

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

August 27, 2018, 5:00 PM.

Assembly Chambers

I. ROLL CALL

II. APPROVAL OF AGENDA

III. APPROVAL OF MINUTES

A. August 6, 2018 Draft Minutes

IV. PUBLIC PARTICIPATION

(Not to exceed a total of 10 minutes nor more than 2 minutes for any individual).

V. AGENDA TOPICS

A. Rainforest Telecom Request for a Utility Easement

VI. ITEMS FOR ACTION

VII. SUPPLEMENTAL MATERIALS - RED FOLDER ITEM

A. August 27, 2018 Presentation

VIII. STAFF REPORTS

IX. COMMITTEE MEMBER / LIAISON COMMENTS AND QUESTIONS

X. ADJOURNMENT

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

August 6, 2018 5:00 P.M.
City Hall, Assembly Chambers

I. ROLL CALL

Chair Mary Becker called the meeting to order at 5:01pm.

Members Present: Mary Becker; Rob Edwardson; Jerry Nankervis

Liaisons Present: Chris Mertl, Parks & Recreation; Paul Voelckers, Planning Commission; Weston Eiler, Docks and Harbors

Other Assembly Members Present: Jesse Kiehl

Staff Present: Greg Chaney, Lands Manager; Dan Bleidorn, Deputy Lands Manager George Schaaf, Parks and Recreation Director; Mike Vigue; Brian McGuire

II. APPROVAL OF AGENDA

Hearing no objection, the agenda was approved as presented.

III. APPROVAL OF MINUTES

The June 11, 2018 minutes were approved as written.

IV. PUBLIC PARTICIPATION

There was no public participation on non-agenda items.

V. AGENDA TOPICS

A. Dave Lendrum request to Purchase City Property

Mr. Chaney discussed the background of this property. The City owns a panhandle lot, Lot 3 in the Bonnie Subdivision, and Mr. Lendrum owns the adjacent property, Lot 2. The City purchased this property to gain access to the large properties that CBJ owns uphill; Mr. Lendrum would like to purchase Lot 3.

Mr. Nankervis requested clarification on the location of this lot. Mr. Chaney described it as on Back Loop Road near Goat Hill and pointed to page 11 of the packet. Mr. Chaney stated that Mr. Lendrum is proposing to purchase the lot from the city and has offered an access easement that would be 60 feet wide, which is the width of a right-of-way (ROW). This would combine the two panhandle lots and extend an easement to the city property uphill from the properties in question. Mr. Chaney stated that the only reason the city owns this property is for access, and currently we only have a 30 foot access through the City lot, if we were to move forward with this proposal, we would have a 60 foot wide utility and access easement while the rest of the property would be in private hands. Mr. Chaney clarified that the Lands Division is not interested in holding private property just to hold it.

Mr. Lendrum is the owner of the adjacent property; the property in question is just over an acre and was purchased in 2007 to create options to access the tracts of land uphill and Mr. Lendrum is offering to grant a 60 foot easement for access.

Staff recommends that the Lands Committee pass a motion of support to the Assembly to work with the original applicant and dispose of this CBJ property in a manner that would result in platting a 60 foot wide public access and utility easement through Lots 2 and 3 of Bonnie Subdivision, USS 2392.

Mr. Voelckers asked if a true platted right-of-way or just an easement is proposed. And would there be survey costs as part of this new arrangement. Mr. Chaney answered that an easement, not a right-of-way is proposed. For a right-of-way there would have to be improvements. It wouldn't be as good as a right-of way but it would be better than what we have now.

Mr. Edwardson asked Mr. Chaney to explain why the easement curves on to CBJ property. Mr. Chaney stated that there is currently a house on the Lendrum lot; the proposal is to angle the access easements away from the home.

Mr. Mertle asked if the purchase of the lot exclude the easement. Mr. Chaney stated the concept is that the Lendrums would own the entire lot but the City would be granted an easement. Mr. Mertle asked if the applicant would be able to use the easement for his business. Mr. Chaney replied: I believe he would, but if the City wanted to use the easement, anything in the easement would have to be removed. Mr. Mertle asked if Mr. Lendrum would have to pay for the easement. Mr. Chaney answered that the City would get an appraisal done which would include the proposed easement, and Mr. Lendrum would pay Fair Market value for all of the land that is considered for purchase, including the easement.

Mr. Mertle asked if an educational nursery would require a conditional use permit for the new lot. Mr. Chaney deferred that to the planning department and Planning Commission, stating that type of question would be part of the review if this proposal were to move forward.

Mr. Voelckers asked if at some point the CBJ wanted to use this easement as access, could the easement be converted to a right-of-way. Mr. Chaney stated that this could be a possibility, but would have to be agreed to with the property owner at the time and would have to comply with the codes at the time. Our primary suggestion for this property is to use this easement as a utility corridor or secondary access. Mr. Chaney noted that this area of Mendenhall Loop Road, and the topography of the site, is not ideal for primary access to the CBJ property uphill of this proposed easement, but if needed it could be a primary access with some investment and engineering.

Mr. Becker asked if the Committee's questions and comments will be provided to the Parks & Recreation Advisory Committee (PRAC)? Mr. Chaney stated that they will be part of the minutes which will be forwarded to all reviewing organizations and if Parks &

Recreation is involved we would send it to them. Mr. Chaney added that these lands are not Park lands so that department may not be involved in this matter.

Ms. Becker asked if the Committee chose to send this to the PRAC, would it come back before the Lands Committee. Mr. Chaney answered that if the Committee wanted to review it again it would come back to the Lands Committee. Ms. Becker stated that there is a motion on page 12 regarding sending this proposal to PRAC if anyone is interested in that.

Mr. Nankervis requested clarification about this sale creating an easement, and a ROW would have to be negotiated with the future owners. Mr. Chaney stated that it would be stipulated in the easement agreement that the City would be able to develop the easement for the purposes of access, including the installation of utilities, but to convert the easement to a ROW would take negotiation with the owner.

Mr. Nankervis asked if there has been public notice about a potential purchase or easement. Mr. Chaney answered that this is the first public hearing for this matter. Prior to the approval of this proposal there would have to be Assembly Approval, it may be heard by other committees, and Planning Commission review is required, which would include public notice.

Mr. Edwardson moved that the Lands Committee pass this to the Assembly, with support of the Lands Committee.

The Lands Committee unanimously passed a motion of support to the Assembly to work with the original applicant and dispose of this CBJ property in a manner that would result in platting a 60 foot wide public access and utility easement through Lots 2 and 3 of Bonnie Subdivision, USS 2392.

B. Deckhand Dave's request to Purchase City Property

Mr. Chaney introduced the item. He outlined the applicant as Deckhand Dave's, a food cart located near the Downtown Library. The property under consideration is the Gunakadeit or Pocket Park property. The area was leveled after fires that destroyed the adjacent Gastineau Apartments and is now an empty grassy area. The application is to purchase the property and use it as a food-court area "to foster economic development in the area." A portion of the parcel is currently designated as a City park. Mr. Chaney stated that part of the question we are considering is if the City wants to sell this parcel to this applicant or to the highest bidder, possibly through a sealed competitive bid. He also noted that if the property is sold, the City will not have a say in how the property is used in the future. Whatever is allowed in the district may happen legally on the parcel. The Land Management Plan has the park listed as a "retain/dispose" designation. Additionally there has been an additional request to consider a joint marketing of the Gunakadeit Park with the adjacent property that was formerly the Gastineau Apartments. Gunakadeit Park would be listed jointly and sold as a larger parcel. The applicant proposes to purchase both properties to create the food-court area. The

adjacent property is privately owned. The PRAC can decide that this property should be removed from the property Parks manages.

Staff recommends a motion from the Lands Committee to forward this application to the Parks Department and the Parks & Recreation Advisory Committee (PRAC) to provide comments before further Assembly review.

Mr. Chaney added that the PRAC doesn't have the authority to sell the property, but they can remove its designation as a park, and the City can review the property and allow other City departments to propose uses for the property. If no other City department wanted to use it the City could proceed to a potential sale, then the City would decide to sell to the original applicant, retain the property, or dispose of it in a competitive fashion.

Mr. Voelckers asked a clarifying question about the possibility of jointly marketing the private and public lands. Mr. Chaney pointed out that this possibility is not a part of the current application under review, adding that the owner of the adjacent lots has proposed that the lots be listed together because they are worth more combined than either one individually. Mr. Voelckers stated that there may be multiple uses that could be proposed for the joint lot that could conflict with the current proposal.

Mr. Eiler asked if there are recent assessments for the value of the property. Mr. Chaney stated that there has not been an evaluation of value for the property. If the City proceeds with this proposal the applicant would pay for an appraisal.

Mr. Edwardson noted the Manager's memo which states that the issue of retention of Gunakadeit Park is already being submitted to the PRAC for consideration, and asked if Staff was aware of this. Mr. Bleidorn clarified that the proposal to the PRAC is regarding the possible joint sale of the parkland and adjacent property. Mr. Edwardson continued, stating that it may not be the place of the Lands Committee to provide the PRAC with a recommendation for this property. Mr. Chaney stated that staff's recommendation is to forward this issue to the PRAC for their recommendation before further action.

Mr. Mertle stated that when the demolition of Gunakadeit Park first came before the PRAC on September 8th of 2015, there was a motion from Rorie Watt the, Director of Engineering. After public testimony the final motion from the PRAC stated that the Park would be demolished to assist in the demolition of Gastineau Apartments with the understanding that the park would be retained and PRAC would participate in future decisions about future use of the park. Mr. Mertle stated that the process being taken is appropriate, but expressed concerns over the fact that Gunakadeit Park is only one quarter of the vacant land. He noted that if PRAC states that this should move forward it still doesn't allow development of the whole project as proposed. Mr. Mertle added that the motion from 2015 stated that the park should remain open space, and questioned whether a food-truck area is the highest and best use of that prime real estate, if it is to be removed from the parks list.

Mr. Mertle asked if the best option moving forward for this property is to go out for public bid why the Lendrum proposed sale isn't the same. Mr. Chaney answered citing the land use code that says the Assembly has three options when considering land disposal:

- 1) To do nothing and retain the property;
- 2) Accept an original proposal as proposed, and usually there is a good reason why they choose this, in Mr. Lendrum's case he can provide access for the City that nobody else can provide;
- 3) General or competitive purchase, usually through sealed competitive bid.

This third option happens when the Assembly wants to dispose of land but the original proposal didn't have any particular standing over other potential buyers. Mr. Chaney stated that the first question is, "Should the property be retained as a park?", If the answer is "No" the next question is, "Should we sell it?" If the answer is "Yes", then the Assembly needs to decide whether to go with option 2 or option 3. This hearing, and the hearing before the PRAC, will be to determine whether or not this property should be retained as a park.

Mr. Mertle stated that he takes offence to the recommendation to remove the park designation from the property; he continued that that decision should come without a recommendation from another board or committee about how they should act. Mr. Chaney answered that the intent was not to guide the PRAC, but to ask for a recommendation. He stated he would be open to word-smithing the recommendation to clarify it.

Mr. Nankervis stated that there are a lot of moving parts but he is just fine with making a motion to forward this to the PRAC.

Mr. Mertle asked if leasing is an option or a good short term solution. Mr. Chaney answered that leasing could be an option, but there are a lot of questions we don't have an answer for at this time. Leasing would be a far superior option if the community wished to continue to control over that property into the future.

Mr. Edwardson said that the status quo should be the default. The park is currently designated as a park and that the PRAC shouldn't have to defend the park.

Mr. Kiehl voiced his concern that this proposal may not be the highest and best use of the property. He stated his hopefulness that the PRAC will look at the broader picture and not the applicant as an individual. He voiced concern at the framework presented by this application is not the best way to look at this larger issue, stating that the park has a storied history and there are many potential options that could be considered for this site. He stated his hopes that the PRAC look at more than one concept and that there be a thorough analysis of the opportunities, both as a continued park and potentially as private or leased land.

Mr. Chaney stated that this recommendation (proposed motion in the staff report) is for the PRAC to consider whether this property should remain a park; that is the question

that would be put before them. Mr. Nankervis stated that he is not concerned if the PRAC likes the applicant's proposal but if they would like it to remain a park.

Mr. Edwardson: **A motion from the Lands Committee to forward this application to the Parks Department and the Parks & Recreation Advisory Committee (PRAC) to provide comments before further Assembly review.**

Motion passed unanimously.

C. Purchase of Bernstein Building and Property

Mr. Mike Vigue, Director of Engineering & Public Works (E&PW) for CBJ presented this item. He stated that the City has the opportunity to purchase a building at 9505 and 9507 Robinson Court, the property is adjacent to the Mendenhall Wastewater Treatment Plant and is zoned industrial (I). It consists of an 8,312 sq. ft. industrial shop building on .32 acres. The building was built in 1982; it's a two-story wood frame building with metal siding and roof with office space on the second floor. This property would provide adequate space for the wastewater collections operations including dry climate controlled equipment storage, a shop, warehouse space for parts and inventory and office space for the collections team. The bio-solids dryer facility currently under construction is on the site of the former collections shop and warehouse which was torn down to co-locate the bio-solids dryer facility at the Mendenhall Wastewater Treatment Plant. This building, the Bernstein Building, would be a suitable replacement for the former shop and warehouse in a convenient location that will improve the efficiency of the collections team. It's most efficient if the collections team and the necessary equipment shop and parts warehouse access are located in a single location. Currently equipment is stored in a climate-controlled storage unit near the treatment plant, at the former Valley Streets facility near the Transit Building, at the Juneau Douglas Wastewater Plant (JD) near the rock dump, and at the Mendenhall Wastewater Treatment plant. Purchasing the Bernstein building would provide a single location for staff, equipment, and parts. The location is also closer to work sites within the majority of the wastewater network of Lemon Creek and north. The CBJ Lands Division contracted with Integra Realty Resources in Seattle to complete an appraisal of the property which was completed in May of 2018, the property and building were valued at \$485,000. The appraisal assumed that the close proximity to the Mendenhall Wastewater Treatment Plant did not impair the value of the property.

Mr. Vigue continued stating the owner, through his real estate broker, has offered to sell the property and building to the City for \$565,000, which is \$80,000 above the appraised value. Staff feels the asking price is a reasonable expenditure for the city given that the property is adjacent to the Mendenhall Wastewater Treatment Plant and provides efficiency in collections operations, reducing response times and providing a central location to safely store equipment and parts. The adopted FY2019 wastewater operating budget identified \$600,000 in capital outlay for land acquisition, this funding

would be used to purchase the Bernstein property and building for use by the collections team if the purchase of the building and property is approved by the Assembly.

Mr. Vigue introduced Brian McGuire, the wastewater superintendent who then gave a presentation. Mr. McGuire reiterated that collections has historically stored their equipment on the Mendenhall Wastewater Treatment Plant property, however their storage was removed with the construction of the bio-solids dryer building. He described the images in a PowerPoint presentation showing the wastewater treatment plant property and the location of now-demolished buildings that once housed collections as well as the Bernstein building, noting that the Bernstein building is close to the previous location and of a similar size. He described the equipment used by collections and described the options for collections as using the Juneau Douglas Plant or purchasing the Bernstein property. Mr. McGuire outlined a cost comparison: estimating some minor facility work on the proposed purchase of the Bernstein building would lead to a total price of just under \$700,000. Looking at the option of constructing new space, considering the square foot cost of a building as \$300 per square foot, which is a current estimate from the engineering department on other facilities that have been constructed recently, and include some other additional costs around relocation the cost would be around \$4.5 million. He also noted an estimated differential operating expense of around \$60,000 per year in fuel alone from operating out of the Juneau Douglas Plant which is located at the south end of the collections network.

Mr. Kiehl said looking at the numbers, it seems like we are not comparing similar buildings, he asked how two similar buildings could have such a high cost differential. Mr. McGuire answered that the cost of reproducing the same level of facilities that had been used previously would cost \$4.5 million. Mr. Vigue added that this proposal considers efficiency of operations stating that building a building at JD that would be a similar size to the Bernstein building would create two locations for collections operations because some staff and equipment would be at Mendenhall and some at JD. The \$4.5 million number is looking at relocating all of collections to the JD location for efficiency purposes.

Mr. Edwardson stated that the adopted FY2019 wastewater operating budget identified a \$600,000 capital outlay for land acquisition, he asked if this is what that was contemplated? Mr. Vigue answered that it was.

Mr. Edwardson asked what the cost of inefficiency per year is at the moment. Mr. Vigue replied that the current calculation is around \$60,000 per year for fuel related to traveling back and forth. He added that this calculation does not include lost staff time and increase in traffic downtown stating that it makes more sense to be centrally located at the Mendenhall Plant as it was before.

Mr. Voelckers stated that it seems like you've done a good job explaining the cost and savings of purchasing this property. He highlighted the differential between asking price and appraisal and the cost savings associated with the proposed purchase and stated that it seemed appropriate and a useful idea.

Mr. Edwardson asked if the Bernstein property is the old Ship Chandlers storage building. Mr. Vigue stated that he believed it is.

Mr. Kiehl asked how the \$600,000 evaluation was reached, noting that the assessment (as established by the City Assessor) is \$261,000 (\$485,000 was established by a private appraiser). Mr. Vigue stated that he was not privy to those calculations but that he surmised that there were conversations with the owner who began negotiations for the property around \$600,000. Mr. Chaney added that at that time there had been no appraisal for the building so the \$600,000 was an educated guess.

Mr. Vigue read to the Committee the last paragraph from the memo: *Paying above fair market value (FMV) is a policy decision of the Assembly. In accordance with Title 53, the Manager may not pay above FMV unless the Assembly authorizes such action by motion. Staff requests that the Public Works and Facilities Committee forward a recommendation to approve the purchase of the Bernstein property and building for \$565,000. Mr. Vigue noted that this motion was intended to go before the Public Works and Facilities Committee but hadn't at this time due to lack of quorum.*

Mr. Kiehl stated his concern that the (private) appraisal is blind to the smell of the plant, and the (CBJ) assessment is not, thus he stated he was concerned about the asking price.

Mr. Nankervis stated his understanding of the need for the building and his desire for further negotiation regarding the price of the building. Mr. Chaney noted that the appraiser was aware of the proximity to the treatment plant.

Mr. Edwardson stated that this is the third time in recent memory that the Committee has been asked to authorize more than FMV. He stated his concern that it may become a new norm for the City to purchase property above FMV and his worry that the City set aside \$600,000 and the seller is asking for \$600,000 for a property that hasn't been used in several years. He stated that he has not been convinced to pay more than FMV.

Mr. Chaney noted that according to page 29 of the packet the (private) appraisal did not consider the proximity to the wastewater treatment plant, stating that his comments earlier to the contrary were in error.

Ms. Becker made a motion to forward a recommendation to approve the purchase of the Bernstein property and building for \$565,000.

Motion failed 2:1

Mr. Nankervis made a motion to direct staff to continue negotiations with the property owner to see if the purchase price can be negotiated further and report back to the Lands Committee.

Motion passed unanimously.

VI. STAFF REPORTS

A. George Schaaf Staff Report on Chicken Yard Park

Mr. George Schaaf, Director of the Parks & Recreation Department presented an informational staff report regarding Chicken Yard Park. He stated that there is no action called for at this time but outlined that some of the issues and options that are available may require Assembly decisions regarding easements or other access rights. The issue is a safety and park maintenance problem that is complicated by a land and access issue. (The playground equipment in) Chicken Yard Park is almost 30 years old and has outlived its useful life, there are safety concerns and the playground equipment should have been removed several years ago. There have been issues of vehicles driving through the playground, no one has been hurt, but the playground structure has been struck by vehicles, causing some damage. One reason the equipment hasn't been replaced is because we can't install new playground equipment in an area that is being used by vehicles. The questions are: should Chicken Yard Park be retained as a park or used as a driveway to access private property? Through much research the Parks & Recreation Department has not been able to find a way that this property can be both a playground and a driveway. He stated that the Parks & Recreation Department feels there should be more parks and playgrounds and recommends retention of Chicken Yard Park as a playground.

Mr. Schaaf continued, stating that the park is located at 6th and Kennedy Streets on Starr Hill and is listed as a Neighborhood Park, which is a smaller park with a playground as the focal point of the park. The city acquired the park from the Sisters of St. Ann in 1950 for \$4,000. In 1980 the Parks and Recreation Department recommended the Assembly close the park to vehicle access, at that time the Assembly tabled the discussion, and in 1988 the playground equipment was installed. In 2009 the house at 626 Fifth St. which uses the park as driveway access was sold to the Eisners, and in 2014 it was sold to the current owners Mr. Gitchell and Ms. Van Fleet.

Mr. Schaaf stated that the ordinance at issue here has been on the books for quite some time and applies to all the properties that the Parks & Recreation Department manage for recreation purposes. It states that no person shall operate a motor driven vehicle within any recreational area except on the roadways and parking areas designated for such. The reality is that at Chicken Yard Park the City has failed to comply with or enforce that ordinance over the years.

Mr. Schaaf showed some photographs of the park noting a parking pad and outlining where the vehicles have been driving. There had been a slide that ended two feet from the where the vehicles were driving which has been removed.

Mr. Edwardson asked how long has there been a driveway through the property. Mr. Schaaf responded that there is no recorded easement through the park; however the owners have issued a letter claiming that they own a driveway (easement) through the park. He added that the City Law Department and the attorneys for the owners of 626 Fifth Street are in discussions about the driveway rights. Ms. Becker asked if there is a conflict between the city and the owners about who really owns that drive. Mr. Schaaf

clarified that the City does own the property, the letter that was received states that the owners of 626 Fifth St. own a private driveway (easement) through the park.

Mr. Kiehl asked when curb cuts were put in that help allow vehicle access to the park. Mr. Schaaf stated that he did not know the answer to that question, but clarified that almost all parks have curb cuts to allow maintenance vehicle access. Mr. Kiehl stated that it seems this park was designed for this dual use, to which Mr. Schaaf stated that that could be the case. Mr. Nankervis stated that Mr. Kiehl's comments are speculation, noting that many parks have curb cuts.

Mr. Schaaf continued, stating that the Parks & Recreation Department's responsibility is to build and maintain safe parks and playgrounds, and the Department takes that responsibility very seriously. Chicken Yard Park was built a long time ago and wouldn't be allowed to be built today. Setting aside the design the equipment is old; the wood is rotten, the metal rusty, there is very little fall protection, swing location is too close to sidewalks, and vehicles have struck and impacted the equipment over time. Essentially, he stated, the park is not safe, and the Department can't install new equipment with vehicles using the space as a driveway.

Mr. Schaaf addressed the question: "Why now?" listing:

- Primarily the condition of the playground,
- Second the Department has \$90,000 that was authorized by the 2012 temporary 1% sales tax that could be leveraged along with fundraising efforts to update the park, and
- Third, the issue of playgrounds and driveways being incompatible uses.

He noted the recent pouring of a concrete pad at 626 Fifth Street when construction vehicles and crews occupied the park, noting that there was no notice of this use given to the Parks & Recreation Department. He noted a child who was playing in the playground while the pad was being poured, noting the many vehicles and construction workers and some dangers of the site including exposed rebar which concrete was being poured over. He stated that there was no site control, no safety precautions, and no notice to the City, adding that private property owners can obtain access through parks, and do often, but the Department requires notice so that the public can be notified and the parks kept safe.

Mr. Schaaf stated that the Department has talked with the owners of 626 Fifth Street, and has looked at various options for the area including if there is enough room in the park to accommodate both uses. The current driveway use dramatically reduces the size of the area available for playground use. The best case scenario is that the playground area for this park be approximately 4,500 sq. ft. which is smaller than all other small parks in town, the next three smaller parks are 5,500, 7,800, and 11,000 square feet respectively. He stated that 13,000 sq. ft. is really small, and difficult to design a safe park for. Mr. Schaaf showed examples that had been drafted including a scenario which allows for a private driveway through the park which allows for more

playground space, but isn't a useful driveway for vehicles, requiring back-out driving; a scenario with a turn-around for vehicles which would further shrink the playground area. Both options would require an engineered barrier to keep the playground users out of the traffic flow and reduce the remaining area to a site essentially too small to house a playground. Another option considered was to excavate and create a raised driveway to the front of the property; this would be very expensive and leave more room for the park, but would also require a barrier and would preclude expansion of the community garden. Yet another option to create a straight driveway from Sixth Street to the driveway would reduce the parkland by half and require back-in or -out parking, preclude public parking and an ADA accessible parking spot designated for the park. He stated that future equipment will include ADA accessible equipment and it makes sense that there be an accessible parking space, especially considering the steep terrain of the area. Another option is to provide the owners of 626 Fifth St. with one street parking space, which allows for one ADA parking space and a much larger area for the parkland. All of these options require some grant of legal interest from the Assembly whether through a sale, lease, easement, or something similar. Mr. Schaaf stated that while there are many options the essential question is, "Does the City want a park or an area for vehicles?", because the two uses are not compatible.

Mr. Schaaf summarized some of the public comment that was given to the Parks & Recreation Department in the past week:

- The owners of 625 Fifth St. have an easement to access the park, to which Mr. Schaaf clarified that there is a claim that the owners have a private driveway easement, however no recorded documents have been found that can attest to this claim, he added that this claim does not impact the question of the safety of the playground with motorized vehicle access so near.
- Another claim is that the City has taken funding from the 1% sales tax and assigned it to another project, Mr. Schaaf stated that this is not true, there is \$90,000 available, some of it was used for a site assessment regarding some foundation issues at the park but the rest is available and the Department intends to gather more funds to improve this park.
- Another statement was that if this access is taken away other property owners wouldn't be able to use the park for access in the future; Mr. Schaaf responded that the Department issues homeowners access to parks frequently and for a variety of reasons. This is done in a managed way where the owners contact the Department requesting access, the Department grants access, mitigating safety issues and notifying users of the activity that will be happening in the park to ensure the access is done safely.

Mr. Kiehl noted that there were approximately 20 people at the meeting from the neighborhood, noting that he has been receiving calls about this issue. He noted Mr. Schaaf's previous statements that the two uses could not both exist on the same property and asked why they cannot, stating that his own children don't feel afraid in the park. Mr. Schaaf answered that there are safety standards and guidelines that

require certain clearance zones around playgrounds and playground equipment and in trying to accommodate the barriers required for a driveway and those clearances there is nowhere to site the playground equipment. He stated that when the playground was initially constructed those safety standards probably did not exist, and voiced his gratitude that no one has been hurt at Chicken Yard Park, but stated that staff are concerned that it's a matter of time until somebody is hurt. If this does happen it will be hard for the City to defend the decision to continue to maintain a park that goes against city ordinance and contrary to national standards for playground safety.

Mr. Kiehl stated his interest in seeing what those barrier requirements are and how they might be accommodated within a park, adding that it is difficult to tell residents of an area that they can no longer do something that they have done for decades and decades, and more difficult to say that that which has always been done is impossible. He stated that to date we haven't shown our work, adding that it's a difficult situation and many people would be willing to help make this work. Mr. Schaaf stated that the intention of the letter was to open a dialogue, and to notify the public about the PRAC meeting (held on August 7), stating that this is the tool available to begin that conversation. He added that the Parks & Recreation Department is in a tricky spot where the Assembly issued an ordinance that runs counter to the current use of the park, and the Department hasn't followed this ordinance, adding that the Assembly could certainly change that ordinance, but the Department is not comfortable with not following it. Ms. Becker asked a clarifying question to which Mr. Schaaf responded that the Department doesn't feel it has the latitude to not enforce the ordinance noted above. Ms. Becker agreed with that sentiment.

Ms. Becker asked if the people and committees, that the Department has spoken to, all want a park in that area? Mr. Schaaf stated that the PRAC hasn't heard this issue yet (they would the following day, August 7). Ms. Becker stated that if they want a park they need to help see that there is a park, and the park cannot have cars driving through it. She stated that there have to be standards, and if they can't comply with them the next option may be to not have a park there, stating the chance of injury is not an acceptable one, and the standards of the nation should be kept for our parks.

Mr. Edwardson noted that if the owners have a prescriptive easement they have a right to use that space regardless of the use the City wants to put on the property, he asked if we enforce having no vehicles drive through the park is the City robbing the rights of the land owners. Mr. Schaaf answered that this discussion is not to litigate whether there is a prescriptive easement on the property, staff did a title search on the property and there are no easements recorded on the property. He added that the Department is approaching this issue from a maintenance and public safety perspective. He stated again that the choice, considering the size of the park and the standards and ordinances that exist, that the park can have a driveway or playground equipment, not both. He noted that a prescriptive easement would be something for the Law Department to work out.

Mr. Mertle stated that he lived in the house at 626 Fifth Street in 2014, adding that he is a landscape architect and designs playgrounds. He stated that he was petrified every time backing out of that driveway, adding that this issue has been discussed periodically with PRAC for the 8 or 9 years that he has been on the Committee, but no decisions have been made. He thanked the Department for bringing this up, and stated that the park is so small that the best park that could be conceived on this land, if it continues as a driveway, is one swing set with open space creating a buffer to the driveway. He stated that this is the time to deal with this issue, it has been put off long enough. He thanked the Department for bringing this issue to the Lands Committee and for mailing the letter to a wider audience than is required, and thanked the public for attending the meeting and showing that they care.

Mr. Kiehl addressed Mr. Mertle through the chair asking that if the PRAC meeting is the beginning of a conversation? And that the conversation be more than, "It simply cannot be." He continued by noting that the Committee grandfathers a great deal, stating that the minutes reflect that in the 1980's when this was heard before the committee said essentially, "This isn't the only tight geometry in this town – go do real work." He expressed his hope that there is a conversation to be had, and hopes that there are creative ways to mitigate the safety concerns going forward.

Ms. Becker voiced her concern for the children first, noting that access to the home is important, but should not be maintained to the risk of safety for children. Mr. Nankervis thanked staff for bringing the issue and explaining it to the Committee.

VII. COMMITTEE MEMBER / LIASION COMMENTS AND QUESTIONS

Mr. Eiler from Docks & Harbors stated that the board has organized for the next calendar year; Mr. Don Ethridge will be chair, Mr. Bud Simpson will be Vice-Chair, he will serve as the chair of the Committee of the Whole, and Mr. Mark Ridgeway will serve as Vice-Chair of that committee. Two new board members have been added; Mr. Dan Blanchard and Mr. Dave McCasland, and there is also a vacancy that the Assembly will be filling in the near future.

Mr. Mertle of the PRAC stated that their big focus is the Master Plan which is getting close to completion. Another exciting project is Project Playground, he noted that the community build begins on August 8 and they're still looking for volunteers to help. The contractor has finished all of the structures and the play equipment is in, so the community build is dealing with aesthetics and architectural elements such as facades, fencing, and artistic elements. After the community build, the constructor will return and install safety features and finish the build. He stated that it will be open in September, weather permitting. Ms. Becker asked what ground covering is being used, Mr. Mertle responded that the community, Juneau Community Foundation, Parks & Recreation and everyone else raised additional funds for a zip line and an artificial turf playground which were not part of the original design. The play surfacing will be the accessible poured-in-place "rubber like" ground cover. Ms. Becker asked how flammable the surface is, Mr. Mertle replied that everything is burnable, however this surface, anecdotally, is less likely to burn than the loose rubber that was previously the

ground cover at Project Playground. He stated that it could burn, but it does meet playground fire retention standards. He noted that there are a few more pickets for purchase and asked for more volunteers for the build.

VIII. ADJOURNMENT

There being no further business, the meeting was adjourned at 6:43 PM.

DRAFT

MEMORANDUM

CITY/BOROUGH OF JUNEAU

Lands and Resources Office
155 S. Seward St., Juneau, Alaska 99801
(907) 586-5252

TO: Assembly Lands Committee

FROM: Dan Bleidorn, Deputy Lands Manager *Daniel Bleidorn*

SUBJECT: Rainforest Telecom Request for a Utility Easement

DATE: August 22, 2018

Earlier this year the Lands office received an application from Rainforest Telecom Inc requesting a utility easement across City property located north of the ferry terminal on the uphill side of Glacier Highway. This 310 acre CBJ property (LND-0201) is also the location of Stabler Rock Quarry, which is on the Southeast corner of this parcel.



Rainforest Telecom Inc. is requesting this easement so that they may place power and communications cables across City property to serve their existing tower located on Forest Service property. Currently, their tower runs off of a solar array and a propane powered generator. This easement will allow Rainforest Telecom the ability to provide colocation services to other entities such as KTOO and Juneau EMS.

Rainforest Telecom has requested and received a similar easement across adjacent Forest Service Property as the proposed power and communications cables will also run through their property. By securing Assembly approval for this easement, Rainforest Telecom will be able to provide increased services on their tower.

This easement was introduced to the Lands Committee at the March 19th Lands Committee Meeting. (Attachment A: Lands Committee Minutes)

The Planning Commission reviewed this easement request at the June 12, 2018 meeting and recommended that the Assembly approve the easement to locate a power and communication cable across CBJ property (USS3810 Lot 1, Fraction). Documents associated with this case are available online at: <https://packet.cbjak.org/CoverSheet.aspx?ItemID=5637&MeetingID=857>

This will be a ground laid armored cable that meets all CBJ adopted electrical codes. An excerpt from this staff report is provided in Attachment B: Memo from Haight and Associates on ground laid cables.

An appraisal has been complete for this proposed easement. (Attachment C: excerpt from July 8 appraisal) The applicant has agreed to pay \$500 per year. The Lands and Resource Division proposes that the terms of the easement include adjusting the fee every 5 years based on the Anchorage Consumer Price Index.

The Grantee shall provide the City with as-built drawings showing the final location of the easement within 60 days of installation being completed.

53.09.300 - Easements (d) Assembly action states “upon receipt of the planning commission recommendation, the assembly may, by resolution, authorize the manager to execute the easement under such terms and conditions as are authorized by the assembly.”

Attachments:

- Attachment A - Lands Committee Minutes, March 19, 2018
- Attachment B - Haight and Associates Memo
- Attachment C - Excerpt from July 8, 2018 Appraisal

Staff Recommends the Lands Committee pass a motion of support for the Assembly to grant an easement across City property for power and communications cables, as proposed in the staff report.



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

March 19, 2018 12:00 P.M. (Special Meeting Time)
City Hall, Assembly Chambers

I. ROLL CALL

Chair Mary Becker called the meeting to order at 12:00pm.

Members Present: Mary Becker; Beth Weldon; Rob Edwardson; Jerry Nankervis

Liaisons Absent: Paul Voelckers, Planning Commission; Weston Eiler, Docks and Harbors; Chris Mertl, Parks & Recreation

Staff Present: Greg Chaney, Lands Manager; Dan Bleidorn, Deputy Lands Manager; Rachel Friedlander, Lands and Resources Specialist

II. APPROVAL OF AGENDA

Hearing no objection, the agenda was approved.

III. APPROVAL OF MINUTES

The minutes were approved as amended.

IV. PUBLIC PARTICIPATION

There was no public participation on non-agenda items.

V. AGENDA TOPICS

A. Rainforest Telecom Request for a Utility Easement

Mr. Bleidorn addressed the Lands Committee concerning his March 14th, 2018 memo and summarized the application was for a power and fiber-optic cable easement across City property so that the applicant could access their tower on US Forest Service property. Mr. Bleidorn introduced the applicant, Mr. Wayne McKeown, who was sitting in the audience and available for questions. Mr. Bleidorn noted to the Committee that this agenda topic could have been considered an informational staff report and that he therefore wished to strike his recommendation in the memo. Mr. Bleidorn said Assembly action is required for easements and that any permissions granted to the applicant will occur through a resolution after Planning Commission review. Mr. Bleidorn said his primary goal for today's meeting was to notify the Committee of Rainforest Telecom's application, and to gather Committee questions.

Ms. Weldon said that in the application, the cable will be "ground laid" and "settle into the forest floor" and asked if that was normal. Mr. Bleidorn replied that was something he was looking into and will gather direction from Planning Commission and CDD staff. Ms. Weldon said it does not look like there are trails or if hunters use that area and Mr. Bleidorn said as a part of the review process, staff will request comments from the Engineering and Community Development departments, especially because this easement runs on the same property as Stabler Point quarry. Mr. Bleidorn said the applicant already has an existing, permitted tower on

Forest Service property but are looking for an easement so that their utilities can travel on Forest Service property as well.

Chair Becker asked if this was a new line and Mr. Bleidorn replied it will be an additional use through Forest Service and City property. Mr. Bleidorn said the tower is currently powered through a solar and propane generator, so this easement will allow the tower to incorporate additional uses. Mr. Bleidorn said co-location, where one tower services multiple providers, has been of interest to the City. By securing this utilities easement, Rainforest Telecom can then allow multiple services to exist and use its tower said Mr. Bleidorn. Mr. Bleidorn let the Committee know that after he had produced the packet, KTOO provided a letter of support saying they would be using Rainforest Telecom's tower as a sublessee.

Mr. Edwardson asked if in general the City receives a cut if one tower has multiple subleases and Mr. Bleidorn replied if the tower was on City property, then the answer would be yes and that the City usually has a cost sharing arrangement, however there is no such arrangement in this case because the tower is not on City property.

B. Vertical Bridge Request to Lease City Property – South Lena

Mr. Bleidorn addressed the Lands Committee concerning his March 13th, 2018 memo and summarized the application was for a 100 foot by 100 foot lease of City property located adjacent to the water tower found at South Lena. Mr. Bleidorn said this application is in the beginning stages of City review and that there will be a process to evaluate the cell tower itself, in addition to allowing for a lease, as this item makes its way before the Planning Commission and CDD staff for review. Title 49 has a full section on cell tower wireless facilities that this application will be vetted through said Mr. Bleidorn. Mr. Bleidorn said the next step for this application will be taking this item before the full Assembly where the Assembly can make the decision to lease the property, to work with the original applicant, or open it up to additional applicants who may be interested in leasing this very site. All of these steps will be followed by a City State Project review by the Planning Commission and will then come back before the Assembly to be adopted by ordinance. Mr. Bleidorn updated the suggested motion from the packet to state: "Lands staff is requesting the Lands Committee to adopt a motion of support to the Assembly directing the Manager to work with the original applicant, Vertical Bridge."

Ms. Weldon asked if there would be a problem with any sort of light on the tower and Mr. Bleidorn said the FAA will decide if a light is needed, and that the Planning Commission and CDD staff will be evaluating this as well, through the conditions outlined in Title 49.

Mr. Edwardson said Mr. Bleidorn's recommended motion requests that the Lands Committee send this agenda topic to the Assembly with support. Mr. Edwardson

MEMORANDUM



To: William Shattenburg Date: 05/02/2018

From: Quincy Judson HAI Job#: 204-27

Regarding: Auke Mountain Communication Site Power Cable

Per NEC 2017 it is permissible to install MC type cable directly in an exposed application under the following reference:

Article 300: General Requirements for Wiring Methods and Materials

Part II: Requirements for over 1000 Volts, Nominal

Section 300.37: Aboveground Wiring Methods. Aboveground conductors shall be installed in rigid metal conduit, in intermediate metal conduit, in electrical metallic tubing, in RTRC and PVC conduit, in cable trays, in auxiliary gutters, as busways, as cable bus, in other identified raceways, or as exposed runs of metal clad cable suitable for the use and purpose...

Because the Okonite Loxarmor Type MV-90 or MC (with galvanized steel shielding) cable proposed here satisfies the requisite criteria to be listed as MC cable it is suitable for the application of exposed runs. This makes it a suitable choice for the power installation at Auke Mountain in which the cable will be installed in exposed runs.

526 Main Street
Juneau, Alaska
99801

Telephone
(907) 586-9788
Fax
(907) 586-5774

**MARKET VALUE APPRAISAL
EASEMENT FOR COMMUNICATIONS/POWER CABLE
MILE 13 GLACIER HIGHWAY
JUNEAU, ALASKA**

JDC FILE NO. 18-17

As of July 8, 2018

PREPARED FOR:

**Wade McKeown
Rainforest Telecom Inc.
3031 Clinton Drive, Suite 101
Juneau, AK. 99801**

BY:

**JULIE DINNEEN COMPANY
Julie C. Dinneen, MAI
302 W. Chester Street
Lafayette, CO 80026**

JULIE DINNEEN COMPANY
REAL ESTATE APPRAISALS

July 24, 2018

Wade McKeown
Rainforest Telecom Inc.
3031 Clinton Drive, Suite 101
Juneau, AK. 99801

RE: Market Value Appraisal of Easement for Communications/Power Cable, Mile 13 Glacier Highway, Juneau. JDC File No. 18-17.

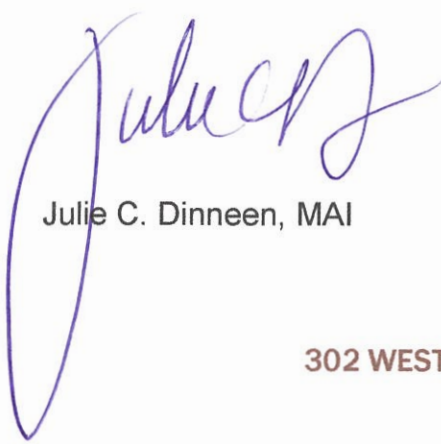
Dear Mr. McKeown:

At your request, I have completed an appraisal of the above proposed easement to be located on Auke Mountain at Mile 13 of the Glacier Highway in Juneau.

This report has been completed in conformance with the appraisal reporting standards formulated by the Uniform Standards of Professional Practice (USPAP) as formulated by the Appraisal Foundation. It also conforms to the Appraisal Standards for the City and Borough of Juneau.

I have formed the opinion that the market value of the proposed easement, as of August 31, 2018 when it is assumed that it will be granted, is **\$500**.

Respectfully Submitted,



Julie C. Dinneen, MAI

302 WEST CHESTER STREET, LAFAYETTE, CO. 80026
(303) 579-3589

August 27, 2018

CBJ Assembly
Lands Committee



Rainforest Telecom Request for a Utility Easement



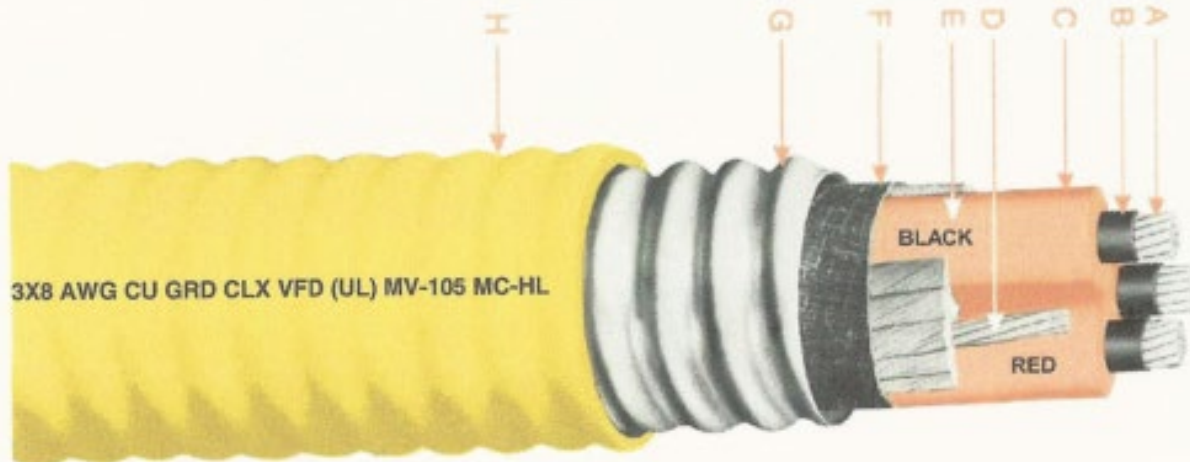
Rainforest Telecom Request for a Utility Easement

- Request for power and communications cables
- Existing tower currently powered by propane and solar
- This Easement will allow for additional uses on existing infrastructure
- Proposed cable will be ground laid
- Concurrent request for an easement though Forest Service property

Rainforest Telecom Request for a Utility Easement

- Proposed cable will be ground laid
 - Memo from Quincy Judson at Haight & Associates
“A suitable choice for the power installation at Auke Mountain in which the cable will be installed in exposed runs”

[Staff Report for CSP2018 0005](#)

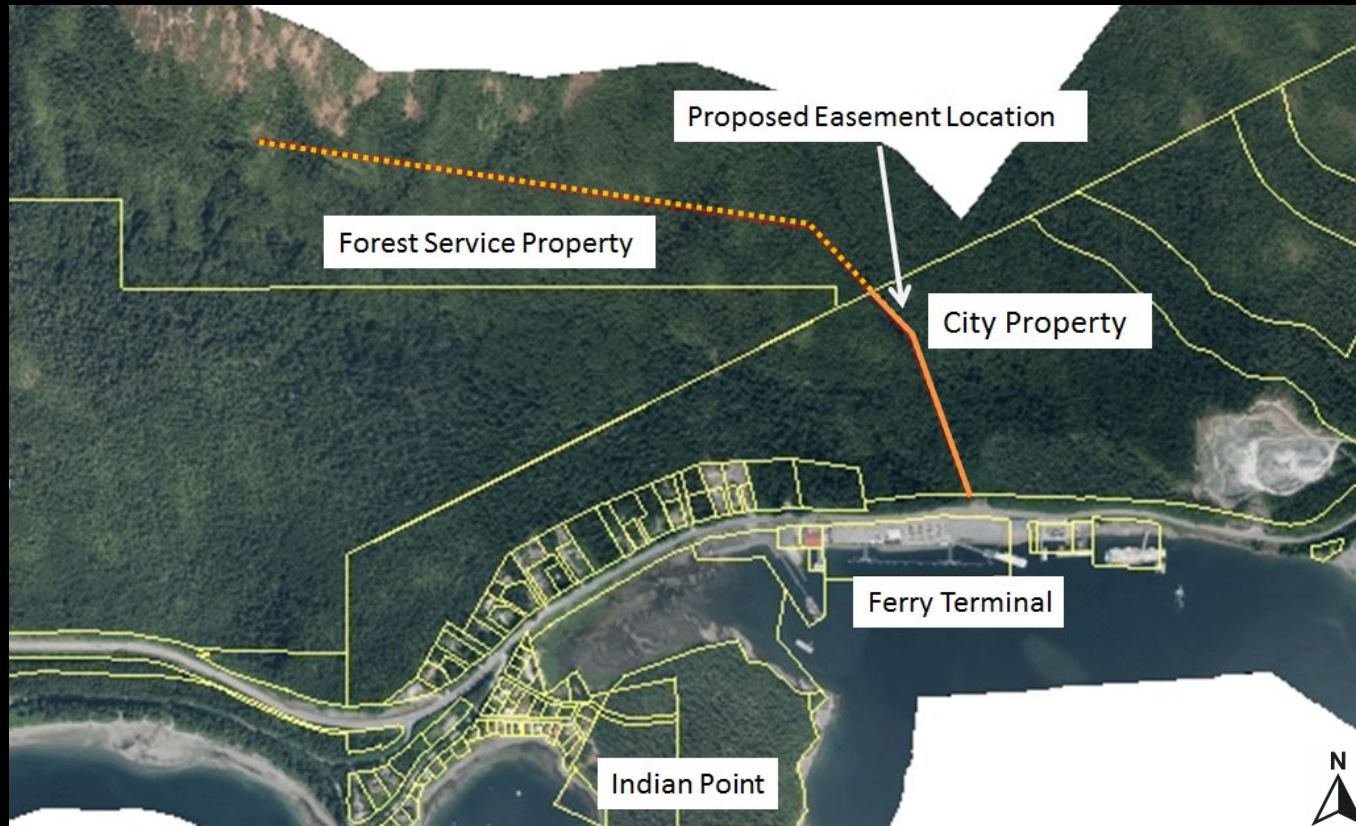


- A** Uncoated, Okopact (Compact Stranded) Copper Conductor
- B** Extruded Semiconducting EPR Strand Screen
- C** Okoguard (EPR) Insulation
- D** Three Copper Grounding Conductors
- E** Phase Identification
- F** Fillers and Binder Tape
- G** Impervious, Continuous, Corrugated Aluminum C-L-X Sheath
- H** Jacket- Low Temperature Yellow Okoseal

Rainforest Telecom Request for a Utility Easement

- “Upon receipt of the Planning Commission recommendation, the assembly may, by resolution, authorize the manager to execute the easement under such terms and conditions as are authorized by the assembly” - 53.309.300 (D)
- June 12, 2018 – the PC recommended that the Assembly approve the easement

Rainforest Telecom Request for a Utility Easement



Staff request the Lands Committee pass a motion of support for the Assembly to grant an easement across City property for power and communications cables, as proposed in the staff report