ASSEMBLY STANDING COMMITTEE MINUTES
LANDS AND RESOURCES COMMITTEE
THE CITY AND BOROUGH OF JUNEAU, ALASKA
May 4, 2020, 5:00 P.M.
City Hall, Assembly Chambers, Zoom Webinar Meeting

I. ROLL CALL

Chair Edwardson called the meeting to order at 5:00pm.

Members Present: Chair Rob Edwardson, Alicia Hughes-Skandijs, Greg Smith, Carole Triem

Members Absent: None

Liaisons Present: Chris Dimond, Docks and Harbors; Chris Mertl, Parks and Recreation

Liaisons Absent: Dan Hickok, Planning Commission

Other Assembly Members Present: Loren Jones

Some Members of the Public Present: Ke Mell, Laura Martinson

Staff Present: Dan Bleidorn, Lands Manager; Roxie Duckworth, Lands & Resources Specialist; Jill Maclean, CDD Director; Rob Palmer, Municipal Attorney; Mila Cosgrove, Deputy City Manager

II. APPROVAL OF AGENDA

The agenda was approved.

III. APPROVAL OF MINUTES

The March 2, 2020 Draft Minutes were approved.

IV. PUBLIC PARTICIPATION

No public participation for non-agenda topics.

V. AGENDA TOPICS

A. State of Alaska Parking Lease

Mr. Bleidorn discussed the upcoming renewal for the continuation of the State of Alaska employee parking lease at 350 Whittier. In 2009, Resolution Serial No. 2535 authorized the Manager to lease the area between the JACC and Centennial Hall to the State of Alaska for employee parking for one year with four one-year renewals. Ordinance 2015-30 was adopted by the Assembly in 2015 and authorized the Manager to continue to lease this parking to the state for one year with four one-year renewals.

The final renewal period for the existing lease is set to expire on June 30, 2020. The State has requested a continuation of this lease, which consists of roughly 150 parking spaces. The current lease rate was determined by appraisal in 2015 and is $122,760 per year. In

2018, the lease area was updated to centralize Centennial Hall and JACC Parking. A new appraisal with Roger Ramsey Appraisals will be completed in order to adjust the lease rate to fair market value. The State manages and provides winter maintenance of the leased area. They provide their own striping, appropriate signage and enforcement of their parking regulations.

Chair Edwardson asked if there was any public comment on this item, none given.

Mr. Mertl asked about the protocol to ask questions with webinar meetings. Chair Edwardson replied that one could raise their hand on the screen to be recognized. Mr. Mertl then congratulated Mr. Bleidorn on his promotion and asked when does the new lease expire and how that could impact the potential JACC/Centennial Hall expansion or upgrade. Mr. Bleidorn replied that the lease has one-year terms with options for renewals and the City would have that option each year to reevaluate the lease.

A motion of support to continue to lease roughly 150 parking spaces to the State of Alaska for employee parking was approved and moved to the Assembly.

B. Land Disposal Request at 848 Basin Road

Mr. Bleidorn discussed this request from Ke Mell to the Lands Office to purchase to a 6,500 square foot City lot at 848 Basin Road, in downtown Juneau. Ms. Mell's house is located next door at 850 Basin Road. The applicant is interested in purchasing the 848 Basin Road lot in order to build a house on the property. The area is zoned for D18 multifamily development but Basin Road is mostly developed with single-family residences on very steep lots. The application stated that the lot at 848 is extremely precipitous and would be extremely difficult to access from Basin Road. However, her lot could provide an access route to 848. Therefore, her plan is to stage the construction from her property. As an adjacent property owner, she is uniquely situated to develop the neighboring City lot. Anyone else attempting to build on this property would be required to stage construction from Basin Road and would have to access the lot over a steep retaining wall. These factors would make the prospect tremendously difficult. The Lands and Resources Division manages the parcel of land requested by Ke Mell.

CBJ§53.09.260 Negotiated sales, leases, and exchanges stipulates that once an application has been received, it must first be determined by the Assembly whether the proposal should be further considered by direct negotiation with the original proposer or if the property should be offered for public sale to other individuals. Since this lot is not intended to be used by the City for any other purpose and it could be developed by the applicant to increase housing options within the downtown region, Lands staff is recommending that this lot be sold to the original proposer and would include retaining a maintenance easement for the retaining wall on the lot.

It is listed in the Land Management Plan LND 1020 for retain/dispose and in this case, the subject property is very steep. Since this lot is zoned for residential development but is unusually steep, it is listed. The Lands Division has not offered this property as a candidate for general sale due to the extreme difficulties associated with developing this steep lot. By selling this lot to the applicant, a residential development could be built.

Chair Edwardson asked if there was any public comment on this item. Applicant Ke Mell was identified to be present and available to field questions if needed.

Mr. Mertl asked about situations where an applicant requests sale or disposal of CBJ property, if it is the current procedure to go directly to the applicant or to have public sale. Mr. Bleidorn replied that it depends on the property and in this case, with the development constraints of the property it is suggested to work with the original applicant but in some cases if the property were listed on our disposal list we could go with a sealed competitive bid option. Mr. Mertl followed up to ask if this piece of property was on our disposal list or did the request come in unexpectedly. Mr. Bleidorn replied that it is on our disposal list included in our 2016 Land Management Plan.

Chair Edwardson asked about the different steps of this process. Mr. Bleidorn replied that this is the first step for the Assembly to decide to work with the proposer or to retain the property for public use or to decide to open it up to other proposers to solicit something else for the property or to decide to go to sealed competitive bid. This item is presented at the Lands Committee as a precursor to the Assembly for new business where it could receive a motion of support to work with the original applicant and where we could work with the applicant at staff level to dispose of the property. It would then go to the Planning Commission for a City/State review and come back to the Lands Committee prior to going to the Assembly for adoption by ordinance.

A motion of support to the Assembly for a fair market value sale of City property located at 848 Basin Road to the original applicant, Ke Mell that will also include retaining a maintenance easement for the retaining wall on the lot and will go to the Assembly as new business. Motion approved.

C. Merganser Road/Lena Point Communications Tower Lease Request

Mr. Bleidorn discussed this request and new information that has come about this topic. Community Development Director Jill Maclean and City Attorney Robert Palmer are available for discussion.

In March of 2018, the Lands Committee reviewed a memo and a presentation concerning a request from Vertical Bridge Holdings LLC to lease City property adjacent to a City reservoir on the 64-acre parcel located north of the South Lena Subdivision. At that meeting, the Lands Committee passed a motion in favor of working with Vertical Bridge Holdings LLC towards the lease of City Property located in South Lena. The Assembly reviewed this proposed lease at the April 2, 2018 meeting as New Business and determined not to solicit additional applications and to work with the original applicant.

In the time since the 2018 Lands Committee meeting, an appraisal has been completed for this proposed lease and the Planning Commission reviewed the application. The appraisal was completed on February 21, 2020 and the base lease rate was determined to be $1,075 per month. The Planning Commission, at its regular public meeting on April 14, 2020 adopted the analysis and the findings as attached in the Notice of Decision (NOD) and they approved the special use permit for this tower. At the Planning Commission meeting, six citizens spoke against this proposed tower and one citizen spoke in favor. There were concerns with 5G technology and the proximity to the South Lena Subdivision. City Code 53.09.260 - Negotiated sales, leases, and exchanges states *"after review by the planning commission for disposals other than leases, after review by the assembly lands committee, and authorization by the assembly by ordinance, the manager may conclude arrangements for the lease, sale, exchange, or other disposal of City and Borough land."*

Ms. Maclean spoke generally about wireless technology. Ms. Maclean also noted that an appeal was received at close of business on May 4, 2020 in regards to the April 14 Planning Commission meeting decision to Vertical Bridge in regards to this specific tower. Ms. Maclean cautioned the Lands Committee in discussing this topic and taking public comment in that it may impact the whole Assembly's ability to hear an appeal. Generally, questions came in about wireless and 5G and Ms. Maclean wanted to speak on that.

WCF regulations are somewhat complex, and are more similar to flood regulations and permitting requirements that are set by FEMA, rather than a Conditional Use Permit. The Commission, in its role as regulator, is strictly prohibited from regulating the FCC/health aspects of wireless communication (47 U.S.C. Sec. 332). The FCC has the authority to determine safety limits for radio frequency. Per the U.S. Supreme Court case (47 U.S.C. Sec. 332), "*no state or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions*."

The WCF Special Use applications received and heard by the Commission in April met the Land Use Code, CBJ 49.65.960(d), which requires a signed statement from a qualified person stating that the proposed WCF complies with FCC regulations. Further, the FCC has determined (in consultation with other agencies) that 5G is safe. Therefore, staff and the Commission are preempted from making a contrary finding.

Ms. Maclean noted that there was another wireless tower application last week and another recent one that may or may not go to the Planning Commission and remain at staff, or director's level for approval. These are aside from the two Vertical Bridge communication tower requests that are presented in this Lands Committee meeting.

Mr. Palmer noted that the Lands Committee meeting has an option to either hold a discussion on the lease application or alternatively to postpone discussion for a later date after the appeal has been considered. If the Committee decides to discuss the lease at this meeting a hearing officer will be appointed by the Assembly. Chair Edwardson noted that his intent was to allow the Committee to discuss this item and to ask questions. Chair Edwardson inquired if there was public comment. Mr. Bleidorn commented that if this item was tabled at this meeting it would come back to the Lands Committee prior to going to the Assembly and would be delayed until after the appeal has been heard.

Chair Edwardson asked about the process for this item. Mr. Palmer noted that option one would be for the Lands Committee to discuss the lease as normal with the consequences that the Assembly would have to appoint a hearing officer to decide the appeal. Alternatively, the Committee could decide not to discuss this lease, let the appeal go first, and depending on that outcome the lease discussion could be considered. Chair Edwardson inquired on the appeal process. Mr. Palmer explained that at the next regular Assembly meeting the Assembly would decide how to process the appeal, whether to accept it and to appoint a hearing officer or to handle the appeal as the Assembly itself. Regardless of this, there would be a short meeting with all the parties to decide how to proceed. Chair Edwardson asked if this would come to the Lands Committee again and Mr. Palmer stated that the appeal would not go to the Lands Committee but back to the full Assembly. The appeal is not before the Lands Committee and would be heard for the first time at a regular Assembly meeting. What is before the Lands Committee is the lease component. The appeal is for the Planning Commission's decision for a permit issued. The parallel track is for the lease component presented before the Lands Committee with the questions of which one to hear first. The option would be to debate the merits of the lease which would mean that the Assembly would more than likely need to appoint a hearing officer or if the Lands Committee does not want to debate the lease they have the option to refer the lease to the Assembly or table this item until a later date.

Chair Edwardson asked if there was any public speakers, none for this topic.

Mr. Smith asked Mr. Palmer if there was any discussion about the lease if that would potentially cause the Assembly to have to appoint a hearing officer and if there are any bounds or guidance for the Committee to discuss this item. Mr. Palmer noted that the big picture idea is that when the Assembly sits as an appellate body, the Assembly needs to recognize the procedure due process rights; the fairness rights of all parties involved, and it depends on how detailed the Lands Committee could get with a conversation. It is unknown what the concerns of the party that filed the appeal is. The Lands Committee could taint the neutral unbiased presumption of the Assembly to hear the appeal. If the discussion is just about money, that may not taint the appeal but if there are concerns about conditions, such as the height of the tower or the technology on the tower, then those are items that may taint the review piece through the appeal.

Mr. Smith commented that he has watched this go through the Planning Commission and there is more information about this topic he is interested in but is uncertain if he could have a conversation with Ms. Maclean about it, if it would be problematic to the appeal process. Mr. Palmer commented that one of the limitation once an appeal has been filed is that it prohibits an Assembly member from having ex partes, or private conversations with any parties. Currently CDD represents the Planning Commission's interest on this item so an Assembly member could not have a private conversation with Ms. Maclean, nor could they with the appellant, Mr. Lee, until the question of hearing officer or the Assembly as an appellate body has been decided. If a hearing officer option has been chosen then an Assembly member could have private conversations because an Assembly member would not be deciding the case. This could put the Lands Committee in an awkward position until the Assembly decides what to do with the appeal.

Ms. Hughes-Skandijs asked that if the appeal has been decided that this would go to the next full Assembly meeting and if the merits of the lease were discussed and a motion was issued, what that also go to the next Assembly meeting? Mr. Palmer noted that the Assembly would have the same choices as the Lands Committee and they would have the options to delay consideration of the lease to consider the appeal or they could take pieces of the lease up as well.

Ms. Triem made a motion to postpone the consideration of this lease until it is known how the appeal process will play out in the Assembly. Motion passed.

VI. STAFF REPORTS

A. Crazy Horse Drive Communications Tower Lease Request

Mr. Bleidorn discussed this request. This tower request is not as far along as the Lena communications tower request, hence why it is in the staff reports, with no motions requested at this meeting and will proceed as new business with the next Assembly meeting. On April 8, 2019, the Lands Committee reviewed a memo and presentation concerning a request from Vertical Bridge Holdings LLC to lease City property on the 32-acre parcel located at the end of Crazy Horse Drive, in the Mendenhall Valley. The Food Bank is located on this industrial property, as well as an existing FAA tower. There is also a private tower just north of this property, believed to be an AT&T tower. At that meeting, the Lands Committee passed a motion of support to work with Vertical Bridge Holdings LLC towards the lease of City Property contingent on a Planning Commission recommendation. In the time since the Lands Committee meeting, an appraisal has been completed for this proposed lease and the Planning Commission has reviewed it. The appraisal was completed on February 21, 2020 and the lease rate was determined to be $1,075 per month. The Planning Commission, at its regular public meeting on April 14 2020, adopted the analysis and findings attached in the Notice of Decision (NOD) and approved the special use permit for this tower. At the Planning Commission meeting, one citizen spoke against this proposed tower.

Since the Lands Committee already provided a motion of support for working with the original applicant on April 8, 2019 there is no request for a motion from staff at this time. However, given the amount of time since the Lands Committee last reviewed this topic, staff requests questions and comments from the Lands Committee prior to bringing the lease request to the Assembly. The next step in the application process is to bring this application to the Assembly as New Business and request a motion to work with the original proposer. City Code 53.09.260 - Negotiated sales, leases, and exchanges states:
"The proposal shall be reviewed by the assembly for a determination of whether the proposal should be further considered and, if so, whether by direct negotiation with the original proposer or by competition after an invitation for further proposals.

If this lease receives a positive motion from the Assembly to work with the original applicant, it will be brought before the Lands Committee as an Agenda Topic for discussion and staff will request a motion to the Assembly at that time.

Mr. Mertl asked if this is on Parks and Recreation managed lands. Mr. Bleidorn replied that Lands manages this property and it is zoned industrial.

Mr. Smith asked if he had questions about this particular tower if it was appropriate to discuss with Ms. Maclean. Mr. Palmer confirmed that is appropriate to talk to anyone about the lease that may be coming up in the future.

B. **Childcare Update**

Mr. Bleidorn introduced Mila Cosgrove and Laura Martinson to discuss childcare financial recommendations. Ms. Martinson had submitted the childcare financial recommendations to the Lands Committee to assess the need beyond the State funding that will end on May 30, 2020. Childcare providers in town are anticipating 30% to 50% enrollment as facilities will open back up, which creates a huge need for financial assistance based on the thin margins that they are already operating with.

Through fact-finding conducted within Juneau, the Economic Stability Task Force (ESTF) has determined there will be a need for financial assistance within the childcare sector of Juneau's economy. Assistance is needed both on the form of direct monetary assistance, and through directly providing supplies to safely operate. AEYC estimates that upon re-opening during the month of May, enrollment will be approximately 50% of capacity. At full capacity, operating margins for childcare were already very thin. As an example, Shibler's Discovery Preschool was operating at a 3%-5% margin, even with rent 100% subsidized due to legislative family care preference. With the decrease in revenue, margins will be even lower or potentially unprofitable due to fixed costs continuing and tuition declining.

With the intent to encourage childcare operators to remain open and to operate safely, the Assembly should consider providing temporary assistance to licensed centers. Assistance should be in the form of cash grants on a per-child basis for a period of three months beginning June 1 – at which point the market need should be re-assessed, given the quickly changing mandates and public health climate. The three-month time period is recommended as it begins when the state grant funding ends, and offers stability for operators, but recognizes the dynamic pace at which circumstances are fluctuating. The Assembly should also consider covering additional costs of PPE-type items, and potentially other costs not normally incurred by childcare providers for a period of three months, beginning when the provider opens, or immediately if already open. CBJ should also assist in identifying a source for PPE, as the purchasing capacity of most centers is limited.

Mr. Smith commented to Ms. Martinson the hard work the task for has accomplished in putting together these recommendations. Mr. Smith asked if there is a vision what a final work product might be. Ms. Martinson commented that she had spoken with AEYC and noted that there may be a per-student subsidy that the City may provide; this would be an easy mechanism to add additional funding per student. This may incentivize daycare centers to open as it is based on new enrollment and not previous enrollment.

This would be an incentive to get centers open again and get our economy moving again. Mr. Smith followed up by asking if the task force would use a matrix or a list of top recommendations. Is the reason this is coming forth due to the concern of how long these centers can survive on their own after funding ends at the end of May. Ms. Martinson confirmed that is correct and part of that is based on the anticipated enrollment with the concern that some centers may choose not to open at all. Childcare in Juneau is running around 2% - 5% profit margin, with most at 3%, so if enrollment is cut in half then it doesn't make sense financially to open. The taskforce was also trying to find a way to deliver the funds that is efficient for the Assembly. To find a method that is already in place and has the option of piggybacking off of. The three month timeframe is arbitrary as everything is changing so fast and that is a good assessment point but does not mean that the taskforce does not feel that there is a need beyond that date. Three months gives centers more time to operate and can be reevaluated after this timeframe.

Chair Edwardson asked Ms. Cosgrove where this childcare item would go after the Lands Committee. Ms. Cosgrove replied that there were two recommendations from the taskforce, one being EOC specific, if the CBJ EOC could assist center with the obtaining the appropriate PPE, in which the EOC cannot purchase the equipment but can assist and point the centers in the right direction. Ms. Cosgrove commented that this is a FY20 and FY21 issue, noting that Ms. Martinson mentioned the child stipend that is already in consideration for FY21 and FY22. There may be a significant cost increase of putting children into childcare right now, beyond scope of abilities for most parents to be able to pay. Further research is needed to determine if there is additional funding sources available in addition to CBJ funds. Beyond that, the FY20 portion of the taskforce should go back to the Finance Committee. Childcare may not be able to reopen at this time without some sort of financial assistance.

VII. COMMITTEE MEMBER / LIAISON COMMENTS AND QUESTIONS

No Liaison reports provided.

VIII. ADJOURNMENT

Chair Edwardson adjourned the meeting at 5:54PM.