

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

February 4, 2019 5:00 P.M.
City Hall, Assembly Chambers

I. ROLL CALL

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

Members Present: Mary Becker, Chair; Michele Hale, Alicia Hughes-Skandijs

Members Absent: Maria Gladziszewski,

Liaisons Present: Chris Mertl, Parks & Recreation; Weston Eiler, Docks and Harbors

Liaisons Absent: Paul Voelckers, Planning Commission

Other Assembly Members Present: Loren Jones

Members of the Public Present: Merrill Sanford, Mary Kay Pusich

Staff Present: Greg Chaney, Lands Manager; Roxie Duckworth, Lands & Resources Specialist, Rorie Watt, City Manager, George Schaaf, Parks and Recreation Director, and Beth McEwen, City Clerk

II. APPROVAL OF AGENDA

Hearing no objection, the agenda was approved as presented.

III. APPROVAL OF MINUTES

Chair Becker had submitted her comments for changes.

The January 14, 2019 minutes were approved as amended.

IV. PUBLIC PARTICIPATION

There was no public participation on non-agenda items.

V. AGENDA TOPICS

A. Chicken Yard Park

Mr. Chaney deferred to the City Manager, Mr. Watt for discussion.

Mr. Watt – Chicken Yard Park has been an issue that has been contentious for decades, for at least 50 years. The issue is whether or not the property owners in this area have a right of vehicle access through the park. The playground equipment is old, does not meet current code and is in need of replacement. The City has appropriated funds for park remodeling and Mr. Schaaf, the Parks and Recreation Director, initiated the process to seek a solution to conclude this issue. This has expanded to include the City Manager and neighborhood involvement.

Mr. Watt presented a possible solution. His discussion described the idea that passive use of a vehicle through a park in 1950 was different from today when people drive to and from their homes on a daily basis. There has been a difference of opinions between the Parks Department, the home owner and the neighborhood. Whereas the Parks Department is focused on the parks

in the community and the home owner believes they should have access to their property. The neighborhood has a broad spectrum of thought and opinions on this issue. Most people in the neighborhood support having a modern and safe playground for kids.

The proposed resolution is to have the parties come together, to split the differences and avoid attorney fees for both parties. The solution would be to build a driveway on Sixth Street, halfway up the hill, which would be jointly used by Parks Maintenance staff and would have two parking stalls for the permanent right-of-use for the owners of 626 Fifth Street. In addition, the homeowners would have pedestrian access to their home. This is in lieu of being able to drive up and park at their residence. In return, Parks and Recreation would have the maximum allowable space available for a park. This would avoid vehicles driving through the park with kids in the area. This is the best solution brought forward to resolve this issue. The City has worked through the land values, litigation scenarios, and other issues. A debatable question is whether there was a right of access to the park, did something exist prior to 1950, the homeowners think so, and the City does not.

City code addresses lands acquisitions and disposals. In this case the proposal will go through the Parks and Recreation Committee for comment. It will be the Parks and Recreation Chair's job to guide that body and offer this solution as the best that has been proposed. This solution will then go to the Planning Commission for comment, then to Lands Committee. The Assembly could authorize this proposal on March 4, 2019 by way of resolution. If all are satisfied, then this long standing issue will be resolved.

The Capital Improvement Plan will put additional funds into this year's CIP for this project to help fund construction. This will provide for a new park, a resolution for the homeowners, and resolve confusion and avoid further argument. Just to reiterate the details; a couple of parking spaces will be provided exclusively for the homeowners. They will also receive non-exclusive use of the driveway, non-exclusive use of pedestrian access through the park to their home, and a one-time cash payment of \$5,000.00 from the City. In conclusion, the owners would retain their parking spaces and disclaim all other interests in this site in regards to further access rights.

Chair Becker called for questions.

Ms. Hughes-Skandijs stated she was curious as to what the feedback from the neighborhood was. Mr. Watt responded that the neighborhood wants to support their neighbor and that the neighborhood also wants a new park. The possible option to remove the park and subdivide the area to make another home lot was not preferred by the neighborhood. The neighborhood is not likely aware of this proposed resolution but as individuals, they may or may not have commented on this process. Mr. Watt predicted that the neighbors that have been involved will agree that this is a good solution.

Ms. Hale wanted to thank Mr. Watt and the Parks and Recreation Director and neighbors for coming to an agreement. Mr. Mertl commented that he thought this was a great solution. The PRAC has heard several proposals for this situation, this was a good compromise. Chair Becker agreed.

Mr. Watt reinstated that this will go to the PRAC on February 5th, then Planning Commission on the 26th, and then to the Assembly for adoption by resolution.

B. Ownership of Historic Cemeteries in Douglas

Mr. Chaney provided a PowerPoint presentation on the background of the Historic Cemeteries in Douglas. The Odd Fellows are no longer a paternal organization in Alaska. Part of the issue with these cemeteries is that clear ownership has been lost over time. Previous Lands and Resource Specialist Bhagavati Braun, had researched the cemeteries to provide content for this report. She determined that there is quite a bit of information in the record. The timeframe for the Douglas Cemeteries begins in pre-territorial days before 1913. As a District in the United States, there was very little in terms of courts or legal system at this time, as such, legal resolutions were often difficult. Alaska at this time did not have a clear path for a municipality to gain surface rights for ownership of property. The Alaska Constitution states that the City cannot maintain private property, nor spend public money on private land. Before the CBJ can maintain these cemeteries, the CBJ needs to have clear ownership. The City needs clean title to these properties going forward to avoid future challenges.

The Douglas Cemetery is about halfway between the City of Douglas and the bridge. One of our first records of the Douglas Cemetery was from 1899, which was a strange document from a modern perspective because the City of Douglas did not own the property they were selling. Douglas was one of the largest cities in Alaska at that time. The cemeteries were dedicated but not surveyed at this time. The City of Douglas became less active after the Treadwell Mine caved in, although the cemeteries remained active but slowly stopped being used. As time went by no one during this time period cared who owned the cemeteries or where the boundaries were. They were not taxed and had no interest from the City Assessors.

There were a few organizations overseeing the cemeteries, these include the Catholic Church, and the Eagles, which are still represented. The Odd Fellows are not active anymore and we do not have records indicating that they perfected their title. The first survey that we have is the Ross Estate. There were exceptions shown in this survey which were the cemeteries. The cemeteries were not the reason this survey was completed but this is the first survey we have showing the boundaries of the cemetery lots. The next survey we have is the Crow Hill Subdivision that shows the property lines that were a direct result of the Ross Estate. These property lines do not necessarily correspond to the original cemetery boundaries. Godfrey Development is listed on the Crow Hill Subdivision and claimed ownership of some of this land. The Ross Estate has frequently been listed as the proper legal term but been uncertain for this estate. The North and South Godfrey areas were part of this same survey and were not exceptions from the Ross Estate, eluding that they might have been private property originally and were theoretically deeded from the City of Douglas. As far as we know, North Godfrey isn't really a cemetery, because there are no known burials in this area.

Mr. Chaney continued to describe additional cemeteries that include the Eagles and Servian Cemetery. The Servian Cemetery is believed to currently be on private property. The Eagles Cemetery has an interesting history with gravesites that were removed and reinterred, possibly to the Evergreen Cemetery downtown Juneau. This was done during the State of Alaska Douglas Highway widening project. Recordkeeping was sporadic and it is unknown where all of the graves ended up. One of the probable reasons that there are so few records is that Douglas experienced a number of big fires in which some records could have been destroyed.

The Masons and Odd Fellows Cemeteries are listed under the Ross Estate and have received limited care over the years. A report prepared by the City in 1995 established general boundary lines however some boundaries are not clear. The Russian Orthodox boundaries are also unclear and have been incorporated by the Catholic Cemetery. There are also some Native and Asian graves in the South Godfrey Cemetery. This reflected a different time period in which people were segregated in their burials.

Mr. Chaney explained the next steps in this process of determining cemetery ownership. Mr. Chaney is scheduled to discuss this issue with the Douglas Advisory Board on February 13, 2019. Lands will continue to determine ownership and work with a title company for comparison of our records with the title reports. Upon confirmation Lands will obtain title reports on those cemeteries. This information will then be taken to the City Law Department for review. Quit title actions will most likely be needed for the ambiguous cemeteries and straightforward title transfers will be conducted for the cemeteries with established ownership. The Lands Division has been directed by the Assembly to determine ownership and how the City can go about caring for these cemeteries. Before the City can maintain the cemeteries, we need to make sure we own them. Ownership of the Douglas Cemeteries has proven to be a complicated issue to work through.

Chair Becker called for questions and inquired if Lands found if any cemetery belongs to City.

Mr. Chaney replied that the North Godfrey and South Godfrey Cemeteries appear to be privately owned and their deeds have been offered to the City. We believe that this happened but do not have the final recorded documents. The Eagles Cemetery has the cleanest history, well maintained and well defined. When the DOT was widening the road, they needed to get ownership for part of this cemetery to move the graves. The Eagles applied for quit title action to say they owned it, but the City does not have these records of this quit title action outcome. It is still thought to be legally all one lot.

Ownership of the "City" cemetery is still in question. If it were owned by City of Douglas the deed would have been transferred to the City of Juneau. Part of the ongoing problem is that historically people didn't care who owned a cemetery because it was a cemetery.

Ms. Hale asked about the Catholic Cemetery, if it is owned by the Catholic Church or is there still a question of ownership. Mr. Chaney responded that he understood that this cemetery is owned by the Catholic Bishop in Juneau but there is still confusion on this. There is no clear statement of which cemeteries were transferred. Most believe the Catholics own this cemetery, however the property line does not match the historical records.

Mr. Mertl asked if it is Lands intent to pick these off one at a time as quick as possible, sequentially with the ones that can get transferred to the City. Mr. Chaney replied that much of the heavy lifting had taken place during the research and Lands will take that information to the title company for each cemetery. If a few come back quickly, then we will take those ahead. The intent is to work through these in a timely fashion.

Chair Becker asked what the next step was after the title company. Mr. Chaney replied that if the title company says we own the cemetery, then we are done. Mr. Chaney is anticipating that the City does not own all of the cemeteries. For those that we don't have clear ownership of we will do a quit title action, which is where you obtain ownership because nobody objects. This is

a specific legal process and can take some time. If we find out that certain parties do own these, such as the Eagles, it is assumed that they will offer to transfer ownership to the CBJ and the City can accept ownership. These are three different tracks we can start on depending on what comes back from the title company.

Ms. Hale inquired if the North Godfrey property is empty. Mr. Chaney replied that the empty area on the aerial photo is actually an access road.

Chair Becker asked where the graves were moved during the road construction. Mr. Chaney responded that a series of graves were moved to Evergreen and some may be across the street at the Catholic Cemetery. Chair Becker replied; "Aren't you glad we gave you something to do?" Mr. Chaney responded that this constitutes "*other duties as assigned*" for Lands, as our primary mission is to provide affordable housing and residential development.

Former Mayor Merrill Sanford spoke on behalf as a citizen of Douglas. He went on to describe that there are over 500 headstones or graves in these cemeteries. The names of the people buried in these cemeteries would be recognizable to many citizens today. He felt that this was a moral responsibility for the City to maintain these cemeteries. If his family were able to continue to take care of his cemetery, they would. He does not believe there will be future generations in his family to care for the Eagles Cemetery. The Catholic caretaker is in his 80s and has no one to take care for that cemetery after he is gone. The City comes in once or twice a year to the Ross Estate and Odd Fellows to try and work on the larger grounds maintenance issues. This is important to the Douglas Advisory Committee and Mr. Sanford wants to ensure that someone is taking care of the cemeteries and the responsibility should fall on the City.

Chair Becker called for questions and asked Mr. Sanford if he feels comfortable that these are the only graves. Mr. Sanford replied that there are more graves in Douglas and this is just a grouping of the majority of the people buried in Douglas. Chair Becker asked if there were any uncertain grave locations. Mr. Sanford replied that the Eagles Cemetery has a good plat that lists about 100 individuals buried there. He wouldn't guarantee that the ones that do not have names are empty and may still have people buried in them. The Serbian cemetery has several nice headstones and a plaque written in the Serbian language, but that plaque has come loose and ended up the Eagles Cemetery. The Eagles caretakers have tried to preserve the plaque along with a Russian Orthodox cross. People use to just bury people without a lot of rules; there were many graves that may have not been recorded. It is estimated to be at least 500 people buried in these cemeteries that were our fellow citizens.

Mr. Mertl inquired about the cemetery across from Gastineau School, if that was clearly titled and maintained or should that be involved in this process as well. Mr. Chaney replied that is a separate issue that is being handled with the reconstruction of Gastineau School and that the Lands Division is not involved. Mr. Mertl followed up to clarify that he was referring to the actual cemetery across from the school. Mr. Chaney replied that it was all part of the same event when the graves were discovered under the school's parking lot but that Lands has not been involved. We will look into it to make sure it is not overlooked.

Chair Becker called for any other questions. Mr. Chaney concluded agenda for the evening.

VI. STAFF REPORTS

A. Lands Division Overview

Chair Becker called questions. None given.

Mr. Chaney had no further items for discussion.

VII. COMMITTEE MEMBER / LIASION COMMENTS AND QUESTIONS

Mr. Mertl informed the Committee that Parks and Recreation had finished the Parks and Recreation Master Plan and it is slated to go before the Assembly. It is not scheduled to go before the Lands Committee but there were some land management issues, as Parks and Recreation manages over 6,000 acres. Other items of discussion included the Chicken Yard Park discussion and to follow up a discussion on the Douglas Cemeteries.

Mr. Eiler informed the Committee that the Docks and Harbors Board had two busy weeks of meetings including a joint Assembly meeting. At a recent board meeting the Docks and Harbors Committee talked about the departmental budget. The Docks and Harbors Board is working on a lease or an extension for the People's Wharf, Tracy's Crab Shack. Per assembly's guidance, the Docks and Harbors Board received direction to address the situation of the *MV Lumberman* and how to remove this vessel from the channel.

Chair Becker called questions or other discussion. None given.

VIII. Chair Becker ADJOURNMENT

The meeting was adjourned at 5:42 PM.