

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

August 15, 2016, 6:00 PM.
Municipal Building - Assembly Chambers

Assembly work session - no public testimony taken

I. ROLL CALL

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

Assemblymembers Present: Mary Becker, Jamie Bursell, Maria Gladziszewski, Loren Jones, Jesse Kiehl, Ken Koelsch, Jerry Nankervis (teleconference), Kate Troll 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, Lt. David Campbell, JPD; Lt. Kris Sell, JPD; Dan Jager, Fire Marshal; Roger Healy, Engineering and Public Works Director; Michele Elfers, Chief Landscape Architect; Scott Ciambor, Chief Housing Officer; Beth McKibben, Planning Manager; Kirk Duncan, Parks and Recreation Director; Lauren Verrelli, Administrative Assistant II.

II. APPROVAL OF AGENDA

Hearing no objection, the agenda was approved as presented.

III. APPROVAL OF MINUTES

A. July 25, 2016 Committee of the Whole Minutes

Hearing no objection, the minutes of the July 25, 2016 Committee of the Whole meeting were approved with corrections provided by Ms. Becker.

IV. AGENDA TOPICS

A. Civil Rights Ordinance

Ms. Mead said a version C of Ordinance 2016-23 and a memo explaining the changes from version B was in the packet. The Mayor has requested two options - the original language and the change in language for the ministerial exemption.

MOTION, by Koelsch, to add language from the attorney's memo, item 8.a, "This chapter shall not apply with respect to the employment of individuals whose positions would fall within the "ministerial exemption" as described by the United States Supreme Court in Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC, 132 S.Ct 694 (2012)," as replacement language for subsection (e) of the Lawful practices section (currently at 41.05.025) in version B in the ordinance.

The Assembly asked clarifying questions and discussed the motion.

Mr. Kiehl spoke in favor of the motion, which says to him that religious liberty recognized by the Supreme Court is the law here and CBJ would not try to further define it.

Hearing no objection, the motion passed.

Ms. Becker asked if anything in the ordinance prevented a landlord from seeking references regarding a renter or limiting the number of persons that could live in a rental unit. Ms. Mead said the no, the ordinance would prohibit discrimination in those activities but it did not prevent a landlord from setting reasonable rules.

MOTION, by Jones, to pass the ordinance forward to the Assembly, as amended.

The Assembly discussed 41.05.045 Definitions, "Disability" and sought clarification regarding controlled substances.

Mr. Nankervis objected. He said the ordinance was onerous, too long, and he was not comfortable with the landlord requirements as they were too restrictive and unnecessary.

Roll call:

Aye: Becker, Bursell, Jones, Gladziszewski, Kiehl, Troll, White, Koelsch

Nay: Nankervis

Motion passed 8 ayes, 1 nay.

B. Fireworks Policy Direction

Ms. Cosgrove said her memo to the Assembly was provided at its direction at the July 25 Committee of the Whole (COW) meeting. She worked with the Law Department, Parks and Recreation, JPD and CCFR on the issues and reviewed public comments. The three basic issues expressed by the public are the frequency, duration and level of noise of non-commercial or consumer type fireworks, public preference for continued ability to use fireworks to celebrate and issues related to public safety and enforcement. Most large communities in Alaska have a ban on the use of salable or consumer fireworks, and where use is permitted it is generally limited by date, time or type. Because of Juneau's climate, there is not generally a concern about fire danger from fireworks in Juneau. The sound of fireworks appears to trigger mild to severe anxiety reactions in some humans and animals. Use of fireworks stretches JPD's ability to respond and people don't always know whether noise may be from fireworks or gunshot outside of the holidays. The mix of public comment is about 20% for unrestricted use, 20% for a total ban and 60% for a middle ground. Parks and Recreation is currently taking a poll on fireworks use in parks and the response is following the trend as mentioned.

The memo outlined a middle ground to address some of the concerns and there are four basic options: to limit fireworks by day of year, by time of day, by type and by area used. Staff recommended an ordinance regulating fireworks and provided a draft for review in the memo. Staff recommends that in addition to a state permit for fireworks displays, that notice to the manager be given of the event. Limiting by area is difficult as many of the park areas are close to residential zones. Recommendations are for limits to the day of year - timing allowance around New Years and Fourth of July, prohibiting use by time of day, such as no noise between 1 am and 7 am, and a limit allowable use to non-arial salable fireworks. Those that are exploding in the air create more noise. She provided a list of examples of types. JPD recommends rules regarding possession and a civil fine of \$300 for a violation. Some statistics regarding complaints over the past four years were provided.

The Assembly discussed the current legal status of fireworks and Ms. Mead said that purchase/sale of fireworks was not legal according to Title 19, but possession was legal. The Assembly discussed transportation of fireworks.

There was discussion regarding recent changes to fireworks laws and Ms. Mead said that the definition of common fireworks had changed at the state level and salable fireworks are louder than in the past. The Assembly had previously addressed fireworks noise through the disturbing the peace code. JPD Lt. Campbell and Sell spoke to the Assembly about their experience with the difficulty of enforcement through the disturbing the peace code due to the requirement that

probable cause must be established through JPD or a witness observing a person using fireworks. The discussed changes to state law which changed the departments approach to enforcement in 2012 when the police no longer confiscated fireworks as they had in the past as possession was legal.

The Assembly discussed effective use of police time to enforce, the difficulty of enforcement, the types of fireworks and the definitions, and various approaches to drafting an ordinance.

MOTION, by Becker, to ask staff to draft ordinance for continued committee review that contained the following points from Ms. Cosgrove's memo: Use of Salable fireworks is limited to the following conditions: 1) only during the following dates: December 31 - January 2; July 3 - July 5, 2) fireworks may not be used between the hours of 1:00 am and 7:00 am, and 3) it shall be a violation of the ordinance to possess permitted salable fireworks outside of the following time period: December 14 through January 10 and June 15 through July 10.

Hearing no objection, amendments from Ms. White were accepted to limit the possession from December 1 through January 3 and from June 1 through July 6, and to limit the prohibited time from 1:00 am - 10:00 am.

Ms. Troll objected. She preferred an ordinance that designated a difference between aerial or non-aerial fireworks to address the noise issue. She would like all six bullets on page two of the memo in the ordinance before the Assembly to review in committee.

Mayor Koelsch said he supported date and time restrictions but was concerned with making possession a violation.

Ms. Gladziszewski spoke in favor of gathering public testimony before a final public hearing on an ordinance.

Roll call:

Aye: Becker, Bursell, Gladziszewski, Kiehl, White

Nay: Jones, Nankervis, Troll, Koelsch

Motion passed, 5 ayes, 4 nays.

MOTION, by Becker, to add a violation of the ordinance at \$100. Hearing no objection, it was so ordered.

C. Transportation Update

Mr. Watt said that over the past several years in working on various issues, it was his experience that it was easy to jump from one transportation issue to another and his intent for this meeting was to get limited direction and to acknowledge that transit is related to parking, to parking garages, to a circulator, to buying land and to other issues. He would like to discuss the issues in context.

Mr. Healy said Juneau was fortunate to have a robust transportation system with the highways. The easy access they provided to the downtown core business district came with repercussions for parking. Commuting is generally easy and creating parking is generally expensive. He estimated a cost of building a parking structure at \$40 - 50,000 per space. Structures displace surface parking which is cheaper but inefficient. We have a good transit system with a good ridership. Community improvements such as a Performing Arts Center, an Ocean Center and housing all create parking issues. Mr. Watt spoke about a developer interested in providing housing using the "fee in lieu of parking" ordinance instead of building parking. He said the private sector would not build parking structures or provide parking spaces unless they were required to do so as the cost could not be reasonably recovered. Prior assemblies wanted to encourage housing downtown and the "fee in lieu of parking" district was designed and adopted into CBJ code. CBJ built the new parking garage

to provide additional parking downtown. The goal now is housing, but we are worried about losing parking. Parking is not economical, it won't happen along with housing.

Mr. Healy said the drivers for Capital Transit (CT) have designed an expanded service routes by using previously "deadheading" buses to pick up passengers. CT is working on putting bus schedules and routes on mobile devices such as phones. CT is purchasing four new buses to arrive by November and is changing the logo for a branding effort. CT is pursuing grant funding for a new Care-A-Van vehicle. CT hopes to promote ridership and provide a location for a valley transit center for passengers and driver support. The current transit location in the Nugget Mall is not conducive to the schedule or comfort. Two sites are under investigation, one in the Mendenhall Mall area and the other in the Vintage Park area. CT will also focus park and ride services at this area. Mr. Watt said the driver work group has continued to provide meaningful improvements at no cost.

Mr. Watt said \$150,000 was appropriated from marine passenger fees for a downtown circulator. Staff has talked with many people about this idea and believes the best way to learn about this is to try it. He drafted a "Seasonal Downtown Circulator Concept" for Assembly review. Seasonal tourism transit provides freedom to experiment because the riders change every day. The funds should be spent on studying pedestrian enhancements and paths of travel for way finding, cross walks, signage, maps, restrooms, and the cultural gateway. The north berth will shift the density of pedestrians to the northern area. We could allow a private entity to try out the circulator or do it ourselves.

Mayor Koelsch said in the past CBJ buses turned around at the Tram but were moved because they were causing congestion and he was concerned about the circulator acting like taxis and allowing people to get on and off. Mr. Watt said there has been a conflict with tourists on the city buses and the goal of a circulator is to efficiently move people around - there would be few in comparison to other vehicles in the area. Mr. Watt said there is a person in the private sector interested in providing this type of service who could get a CPV permit and we could take a look at the proposal.

The Assembly discussed concerns about a pedestrian enhancement and efficiency study. Ms. Troll said there were some things that could be done without a study to improve circulation. Ms. Gladziszewski said that traffic flow should be fairly easy to predict by planners before the dock is built and the passengers arrive. Mr. Watt spoke about the limited area for bus staging in Marine Park in light of the new dock.

Mr. Keihl said the intent is for a circulator to be a tool for downtown revitalization and an aid for increasing density. Moving tourists around for only five months was not the intent. Mr. Watt said the ideas he presented, whether it be done by the public or private sector, could test the system and could grow the service from seasonal to year round service. Passenger fees could be used to pioneer this effort and the step from no circulator to a year-round circulator was incrementally too big. Mr. Keihl said any contribution to getting people around, year-round needs data. Mr. Watt said data would not be obtained from a private sector trial, but CBJ could use old buses, try routes, try fees, and see how the summer passengers used it during the peak activity time.

Ms. Bursell asked about an electric bus and using the funds for an electric bus. Mr. Watt said that the funds for a circulator are passenger fees and the use of those funds have restrictions. The current fleet is diesel, and CT has put in a grant for an electric bus but was unsuccessful. CT would continue to apply for that grant. The electric buses cost twice as much in capital costs.

Mr. Watt spoke about parking. It is hard to make decisions on anything without dealing with parking. There is a constant conversation about the subport, the Willoughby Arts Center, the Juneau Ocean Center and all of those tied together with parking issues. He recommended leaving the management of parking to the manager's discretion, as it is now decentralized, and it is a fine-grained issue. He asked the Assembly to allow him to reorganize parking within the existing budget and to coordinate with the Downtown Business Association. CBJ needs a lighter, more responsive approach. He will provide information to the Assembly on the circulator and an enhanced CT

commuter service. He spoke about a 6-year (mini) CIP for passenger fee projects, including possible land acquisitions, similar to the waterfront plan to show where CBJ was headed with waterfront development projects. If we add to the parking supply it will be done by the city, which will need future project sales tax support. Ms. White questioned the cost estimate of parking spaces and Mr. Watt said the cost of construction in Juneau was higher than in communities in the lower 48. Building a three story parking structure on an existing lot does not create much gain and creating flat land by going into the hillside is more efficient due to the space taken up by internal circulation routes within a facility.

Mayor Koelsch said that someone in 2000 told the assembly to build a parking garage at the 2nd and Franklin lot, and that is why the buildings there were removed. There are a lot of new businesses going starting in the area and there will be a lot of traffic and they will need parking to be successful.

Ms. Gladyszewski said parking/housing is a dilemma and people have been using "sham parking" on the rock dump to meet requirements. We don't want to deny development because of parking and the "fee in lieu of parking" ordinance was put in place to address that. Any developer must pay for each space required but not built at a set rate and perhaps the Assembly could raise that rate to a current appraisal. She said people have a "parking expectation" issue. She asked about the Willoughby parking study. Mr. Watt said a state grant of \$1.5 million for that purpose was in tact with only some funds spent on a report that he could provide to the Assembly. There has been no action on that. With the failure of the managed on-street parking we did a report on on-street parking -and a recommendation was to get help from a vendor that does that all of the time. There is a CIP for parking kiosks downtown, but said it would be better spent on reorganizing with contract services.

Ms. Troll said that the Assembly was brought the issue of 2 hour parking and we were asked for our opinion - we do not have a desire to get into the weeds and manage. There are good ideas in your memo but most of them are structure related and what was missing were potential fixes to provide a few more spaces. The parking garages are all permitted and there is no available space - maybe we can re-look at how the garages are managed. Mayor Fisk identified parking spots by looking around town - at loading zones for example. There are large changes but there are also "soft fixes" that can free up space. If I know we are doing that, that makes me feel better about the housing project that came up tonight. Ms. Troll asked if the manager's discretion will look at things other than CIP infrastructure. Mr. Watt said yes, it would include management issues with with "Bootlegger," JPD Community Service Officers, business owners, and fire regulations. Ms. White asked how the "fee in lieu of parking" funds had been spent. Mr. Watt said that there were a small number of payments to the fund and it was rolled into the parking garage construction. He said that there was a provision to reduce the fee if the project included building housing.

Mr. Kiehl noted that people were parking in downtown residential neighborhoods for work and business. He suggested selling more spaces in the garage as he had not seen the garages full. He questioned what Mr. Watt was asking for in regards to allowing the Assembly to give up their authority to weigh in on making decisions about one of the most important issues in the community. Mr. Watt said there is relative paralysis to change and no one is happy with the current situation. He brought this issue forward as engineering director and was asked for more detail. The Assembly needs to defer authority on some issues. We can only talk about parking policy every several months on a COW agenda. If the management can't address this, you will hear about it from the public, but we are stuck.

Ms. Troll said she was happy to give the manager the leeway to be creative and go forth and help solve this and bring things back to us when there is a policy question. Ms. Becker agreed.

Ms. Gladyszewski said Mr. Watt had the authority already and to go forth and solve downtown parking.

Mr. Jones said Mr. Watt has set his goals for his evaluation in six months.

Hearing no further comments, Mr. Kiehl thanked the staff for its work on the report.

D. Economic Development Update

The Assembly agreed to hold the economic development report to the next meeting due to the late hour and the weight of the topic.

V. COMMITTEE MEMBER / LIAISON COMMENTS AND QUESTIONS

None.

VI. ADJOURNMENT

There being no further business to come before the committee, the meeting adjourned at 9:05 p.m.

Submitted by Laurie Sica, MMC, Municipal Clerk