

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

July 25, 2016, 6:00 PM.
Municipal Building - Assembly Chambers

Assembly Work Session - No Public Testimony

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; Mila Cosgrove, Deputy Manager; Amy Mead, Municipal Attorney; Laurie Sica, Municipal Clerk

II. APPROVAL OF AGENDA

Mr. Watt asked that the order of business be arranged to allow the Energy Plan to be presented first. Hearing no objection, the agenda was approved.

III. APPROVAL OF MINUTES

A. June 27, 2016 Committee of the Whole Minutes

Hearing no objection, the minutes of the June 27, 2015 Committee of the Whole meeting were approved as corrected.

IV. AGENDA TOPICS

A. Energy Plan

Steve Behnke, Chair of the Juneau Commission on Sustainability (JCOS), introduced the Energy Plan to the Assembly. He said this planning effort was a result of the Juneau Climate Action and Implementation Plan adopted by the Assembly in 2011. That plan set out a goal of reducing green house gas emissions by 25% by 2032 and included implementation actions. One of the actions was to develop an energy plan for the community. JCOS worked with city staff to obtain funding for an initial study, Stantec was hired. The scope includes public input, an energy baseline, current energy use, conservation measures, future scenarios, focuses on renewable sources of energy and different measures the community can pursue to support renewable energy. He said the committee was kicking off the public comment period with this meeting.

Tim Felstad, Planner at the Community Development Department, provided a power point presentation to the Assembly. He spoke about the structure of the plan and its purpose. He spoke about the baseline study, and the efforts to update that, and the use of the plan as an informational basis for switching from one energy source to another.

Innes Hood from Stantec, said once the energy baseline was established, they developed an energy forecast from 2010 to 2045. There is about a 25% growth in the use of energy in the "business as usual" scenario and if energy is continued to be managed as it is currently, there will

be a continuation of increase in greenhouse gases. Juneau is currently spending \$140 million on energy every year and these expenditures will continue to grow. The forecast is high level.

Mr. Hood said the climate action plan is an excellent resource and this effort attempts to prioritize the actions in that plan. He explained the methodology for how they prioritized the actions from about 125 actions down to eight. He listed the priority strategies, they include supporting energy efficiency measures for new and existing buildings, increase the use of electricity by cruise ships, adopting best practices by CBJ - setting an example, district heating with a centralized plant for heating/cooling downtown, reducing dependence on fossil fuels for transportation such as electrifying buses, reducing space heat in buildings, enhance land use regulations with a transit orientation, and support electrification of mining operations.

Mr. Behnke said it has been 5 years since the Climate Action Plan was adopted with a goal of reducing greenhouse gases by 25%. We want to look at a significant reduction - many communities are aiming at 80% reduction in the next 40 years. If a carbon tax is adopted, it would be a significant cost to Juneau, so reduction makes sense. It would mean significant electrification of vehicles, alternative fuel sources for buildings, and would require the will and the funding to do this. Mr. Behnke said that the discussion has been within the JCOS, but now will reach out to the business community over the next two months to return more concrete recommendations to the Assembly.

Mr. Felstad said that there is a need to dedicate staff time to implement this project within CBJ and the School District. There is also a need to update the emissions inventory.

Mr. Hood said the success of energy plans comes down to leadership and support for implementation. Senior management needs to make a commitment to carry out specific projects with the goal of continuing improvement. He showed a model of the organizational structure that promotes change.

Ms. Troll asked why the Southeast Regional integrated plan emphasized wood pellets and biodiesel and she did not see that integrated into this plan. Mr. Felstad said the plan was not making specific recommendations on how those actions should be implemented. Ms. Troll said in seeking community input, that regional effort should be referenced in some way. Unless you are tuned into energy issues and the idea of a "wall of wood" on Prince of Wales Island, or the ideas of battery storage, tidal energy, and any other energy sources or efforts, you would not know that those ideas are being discussed currently by reading this plan.

Ms. Gladyszewski said that her issue is implementation. Short of hiring someone, what can be done. Was there an evaluation of the last plan, were things accomplished, and if so, how were they done. If they were not done, why not. Mr. Behnke said that yes, in that plan, there was a recommendation of hiring a manager to implement the plan, and yes, not much was done because the JCOS can't do things on its own. Many of the recommendations are being done but we don't know that they are happening because no one is tracking it and the information is ad hoc, such as the efforts through CIP projects. You could find money to hire someone through savings in energy consumption - through tracking energy usage in the community, see opportunities to build partnerships, grant opportunities. If energy is a serious issue there has to be serious investments.

Mr. Hood said there are many things that are low cost - if you institute an energy component into the building codes, it can be cost effective. Bringing language of energy efficiency into planning efforts can help. A portfolio of buildings can be more efficient with a mandate to the building supervisor, with seed funding for improvements. These efforts need a mandate but it is hard to track success without a full structure. We reviewed the climate action plan and comprehensive plan and the vast majority of recommendations have not been implemented.

Ms. White said the state had an energy rating system, with most homes now being built to a five star program. Mr. Hood said there are no energy efficiency standards for commercial buildings or existing homes, and this is a goal to include those.

Ms. Troll acknowledged the good work of the plan and said it was difficult to get some of the data from private companies for this planning effort. The discussion in the community was valuable and she looked forward to the public input.

Mr. Behnke said CBJ owns infrastructure and being an example for energy efficiency makes a lot of sense.

Mr. Kiehl thanked the staff for the presentation. Mr. Felstad said the public comment period is open and closes on September 2. The plan is posted on the Juneau Commission on Sustainability website and there will be a noon meeting for the public on Wednesday, July 27, and they will be meeting with many organizations in the community. Mayor Koelsch asked for a list of organizations and businesses that would be contacted to seek their input because people tend to show up at the last minute with comments. Mr. Kiehl offered the Assembly's service in identifying those to contact.

B. Ordinance 2016-23 An Ordinance Amending the City and Borough of Juneau Code to Add a New Title on Equal Rights.

Mr. Watt noted the extensive packet, a version (b) in the packet, and a matrix from the CBJ attorney, and several memos from Mr. Kiehl.

Mr. Kiehl said the city attorney's "b" version has two major elements, the inclusion of and a definition of "gender expression," and a clean-up of vestigial language about investigations. He suggested addressing those first, then moving on to other proposed changes in the packet.

MOTION, by Gladyszewski, to adopt version (b).

Mr. Kiehl objected in order to address the issues.

Ms. Mead said she was asked to include "gender expression," and to address the clean up piece with unnecessary language in the original version that was removed.

Hearing no objection, "gender expression " was accepted and included in the ordinance.

Ms. Mead said that there was an enforcement process in the first version, which was removed, and instead we put in enforcement with the state court. We removed the complaint process and it is not addressed in this draft. The outcome is that complaints are directed to state court.

Hearing no objection, the amendment to remove language about the enforcement provision, including complaint, investigation and hearing, was accepted and version (b) was before the Assembly with the changes accepted.

Mr. Kiehl referred to his draft. Ms. Becker said she had other changes.

MOTION, by White, to remove "or lawful source of income," in 41.05.015, section s 2, 3, 4, 5 and 6.

She referred to Mr. Kiehl's memo that an entity renting 4 or more units was considered commercial and asked where that definition come from. Mr. Kiehl said it was his creation. Ms. White said that a purchase of a four-plex is considered residential property through many lending agencies and more than four units fit the definition of a commercial loan. A veteran can purchase a four-plex with a residential VA loan.

Mr. Kiehl said that an owner occupied four-plex would not trigger this language, as there would only be three rental units. This ordinance is aimed at addressing some of the problems of poverty and protecting those of very low income from being discriminated in housing. This language does not prohibit a landlord from screening someone based on the ability to pay. If a voucher and a

tenant's contribution is not enough to pay the rent there is nothing that requires a landlord to rent below the market rate. Nothing prevents a landlord from screening a tenant based on their history of making timely payments, or maintaining the condition of the rental. The single biggest threat to a person's success is whether they grow up poor. To take obstacles out of the way of families, this is important. In many places, vouchers can be used as a proxy for race. He did not believe that landlords in Juneau did this but in a community that is 70% white, and voucher recipients are 60% non-white, base on GIS data from HUD. He has heard from the public on this issue of vouchers and the opposition to the ordinance because of it. He has talked with numerous attorneys about whether CBJ can prohibit discrimination based on receipt of government assistance in rentals and has received different answers. He said Ms. Mead did not agree with his interpretation of law and so, with reluctance, removed his objection to Ms. White's amendment.

Hearing no objection, "or lawful source of income" was removed.

Ms. White asked about Mr. Kiehl's amendment about allowing the gender specific workout facilities that are existing stay open, and would those be the only ones allowed? Mr. Kiehl said no, it would not prevent others from opening.

MOTION, by White, to insert language to allow gender specific workout facilities, into version (b). Hearing no objection, it was so ordered.

Mr. Kiehl spoke to potential changes in 41.05.020 discrimination in public accommodations, and referred to a prohibition against publishing advertisements that services were not available to specific groups.

Ms. Becker asked where the language came from and why it was necessary. Mr. Kiehl said that the language was in the other sections, and that it should be included in this section as well. Ms. Mead said the language was in both the Anchorage code and state law.

Ms. Gladyszewski said that gender expression was not included in this section and should be.

Mayor Koelsch said he wanted to see CBJ's ordinance compared to Anchorage and the state and Ms. Mead had done this well. He would like to see a version of this ordinance in which everything that is already in state and federal law is removed, with the idea that less is more, and to get a better understanding of the ordinance. Ms. Mead said that the blank boxes on the table showed that where one code was silent. She said the main difference is that even if something appears in state law, it does not apply to all of the protected classes that are being addressed in CBJ code.

Ms. Troll said that the ordinance was not duplicating, but clarifying. Ms. Mead said the proposed ordinance was duplicating in that the ordinance addressed the same action, but the proposed CBJ ordinance applied to sexual orientation and gender identity and expression, where the state law does not. Ms. Mead said adopting by reference does not work in this case because it does not include the extra protected classes.

Ms. Becker asked if the ordinance prohibited stating that a men's room is a men's bathroom, and a woman's room is a woman's restroom - with the signage. Ms. Mead said nothing in the ordinance prohibited a business or public accommodation from such signage.

MOTION, by Troll, to add language in Mr. Kiehl's version page 6, line 22 through page 7, line 15, and to add gender expression. Hearing no objection, it was so ordered.

Ms. Troll said she believed that a section (d) was needed in order to allow a "Haven House" situation, she referred to the Anchorage ordinance, that this would be a half-way house that was gender specific, similar to exercise facilities.

Ms. Mead said that adding this to the lawful practices section would be the easiest way to address this. Ms. Troll said she saw it as a public accommodation, but would defer to the attorney to draft

language that would allow gender specific housing such as the haven house, similar to the Anchorage ordinance.

MOTION, by Troll, to add language to address a "Haven House" situation, similar to language in the Anchorage ordinance. Hearing no objection, Ms. Mead said she would draft language for the Assembly to review.

MOTION, by Troll to add the words "or lessee" in 41.05.030 (b) after each occurrence of "owner" regarding room mates.

Ms. Becker asked for an explanation. Mr. Kiehl said this section allows discretion on who they take on as a house mate or room mate. If I rent my daughter an apartment, she is my immediate family member and that would allow her to determine who is her room mate.

Ms. Becker objected. She said there may be more implications and could not begin to think of them all.

Roll call:

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

Nay: Becker, Nankervis

Motion passed, 7 ayes, 2 nays.

The Assembly discussed the language regarding the "ministerial exemption." Mr. Kiehl offered some amendments and the original introduced language was more restrictive than what the supreme court reading of the first amendment would allow, so it must be removed, and this offered language does not step on the first amendment protections.

Ms. White asked for Ms. Mead's opinion. Ms. Mead said she believed only Mr. Kiehl's section (g) was needed, not both (f) and (g). Ms. White asked if some of this doesn't invite lawsuits. Ms. Mead said that lawsuits do happen at the state and federal level regarding these issues.

Ms. Mead said that in version b, subsection e could be deleted, and replaced with item (g) in Mr. Kiehl's version. Ms. Mead said that the language in item (f) in Mr. Kiehl's ordinance was referring to schools.

MOTION, by Gladziszewski, to amend to strike (e) packet page 18 and add Mr. Kiehl's wording "(g)" on packet page 55.

Mayor Koelsch asked why the Supreme Court case reference was being added and not the actual language. Ms. Mead said that language is also interpreted by lower courts and everytime that can expand or narrow the language through their interpretation. If someone challenged a case under this section, the Alaska Court would have to look at this code in light of what the decision means in Alaska. Ms. Mead said the original language was specific to schools, and the other exception was broader.

Mayor Koelsch objected. He said he doesn't want to replace language with language we want to fix. He thought it would be better to leave it as is and have the City Attorney to bring back revised language.

Ms. Gladziszewski withdrew her motion, with the understanding that Ms. Mead would return the ordinance with revised language.

Mr. Jones said the Supreme Court set up a way for a church to defend their actions and putting that decision wording in an ordinance could go on for 15 pages. We can't amend what the Supreme Court says, so he recommended using the case reference.

Mr. Kiehl explained his suggested language on lines 19 - 23 "(i)" on page 55, and said that the intent of that was to make clear that if the Federal lending criteria allows for use of a factor, this ordinance would not require a separate credit score to be used for Juneau residents. A credit

score can include age. Ms. White said she believed that age was already a protected class in lending.

Ms. Becker asked Ms. Mead said in the discriminatory practices section of the ordinance it says that in extending credit, you can't discriminate on age, gender, etc., but you can if it is allowed under Federal law. We want to avoid nuisance suits, and we don't want to prohibit something that is allowed in Federal law, and this states we are not trying to pre-empt Federal law.

MOTION, by White, to include (i) on page 55. Hearing no objection, so ordered.

Ms. Mead said the next suggested change, item (j) referred to allowing CBJ to not be required to provide benefits to domestic partners now that domestic partners are allowed to be legally married in Alaska and can be provided with benefits as spouses.

MOTION, by Gladziszewski, to add (j), page 55 to the appropriate place in version (b) lines 24 - page 56, line 8. Hearing no objection, it was so ordered.

Mr. Kiehl said he was asked by a religious organization in Juneau to include item (K) and it is meant to reassure them that a religious organization that applies its religious tests to its school and teachers does not jeopardize its tax exempt status. He said he could not find a reason to include this but wanted to clearly state that nothing in this ordinance is meant to change the tax status of any religiously held property in any way.

Ms. Mead said she does not believe it is necessary, she spoke to an attorney representing a religious organization who agreed that there seemed to be no need for this language, however, there was no harm in this language.

MOTION, by Bursell, to add the language in item "(k)." "

Ms. Bursell spoke against her motion and said this language is not needed and it provides something special for one group.

Roll call:

Aye: Kiehl, Nankervis, Koelsch

Nay: Becker, Bursell, Jones, Gladziszewski, Troll, White.

Motion failed, 3 ayes, 6 nays.

MOTION, by Jones, to delete 41.05.025.

Mr. Jones said that section may need some work and referred to youth activity grants, which are issued to specific groups, and based on a funding criteria, and without more work on this section it is appropriate to delete it.

Mr. Kiehl spoke in favor of the motion. He said the more he looked into this, the CBJ grants and utility waivers for social service non-profits may be affected by this language. He did not see a problem that needed addressing, and couldn't come up with a substitute for this language.

Hearing no objection, it was so ordered.

Mr. Jones asked for direction. Ms. Mead explained options for Assembly action.

MOTION, by Jones, to have the attorney return a version (c) for the next COW meeting on August 15. Hearing no objection, it was so ordered.

Mayor Koelsch asked for this ordinance as early as possible from the city attorney.

V. COMMITTEE MEMBER / LIAISON COMMENTS AND QUESTIONS

None.

VI. EXECUTIVE SESSION

A. CLIAA Lawsuit Update

MOTION, by Koelsch, to enter into executive session, to confer with the City Attorney regarding the ongoing Cruise Lines International of Alaska lawsuit. Hearing no objection, it was so ordered. The committee entered into executive session at 8:30 p.m. and returned to regular session at 9:22 p.m.

Upon returning to regular session, Mayor Koelsch reported that the committee received information, held a discussion and advised staff on further action.

VII. ADJOURNMENT

There being no further business to come before the committee, the meeting adjourned at 9:23 p.m.

Submitted by Laurie Sica, Municipal Clerk