with fireworks and we have not had any citations based upon this ordinance. By proposing a draft fireworks ordinance, we are premature, we don't know if this draft will work. Burden of proof is an issue with a fireworks just as with a disturbing the peace ordinance - it is the same burden. By having an ordinance on the books, to go along with the noise ordinance, you are duplicating what we have going on and if there hasn't been any enforcement action that they could cite for fireworks, I don't know what you will get. We have thrown possession of fireworks in the mix and I do not favor including possession - it is not possessing them - it is using them. Unreasonable - he read the definition in the noise ordinance. He said JPD could enforce the noise ordinance which states that the property owner or person in control of the property can be cited. We can issue citizen citations - that is an option and a civil infraction which goes before the city manager to be heard.

The burden of proof is not high. He said in some cases, there would be unenforceable cases of use that neither ordinance would address - cases in which there was no witness.

***MOTION**, by Nankervis, to postpone the ordinance to April 2017, to allow JPD to do some directed enforcement regarding fireworks as it relates to the disturbing the peace ordinance.*

Mr. Nankervis said the goal is voluntary compliance. At the end of that time he would like a report back from JPD.

Mr. Jones objected.

Mr. Kiehl said he had concerns about "reasonable standards" in the noise ordinance, and he asked why CBJ has not been issuing citations - is it based on priorities, resources, lack of the ability to enforce?

Mr. Palmer said that the disturbing the peace ordinance included objective reasonable person standards- based on a court case definition, which was adopted into this code. We believe the code is enforceable and the definition is outlined in code. Use of fireworks on August 12 may be unreasonable but on January 1 may be reasonable.

Chief Johnson said that Mr. Nankervis is correct in that JPD does not want or need a possession ban. We can do a better job to enforce the current law. In 2016 we had 122 calls for fireworks - sometimes they come in as shots fired. Of those, 65 occurred at a time when we don't think they were illegal - July 3- 4. That leaves 57 that are enforceable. There was one arrest made based on the state code. 20 of the times it was a response without ability to identify the location of the problem. 20 times there were other priority events to address and our policy is that if a two hour gap has occurred between the time the fireworks call was made and the ability to respond, we do not go. In 16 cases we responded, we contacted people and I do think we can do a better job. In a handful we had to respond back another time and should have issued a citation. The first time we go we ask them to stop and we don't issue a citation. We seek voluntary compliance. The arrest was based on lack of voluntary compliance. We could start to issue a citation in fireworks cases, treating it differently than other loud violations such as loud stereos. We have that ability.

Ms. Gladziszewski discussed reasonable / unreasonable - and how does JPD determine this. Chief Johnson said typically officers ask for voluntary compliance, but could cite for fireworks. Citations would be a fundamental change for how they operate. Chief Johnson said July 3 - 4 or Jan 1 were reasonable dates of use for fireworks. We have seen it when the Seahawks win if on Superbowl Sunday, but a regular Sunday, it may not be reasonable. Instead of 13 warnings, enforcement may lead to 3-4 tickets.

Ms. Gladziszewski said that many people's goal is noise out of neighborhoods and the current ordinance hasn't provided that. If after all of these impassioned meetings, we just direct JPD to enforce, how will that change? Mr. Palmer said that the Assembly has helped to identify the reasonableness standards. Fireworks have been unique in this definition - we have heard that July 4- Jan 1- is reasonable - but out of that time frame, they are not. This helps JPD by giving them direction - this assembly meeting has helped to define reasonable. Ms. Gladziszewski said that reasonable has not been clear to the public. She preferred a more clear definition. Chief Johnson said it was difficult to draw a bright line but it was possible to do a better job of enforcement. We will still seek voluntary compliance.

Mr. Kiehl said that reasonable was still subjective. Before he can support this motion, what can we do to let people know what the level of expectations are. Ms. Cosgrove said that CBJ needs to be able to tell the public what is reasonable vs. not reasonable is and there does seem to be confusion. We need to get out a good neighbor message and give some guidelines. Chief Johnson suggested July 3-5 from 8 pm to 1 pm would be reasonable but after that JPD will enforce and the same went for New Year's eve. Outside of that, JPD would look at the noise ordinance and use discretion.

Mr. Nankervis said that the times when JPD arrives and there is no action - the neighbors can cite and JPD can do some education with complainants. If being a good neighbor hasn't worked, then people can have the option to sign a citation.

Mr. Jones asked for clarification of when JPD would issue citations. Chief Johnson said now we are seeking voluntary compliance, which is the same way we enforce with other noise ordinance violations - such as the loud stereo. "Shots fired" was a higher priority call than fireworks. JPD would not cite for fireworks use by type as that would require additional training to know what is salable. This is not a public safety issue - it is a quality of life issue.

Ms. Gladyszewski said the goal is to get the noise out of neighborhoods - she would like to move the activity to other areas but residential. This still allows fireworks at certain times. We will allow JPD to write a brochure outlining what is reasonable or not reasonable. She preferred to work on something that got the fireworks outside of neighborhoods.

Roll call:

Aye: Becker, Gregory, Nankervis, Weldon, White

Nay: Gladyszewski, Jones, Kiehl

Motion passed, 5 ayes, 3 nays.

V. COMMITTEE MEMBER / LIAISON COMMENTS AND QUESTIONS

None.

VI. ADJOURNMENT

There being no further business to come before the committee, the meeting adjourned at 8:20 p.m.

Submitted by Laurie Sica, Municipal Clerk