

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

May 4, 2015, 6:00 PM.
City Hall Assembly Chambers

Assembly Worksession - No Public Testimony

I. ROLL CALL

Deputy Mayor Mary Becker called the meeting to order at 6:05 p.m. in the Assembly Chambers.

Assemblymembers Present: Mary Becker, Karen Crane, Maria Gladyszewski, Loren Jones, Jesse Kiehl, Jerry Nankervis, Merrill Sanford, Kate Troll (Telephonic) 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; Robert Palmer, Assistant Attorney; Hal Hart, Community Development Director; Laura Boyce, Senior Planner.

II. APPROVAL OF AGENDA

Ms. Becker said she would like to take the Gastineau Apartment update first, as Ms. Troll had to leave the meeting early. Hearing no objection, it was so ordered.

III. APPROVAL OF MINUTES

A. March 23, 2015 Committee of the Whole Minutes

Hearing no objection, the minutes of the March 23, 2015 Committee of the Whole meeting were approved.

B. April 13, 2015 Committee of the Whole Minutes

Hearing no objection, the minutes of the April 13, 2015 Committee of the Whole meeting were approved as corrected.

IV. AGENDA TOPICS

A. Title 49 Land Use Code - Proposed Changes to Subdivision Review

Mr. Hart said his intent for this meeting was to give a broad overview of the changes proposed regarding subdivisions in Ordinance 2015-03. He said the staff was available to do more in depth work with Assemblymembers individually at their convenience. He said the department had been working on this issue for a long time, with a goal to encourage development of property in the community and to streamline procedures. He said the subdivision review committee was still meeting and the matter would go before the Planning Commission for its review. He wanted to give the Assembly the big picture and those groups were still reviewing the finer points. Mr. Steedle said that the route the ordinance took would depend on the changes made following the discussions in Assembly committee as well.

Ms. Boyce said that many of the code sections originated in the 1960's and she gave a history of the project to update the subdivision code.

Ms. Boyce provided a summary of the significant changes, which included:

- Minor subdivisions increase – 1 - 13 lots
- Major subdivisions increase – 14 + lots
- Right-of-way acquisition plat process
- Street standards changes
- Access driveways in rights-of-way expanded
- Review for major subdivisions changes from conditional use permit review
- Common wall section refined
- Construction plan review and approval added

The Committee had questions about several issues, including:

- how proportionate costs of right-of way improvements would be determined when imposed on existing owners served by privately maintained access roads,
- the changes proposed in roadway construction standards from the old code to the new code,
- if there was a way to put a more time certain on finishing out improvements in subdivisions in the future, so to acknowledge the help the developers need at the beginning, but so that there is an end in sight for the final build out of roadways and amenities,
- the nuances of a "Pioneer Path" in remote subdivisions.
- the Committee would like to see some sample scenarios of a subdivision under current code and one under the proposed code to understand the differences.

Mayor Sanford said he hoped that there would be an opportunity for the Assembly to come to a good understanding of the ordinance. He wanted to keep moving forward but not rush through it. Ms. Boyce said that the ordinance was tentatively scheduled before the Planning Commission on May 26 based on the work of the Subdivision Review Committee.

Ms. Mead said she would be discussing an issue with the Subdivision Review Committee that was not a Title 49 issue but was related. When a plat was recorded, the State of Alaska required that the taxing official sign a certificate of taxes paid. The certificate was filed with the state as part of the plat. In CBJ code, the platting requirements were in Title 4 Regulations. Most of the platting requirements were being pulled from these regulations into the subdivision ordinance in this code update. The certificate of taxing authority language in CBJ Regulations said that before a plat was recorded, and as part of that recorded packet, there needed to be a certificate from Treasury saying that all taxes levied that year and special assessments had been paid. Currently, this has been interpreted that Treasury would sign the certificate, regardless of when the certificate crosses the Treasurer's desk, and if it was prior to the date of levy (in September) the Treasurer would sign off that the taxes for the previous year were paid, as those would be the only taxes levied to date. The problem with this was that under statute and CBJ code, property is assessed as of January 1. The levy does not occur for many months later. If property were subdivided after the January 1 date, CBJ could not tax the new lots because they did not exist on January 1. CBJ could not apportion taxes for one lot over a spread of say, six lots, because a subdivider requested that. CBJ needed to be careful when property was assessed as of January 1, and CBJ signs a certificate saying taxes have been paid, and it came time for tax due, there was no entity to go after. The lien that was created through a foreclosure process was a priority lien, CBJ would be waiving its right to a priority lien if this certificate was signed between January 1 and the date of levy, based on the previous year's taxes. Other states dealt with this by building into their statute specific rules, Alaska does not, and some other municipalities did. Anchorage had language she was reviewing for use, which would either say that taxes levied have been paid or there is a pre-payment that has been paid to the taxing authority for that year's estimated taxes due. She would propose a regulation change.

The committee thanked Mr. Hart and Ms. Boyce for the presentation.

B. Gastineau Apartment Update

The Committee received a report from Ms. Mead regarding recent activity on the issue of the vacated Gastineau Apartment Building on Franklin Street. She said there was some discussion about a potential private sale but the city had not been informed with any concrete information. The owners, represented by James Barrett, had been informed about an April 30 deadline to sign a demolition agreement, which was provided to him, but he did not respond. Mr. Barrett called on Friday, May 1, and said that there was a potential private sale and that he had received information from two companies about demolition. She informed him that this matter was on the committee's agenda tonight. She requested the Committee provide direction to the Law Department to either proceed with an eminent domain action with a defined public purpose for a taking of the property or with declaratory judgment to do the demolition work.

The Committee discussed the options and asked questions of the attorney.

MOTION, by Crane, to proceed with eminent domain.

MOTION, by Sanford, to add a broad definition of public purpose, to include the abatement of blight, a mix of housing, including low income, affordable, and market rate to allow a venture to be successful, with potential office space and parking. Hearing no objection, the motion to amend was approved.

Mr. Sanford was concerned about the cost to the city and said he would like to see the property be able to be sold and remain on the tax roll. Ms. Mead said that a property could not be taken through eminent domain to be sold to another private entity.

Mr. Kiehl said abating the blight was important and getting some redevelopment was important. He suggested using part of the property for some city offices in lieu of the rent that was now paid was a possible public purpose.

Ms. White said she did not favor the eminent domain process due to the unknown costs and because it took property off the tax rolls.

Mr. Nankervis agreed and said he could support the declaratory judgment process. The timing of moving city offices should be held when CBJ was in a better monetary position. Eminent domain was unpalatable to him.

The Committee discussed the costs involved with both approaches. Ms. Mead said that if the end goal was to get more of CBJ's money back then proceed with declaratory judgment. If there was a specific public purpose for taking and owning the property then the eminent domain route should be pursued.

The Committee discussed the legal proceedings that would take place with either direction.

Roll call on the motion to proceed with eminent domain:

Aye: Crane, Jones, Kiehl, Troll

Nay: Becker, Gladyszewski, Nankervis, White, Sanford

Motion failed: 4 ayes, 5 nays.

MOTION, by Nankervis, to proceed with declaratory judgment.

The Committee reviewed the cost, the process and the timing.

Hearing no objection, the Committee directed the Law Department to proceed with a declaratory judgment action.

C. Executive Session - Attorney update on Haven House Appeal, Hohman Civil Case

MOTION, by Kiehl, to enter into executive session to discuss a quasi-judicial matter, the draft decision in *Tall Timbers NA v Planning Commission re Haven House*, and a matter currently in litigation, *CBJ v Hohman*. Hearing no objection, the committee recessed into executive session at 8:10 p.m. and returned to regular session at 8:50 p.m.

Upon returning to regular session, Mr. Kiehl said the committee reviewed a draft decision, recommended changes, and the updated version would be distributed to the parties for review. The Assembly also gave direction on litigation.

V. COMMITTEE MEMBER / LIAISON COMMENTS AND QUESTIONS

Ms. Crane reminded the committee of the Finance Committee meeting on Wednesday, May 6.

Mr. Kiehl confirmed that the Marijuana Committee would meet on Thursday, May 7.

VI. ADJOURNMENT

There being no further business before the committee, the meeting adjourned at 8:52 p.m.

Submitted by Laurie Sica, Municipal Clerk