

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

July 27, 2015, 5:00 PM.
City Hall Assembly Chambers

Assembly Worksession - No public testimony

I. ROLL CALL

Deputy Mayor Mary Becker called the meeting to order at 5:00 p.m. in the Assembly Chambers.

Assemblymembers Present: Mary Becker, Karen Crane, Maria Gladyszewski, Loren Jones, Jesse Kiehl, Jerry Nankervis (teleconference), Merrill Sanford, Kate Troll and Debbie White.

Assemblymembers Absent:None.

Staff present: Kim Kiefer, City Manager; Amy Mead, City Attorney, Rob Steedle, Deputy City Manager; Laurie Sica, Municipal Clerk; Hal Hart, Community Development Director; Laura Boyce, Senior Planner.

II. APPROVAL OF AGENDA

Hearing no objection, the agenda was approved as presented.

III. APPROVAL OF MINUTES

A. July 13, 2015 Committee of the Whole DRAFT Minutes

Hearing no objection, the minutes of July 13, 2015 were approved with grammatical and spelling corrections.

IV. AGENDA TOPICS

A. Ordinance 2015-03 (b) - An Ordinance Amending the Land Use Code (related to Subdivisions)

Hal Hart, Community Development Director, said that main changes to Subdivisions included: changing the definition of a minor subdivision from 1-4 lots to 1 - 13 lots, the requirements for public notice of subdivisions, the criteria for major subdivisions, how appeals of decisions regarding subdivisions would be handled, defining the purpose and intent of a public use lot and right of way acquisition lots, street construction standards for new subdivisions, privately maintained access roads in public rights of way, and defining remote subdivisions. These changes were intended to affect the cost of housing and they tied into who paid for costs of infrastructure - developer, property owner or municipality. He said that he and Senior Planner Laura Boyce were available to answer questions.

Ms. Boyce pointed out a second memo addressing private easements and private roads. There is a basic design requirement of subdivisions that each lot must provide a minimum of 30 feet of frontage on a maintained right-of-way, and depending on the zone, for example, 20 feet in an industrial zone. Ideally the access from the lot is direct to the street, but in some circumstances, that is not practical, and the access has been through an easement through other lots to a maintained driveway. Ms. Boyce said there were roughly six subdivisions pending that had shared access as a element proposed in the subdivision. She said in one case, DOT preferred to limit

driveways directly on to the right of way and preferred that the subdivision use the existing driveway on another adjacent lot. Ordinance 2015-03(b), a right of way must be dedicated and streets constructed (whether privately maintained or built to CBJ standards) for subdivision to occur when the right of way can't be physically accessed from the proposed lots, with the exception of panhandle subdivisions. She said a question for the Assembly was whether it would like to continue the practice of allowing alternate subdivision scenarios that are practical for the specific site. If so, Ordinance 2015-03(b) needed to be amended to include the option of subdivision through shared driveway easements. The Subdivision Review Committee met on July 22 and suggested ten criteria to allow, but limit the practice, as outlined in her memo dated July 23.

Ms. Mead said that in the new ordinance, the only time private easements would be allowed to act in lieu of a public right of way was in the case of the new roaded remote subdivisions. The current code requires 30 feet of frontage and direct and practical access, and the frontage is obtained by being on a public right of way, in 49.15.424. The Assembly needed to make policy calls: to determine it is no longer to require the frontage or read frontage separately from the direct and practical access requirement, or read direct and practical access in a way that is different that it has been historically understood to be vehicular access, or decide to keep the current proposed language and not move forward. The concepts in the memo had not been vetted and she did not know if it meshed well with the rest of the proposed ordinance. It was a significant issue and she asked for Assembly guidance.

Ms. Mead said another main issue left at the last Committee of the Whole meeting was regarding the privately maintained public roads on a public right of way. Because of the Accessory Apartment code change, the ADT (Average Daily Trips) currently in the proposed table no longer makes sense, and would allow privately maintained access roads in major subdivisions. The choice was to lower the ADT or eliminate the requirement that that privately maintained access roads could only be allowed in minor subdivisions.

Ms. Crane and Mr. Kiehl suggested getting feedback from the Planning Commission.

Ms. White said that private roads, and shared driveways in easements were very common in many other places and supported anything that could facilitate development of buildable lots.

Ms. Troll supported moving forward the shared driveway concept and was a practical application, and would like to hear from the Planning Commission.

Mayor Sanford agreed with Ms. Troll and Ms. White and said he did want to hear from the Planning Commission.

MOTION, by Sanford, to forward Ordinance 2015-03 for Assembly consideration.

Ms. Crane said she favored much of the ordinance but was concerned about removing the CDD Director's consideration of "neighborhood harmony" in his review of minor subdivisions. She was concerned about a lack of notice regarding minor subdivisions. She said she was unclear about the process for appeals with minor subdivisions.

Ms. Boyce said minor subdivisions would be approved by the Director, and Director's decisions were appealable to the Planning Commission, and subsequently to the Assembly. The Director could not deny an appeal.

Ms. Boyce said the subdivisions referred to in the proposed ordinance were those that complied with the zoning district within which the property was located, without special uses such as Planned Unit Developments or Cottage Housing Developments which would go before the Planning Commission. If the subdivision abutted a differently zoned district, the greater of the two setbacks would apply, allowing a greater buffer. The Director had discretion to add conditions.

Mr. Hart said that as the department conducted neighborhood plans, there was discussion up front with the community before applications came in so the issue of neighborhood harmony would be addressed "up front."

Ms. Troll said that the Assembly had done significant upzoning without neighborhood plans in place, so thought neighborhood harmony was an important consideration.

Ms. Mead said that neighborhood harmony applied in the case of a use of a property, and in subdivisions, it was a zoning issue and the time that neighborhood harmony came under consideration was when considering an increase in density. The subdivision of land would be done in accordance with the uses and configurations within the specific zoning district of the proposed subdivision.

The Assembly discussed the public notice requirements.

MOTION, by Gladziszewski, to amend Ordinance 2015-03(b) to require the following public notice of subdivision proposals: minor subdivision of 1-4 lots = abutting owners only, minor subdivision of 5-13 lots = property owners within 500 feet, and major subdivision of 14 lots or more = property owners within 500 feet.

Roll call:

Aye: Becker, Crane, Jones, Gladziszewski, Kiehl, Troll, Sanford.

Nay: Nankervis, White

Motion passed, 7 ayes, 2 nays.

Ms. Mead would review the code for consistency with the proposed change.

The Assembly discussed 49.15.230 Public Notice, regarding posting signs.

MOTION, by Kiehl, to amend Ordinance 2015-03(b) to delete the words in 49.15.230 (d), "if the proposed development in on the road system, the" and keep "The sign shall be visible from a public right-of-way."

Roll call:

Aye: Becker, Crane, Jones, Gladziszewski, Kiehl, Troll, Sanford

Nay: Nankervis, White.

Motion passed, 7 ayes, 2 nays.

Ms. Troll said she had a concern, shared by Mr. Jones, about lowering the standards for sidewalks and paved streets, and asked if this only set up the CBJ for bearing those costs in the future. She said those amenities improved neighborhood safety as well.

Mayor Sanford said the LID policy and code had to be amended to go hand in hand with the adoption of this ordinance. The Assembly had done some LID work for older subdivisions but it was time to revise the LID program. Ms. Gladziszewski and Mr. Nankervis said they supported reducing the up front development costs through lower infrastructure requirements but would like to see some setting of expectations of when public services could be requested or expected. Ms. White supported keeping some areas free of pavement and lights. The Assembly continued discussion on LID's and building to reduced standards.

Ms. Mead said Ordinance 2015-03(b) allowed for substandard streets to be built without any obligation for CBJ to improve those streets, but if amending to include a revised LID process, that would lead to some future expectation, and that would likely fall to the property owner, the CBJ and not the developer at a future date.

There was discussion about the changes to street standards, including street lighting. Ms. White and Ms. Gladziszewski expressed a preference to reduce the street lighting standards. Ms. Mead

said she would discuss the matter with Mr. Watt, as requirements were based on engineering standards.

Mayor Sanford referred to the issue regarding smaller subdivision and ADT. Ms. Mead referred to the table on page 52 of the Ordinance and explained how the last line in the table was no longer correct due to the changes in the accessory apartment code and the calculation of ADT.

Mr. Kiehl asked to shift the discussion to whether or not that privately maintained access road should be allowed. He did not support the concept as drafted in this ordinance, on page 31 of the ordinance, called, "Division 4. Privately Maintained Access in Rights-of-Way." The ordinance in 49.15.434, outlines the "Access Agreement," and he asked what would happen if the agreement ceased to perform its required functions. Ms. Mead said CBJ would need to sue individual homeowners to enforce the provisions of the ordinance, it would be an enforcement action. He said that seemed unlikely, and there would likely be residents that would want the street plowed and would ask the city to do that. Ms. Mead said that was an issue and the liability exposure was difficult to quantify. CBJ was not required to maintain all streets and can allocate resources. But when in this case maintenance is dictated to occur and if it is done negligently, it potentially exposes CBJ to liability. CBJ may find itself of needing to do the maintenance and address the issue after the fact. Ms. Mead said she spoke with brokers about availability of insurance to homeowners associations to cover the roadway and they believe it is available, but were unsure of the cost. It would only be available to a homeowners association, but she could not get clarity on whether there was a guarantee that it could be obtained.

Ms. Boyce said the concept came from the Housing Matrix generated from the discussion on housing and developers seeking ways to make development less expensive to get more affordable housing on the market.

Mayor Sanford said there were at least ten subdivisions that have these types of private access agreements, but those agreements are not standardized. This brings the discussion back to ADT and a need to figure out how and who will be responsible for road development in the future, when growth continues and further subdivisions occur adjacent to these type of subdivisions with access agreements. This was one step in an effort to move forward for positive changes and reiterated that the LID process needed to be updated along with the subdivision code.

The Assembly discussed the scenario outlined in 49.15.343(a)(10) regarding when a development increases ADT beyond the limit for minor subdivisions, how shared costs of right-of-way upgrades would be apportioned. Mr. Palmer explained how "proportionate share" was based on the percentage increase in ADT. Mr. Palmer said the definition was a compromise between the first development and subsequent developments for determining share of the cost. Ms. Mead drew a diagram on the board for illustrative purposes.

The Assembly discussed the issue of when a roadway would be accepted as a publicly maintained road, and Ms. Mead said it was when the road was developed to CBJ maintenance standards. Mr. Jones said the ordinance as written did not clearly state that. Ms. Mead said that if the Assembly promoted a policy that the CBJ would eventually help pay for improvements, this section would need to be reworked. Either the homeowners would pay, or an LID could be requested and imposed. Ms. Mead said that subdivisions with privately maintained access roads could not create landlocked parcels and there must be alternative access to surrounding parcels in order for the subdivision with a privately maintained access to be allowed.

Mr. Hart said that these type of developments had been anticipated to potentially occur in the North Douglas area and he spoke about potential bench road development opening up land.

Ms. Boyce referred the Assembly to her June 12 memo, page 6, regarding a comparison of current street standards to proposed street standards, and the Assembly discussed this and asked for information on costs of paving / lighting.

Mr. Nankervis asked if CBJ was requiring anyone to create a privately maintained access road in a right-of-way and Ms. Boyce said it was an option. He asked how if the development on Back Loop Road last year with "hockey stick" shaped lots with one driveway to access the road was developed. Ms. Boyce said that subdivision was designed so that each lot fronted on Back Loop Road, but the six lots shared an easement with a required homeowners association as a condition of the subdivision, sharing maintenance. He asked how many such developments have asked for their situations to be improved or upgraded by CBJ. Ms. Boyce said she was not aware of any. Mr. Nankervis said he did not want perfect to be the enemy of good in getting long anticipated changes made. Mayor Sanford said he had seen issues regarding rights-of-way arise in the past.

Mr. Kiehl referred to packet page 21 and asked about streets standards outside of the urban service boundary. Ms. Boyce said that under current code there were options for gravel roads outside of the urban service boundary, and with the proposed ordinance it would call for either paving or creating a privately maintained access road. Ms. Mead said the gravel roadways currently allowed were publicly maintained and with the proposed ordinance there was no longer the urban/rural distinction, the standards were based on AD.

Ms. White reviewed a scenario of the Crow Hill Condos, phases 1,2 & 3, which was zoned D-18, and would currently allow for 33 units, however there were 78 units in existence. If built today, they would be more costly to build due to current building codes, and although this ordinance needed work, the Assembly needed to move forward to provide for more housing development.

Hearing no objection, the Committee requested that this matter be continued to its next meeting on Monday, August 3. Ms. Kiefer encouraged the members to save their printed materials for the next meeting.

V. COMMITTEE MEMBER / LIAISON COMMENTS AND QUESTIONS

Hearing no objection, the Assembly agreed to cancel the August 10 Human Resources Committee and reschedule to August 17, at 5:15 p.m., to be followed by the Full Assembly sitting as the Human Resources Committee at 6 p.m. for interviews for a Docks and Harbors board seat, immediately followed by a Special Assembly meeting to make the board appointments.

VI. ADJOURNMENT

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

Submitted by Laurie Sica, Municipal Clerk