

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

May 21, 2018 5:00 P.M.
City Hall, Assembly Chambers

I. ROLL CALL

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

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

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

Staff Present: Greg Chaney, Lands Manager; Rachel Friedlander, Lands and Resources Specialist; Rorie Watt, City Manager

II. APPROVAL OF AGENDA

Hearing no objection, the agenda was approved.

III. APPROVAL OF MINUTES

The minutes from the March 19th, 2018 meeting will be reviewed at the next Lands Committee meeting.

IV. PUBLIC PARTICIPATION

There was no public participation on non-agenda items.

V. AGENDA TOPICS

A. Alan and Ellen Rogers Land Trade Proposal

Mr. Chaney addressed the Lands Committee with his May 15th, 2018 memo by first describing the current location of the Rogers property, the upland City parkland proposed for trade, existing sheds that are currently encroaching on City property, and that the buildable quality of the lot is challenging given the predominant steep slopes on the Rogers parcel, which is why they have come before the City with their proposal.

Mr. Chaney then showed the Committee photos and diagrams of the area. Mr. Chaney emphasized that a majority of the park property the Rogers family would like to acquire already exists within the access and utility easement and has been developed. The Rogers family proposal would exchange undeveloped waterfront so that they may officially own the land encumbered by the access and utility easement. Mr. Chaney then posed the question to the committee that tonight's meeting was to determine if it is appropriate for the City to consider the Rogers proposal or seek alternative proposals from the public.

Mr. Chaney then shared with the Committee that this project was reviewed by the Parks and Recreation Advisory Committee (PRAC) and was approved with a 5 to 2 vote determining the proposal was generally acceptable. Mr. Chaney said the two dissenting PRAC members felt the proposal was not beneficial to the public. Mr. Chaney then concluded that the current decision before the Lands Committee is directed by CBJ§53.09.230(a):

“Prior to considering a land exchange, the Assembly must determine if it is appropriate to work ‘by direct negotiation with the original proposer or by competition after an invitation for further proposals. Upon direction of the Assembly by motion, the manager may commence negotiations for the...exchange...of City and Borough land.’”

Mr. Chaney said if the Lands Committee finds this equal land trade appropriate, staff advises the Committee to find the equal value land trade proposed by Alan and Ellen Rogers to be generally acceptable and recommends working with the original proposers; that the proposal be forwarded to the Full Assembly with a positive recommendation; and that the authorizing ordinance stipulate the transaction be completed within two years.

Mr. Edwardson asked how steep and wide the grade is for the strip of Rogers property that the City would receive and Mr. Chaney replied the width is about 12 feet and that it is pretty steep.

Ms. Weldon asked if there was anywhere else to build on the Rogers lot and Mr. Chaney replied if you are not on the beach, the property is very steep and that someone would need an unusual type of foundation work to support construction on a grade like that. Ms. Weldon then asked if anyone else uses that driveway and Mr. Chaney replied that the driveway is used exclusively by the Rogers family but the main access easement is used by the other homeowners in the area. Ms. Weldon asked why such a steep piece of property would be significantly more valuable than City property and Mr. Chaney replied that it “is the golden touch of the waterfront” and that even though a majority of the land is upland, the high value is the result of the waterfront, which was confirmed by the appraiser. Ms. Weldon then asked what the plans were for the original beach house and Mr. Chaney replied it is on the applicants’ property so he assumes they will use it. Ms. Weldon then shared her concerns that the property owner would subdivide the lot and then try to sell it. Mr. Chaney said that would be difficult to do under current code because there is no right-of-way frontage on the beach cabin property. Ms. Weldon replied she knows the PRAC had two dissenters, one concerning this proposal would be of no benefit to the City and the other being subdividing the lot and selling that lower piece. Mr. Chaney replied the property is large enough and that it has enough area where the lot could be subdivided but there are other challenges like not having frontage on a right-of-way and that he hasn’t looked at this issue in detail.

Mr. Edwardson asked about access to the right-of-way and Mr. Chaney said the Rogers have a private easement along City parkland and that this is not right-of-way, which may not be sufficient for a subdivision. Mr. Edwardson asked what the public purpose would be for this project and Mr. Chaney replied the advantage to the City is the acquisition of private waterfront in exchange for City land that is already encumbered by a private access and utility easement. Mr. Chaney emphasized that this is a lot of discussion for something that is fairly minor for what would actually occur on the ground, and that there is a slight benefit for the public for the City to acquire the waterfront since this is where the public recreates.

Chair Becker asked if the public would access City property through the Rogers’ lot and Mr. Chaney replied no and that a vast majority would use the beach to access this point.

Mr. Nankervis asked what the City land use designations were for the two large lots that comprise the Mendenhall Peninsula and Mr. Chaney replied the southern portion of the Peninsula is a natural area park and the northern portion is City property but not managed as parkland. Mr. Nankervis then requested that Mr. Mertl elaborate on the discussion held by the PRAC. Mr. Mertl shared he was one of the two dissenting votes at the PRAC meeting but that he supports the PRAC’s positive

recommendation. Mr. Mertl said there was concern with the 2.5 to 1 ratio, along with the question of how far away from the beachfront does one consider property “waterfront” and considering a very skinny 12 foot wide swath, at what point are you not considered waterfront. Another concern considered flat developable land versus steep land, and that in Mr. Mertl’s opinion, flat developable land can have more done to it than steep land. The last concern asked how was this proposal of benefit to the public and if the proposal was really in the public’s best interest.

Ms. Weldon said she would move that the Lands Committee forward the proposed land trade to the full Assembly.

Mr. Nankervis then requested clarification on information provided by Mr. Chaney concerning the two decisions before the Committee: continue the negotiations with the proposer or open up this topic for other proposals. Mr. Nankervis was curious if Ms. Weldon had a preference and Ms. Weldon said she is being specific to the land trade proposed by Alan and Ellen Rogers.

The Lands Committee unanimously recommended forwarding the proposed land trade involving Alan and Ellen Rogers with a recommendation to work with the original proposers to the full Assembly.

B. Indian Point Update/Information

Mr. Watt apologized for not being able to give the Committee information in April as originally stated. Mr. Watt gave a quick verbal overview of the five points outlined in his May 17, 2018 memo that were meant to address the Committee’s concerns raised in January 2018:

- **Zoning:** Mr. Watt’s memo addressed the development process Indian Point would have to go through and said the City has put preservation measures in several existing plans for this area.
- **Role of the federal government:** A meeting with Aak’w Kwa’an representatives was hosted by the Mayor. In attendance was Fran Houston, Marie Olsen, Janine Canul and others by phone. In a follow up phone call Janine Canul offered to follow up on communication with Alaska’s congressional delegation.
- **Land conveyance methods or land protections:** Mr. Watt said land conveyance methods or land protections can run the full gamut and there are many ways one could limit development, convey, or jointly own it.
- **Greater Juneau Borough land selection intent:** Mr. Watt shared that staff was unable to find intent by the Greater Juneau Borough when it selected the land. Mr. Watt said testimony had been found that speculated why the land had been selected but no historical information prior to why Indian Point was selected was found.
- **Public testimony:** Mr. Watt reminded the Committee that at some point they had discussed the desire to get public testimony at a joint PRAC meeting.

Mr. Watt advised the Lands Committee to think of their goals when it comes to this project and what the City is hoping to achieve. A question posed by Mr. Watt was if the City chooses to protect the land, who would be the most appropriate to own the land in perpetuity and make sure those protections are enforced and enacted.

Mr. Voelckers asked Mr. Watt to elaborate on the meeting held between the Mayor and the Aak’w Kwa’an clan. Mr. Watt replied the clan had reached out to Cathy Munoz to help advance the

conversation, along with the Mayor, Elder Marie Olson, and Fran Houston, and that the meeting was collegial. Mr. Watt said the Aak'w Kwa'an are not a federally recognized tribe so there was discussion amongst the clan to form a formal entity, and in the past, Goldbelt (Heritage Foundation) has been suggested as a custodian for Indian Point. Mr. Watt said the meeting was not conclusive however it was positive, and that the meeting was held at the request of the Aak'w Kwa'an clan. Mr. Voelckers asked Mr. Watt for his opinion on the formation of a group by the Aak'w Kwa'an to enter into a land agreement and Mr. Watt replied that right now there is discussion amongst the group of forming a non-profit organization, and if there was a conveyance of a land right, the City would have to think about successors and heirs in perpetuity. Mr. Watt said the group could receive some rights but they are not ready yet.

Ms. Weldon asked what joint ownership would look like and Mr. Watt said there are properties with percentages owned by a lot of parties. Mr. Watt said if you do something like this, you should envision decision making, what happens if property owners do not agree, and the potential for dispute. Mr. Watt then shared stories that concerned multiple property owners for one lot and how messy it can be. Mr. Watt reminded the Committee to go back to goals and if preservation was the focus, that equal shared ownership might work.

Mr. Mertl asked if Mr. Watt had asked about the National Park Service's intent with their lot and Mr. Watt replied he had not. Mr. Watt said once the meeting was requested with the Mayor by the Aak'w Kwa'an clan, he figured that was sufficient given land negotiations with the federal government can take time, so he was happy to yield the lead on that task.

Ms. Weldon asked where the shaman graves were and Mr. Watt replied it would not be appropriate to say in order to avoid calling attention to these cultural heritage sites but that they are confirmed to be on the premises.

Mr. Voelckers asked about time issues associated with Indian Point and if he thought the public process so far has been sufficient. Mr. Watt said he did not perceive a time issue and that the City's stance is 'no action' which might end up being the preferred outcome for many years and that on the City side, there is nothing Mr. Watt needs to move forward. Mr. Watt said the proponents of a land transfer or further conservation measures probably see this differently because they made a request and may feel like they've been patient and the ball is in the Assembly's court. Mr. Watt said there are different views but that another way to look at it could be disposal or trade of City property, and any time the City does that, there is a rigorous City process and it always errs on the side of deliberation. Mr. Watt said the hurdle for any development activity or active use of the land will be pretty high and unlikely in any time horizon he could see.

Mr. Edwardson commented there has been a request from the Aak'w Kwaan, and that the City spent a couple months on the Hurlock facility but there was no request yet there seemed to be urgency in getting it done, and that he would like to see the Lands Committee schedule public testimony for the possible conveyance of this lot to the Aak'w Kwaan. Mr. Watt said he thinks that is accurate. Mr. Watt said the job is to round up all possible information and to have a public testimony component. Mr. Watt said its either staff find more information or hear from the public.

Mr. Mertl asked if Mr. Watt had spoken with the Southeast Alaska Land Trust regarding a conservation easement and Mr. Watt said he had not and thought there was a request from elders in the Aak'w Kwaan and that it did not seem appropriate to bring another non-profit entity into the mix, or maybe it

is. Mr. Mertl commented that maybe partnerships is a way to help out if the group is not a nonprofit. Mr. Mertl said the Land Trust does allow special uses of the property. Mr. Watt replied this topic had not occurred to him.

Mr. Mertl asked Chair Becker if the City is ready for public testimony. Mr. Nankervis said he was a part of the conversation held between the Aak'w Kwaan and the Mayor and when they left that meeting, they were advised by members from the Aak'w Kwaan that they would get in touch with the federal delegation and then get back to the City. Mr. Nankervis said he has yet to hear back and it would be premature to have public testimony until the Aak'w Kwaan report back.

Mr. Voelckers asked what the question to the federal delegation concerned and Mr. Nankervis said it had to do with how the land came to be Juneau's and whether the federal government would be willing to look at lands in exchange for that, with the feds deeding traded land over. Mr. Nankervis asked the Mayor (in the audience) for his input and the Mayor agreed with Mr. Nankervis's interpretation of the meeting.

Ms. Weldon asked if there are any recreational trails on this property and Mr. Schaaf said there are informal trails but no publically designated or maintained trails.

Mr. Edwardson asked Mr. Nankervis if there were any minutes from that meeting and Mr. Nankervis so indicated no minutes were kept. Mr. Edwardson said he is uncomfortable moving forward with the memory of the meeting that does not have minutes. Mr. Edwardson said if there is another meeting, it should be with the Lands Committee for the Aak'w Kwaan to represent themselves. Mr. Nankervis replied the Aak'w Kwaan requested the meeting with the Mayor and that they could have taken minutes if they wanted to. Mr. Nankervis said numerous meetings occur where a group requests a meeting with the Mayor and no minutes are taken.

Ms. Weldon asked if the City could reach back out to the Aak'w Kwaan clan and ask where they are with their questions for the federal delegation and Mr. Watt replied he would be happy to do that. Mr. Watt then said he could reach out and report back at the next Lands Committee meeting.

C. Discussion of Douglas Cemeteries, guest speaker – Merrill Sanford

Chair Becker said the Assembly was asked by one member of the Douglas community who has a cemetery in his possession that has a number of his family members in it, as well as the Douglas Advisory Board, to look at all the cemeteries on Douglas. Chair Becker said the purpose of this discussion would be to take over maintenance of the cemeteries, which was her intent when she requested funding during a City Finance Committee meeting for the cemeteries.

Mr. Chaney then used a map detailing the locations of the graveyards to distinguish the cemeteries in question and said former mayor Merrill Sanford would then give an overview of the cemeteries. Mr. Chaney said a report outlined that there are 514 burial sites but only 157 known grave markers. Mr. Chaney speculates there are graves in these areas that are no longer marked.

Mr. Sanford said he was the proud owner of the Eagles cemetery, which was transferred to him last week. Mr. Sanford said the three trustees of the cemetery transferred the property to him because they were concerned their late age would leave the cemeteries without a caretaker once they pass. Mr. Sanford said his family pays between \$600-700 a year to have the grass mown at the Eagles cemetery and that he and a couple family members work on the fence. Mr. Sanford met with the Douglas Advisory Board, which is taking care of the Douglas Catholic cemetery and the first half of the City plot. The

Douglas Advisory Board recently received a letter from the Catholic dioceses of Juneau wishing to give up their rights to the cemetery, said Mr. Sanford. The Douglas Advisory Board was hopeful that when Juneau annexed Douglas and transferred the land, that part of that transfer would entail taking care of the cemeteries. Mr. Sanford said he and the Douglas Advisory Board would like the City to look at each one of these cemeteries and ultimately acquire them.

Ms. Weldon asked Mr. Sanford what he meant by “take over” and Mr. Sanford said he would hope that if the City took over, it would let the descendants volunteer so that a lot of the work could be done by the volunteers. Mr. Sanford said that since he is now the sole owner of the Eagles Cemetery, he would like to quitclaim deed the cemetery to the City to maintain it for a long time to come. Ms. Weldon asked Mr. Chaney who owns the City cemetery and Mr. Chaney replied the ownership concerning several of these cemeteries is obscure, with nothing clear coming out of City records. Mr. Chaney said staff could try to go through the process of trying to obtain title to these cemeteries, many of which were started hundreds of years ago with the people starting them being deceased themselves. The City could sponsor a petition to obtain ownership, said Mr. Chaney.

Mr. Mertl said these pieces of property hold an important part of Juneau’s history, and the City needs to do the best it can to maintain these opportunities. Mr. Mertl said he thinks it’s a great idea that the City take over these cemeteries, but that this can and will influence the City’s Parks and Recreation Department budget. Mr. Mertl said cutting grass is the highest maintenance cost for Parks.

Ms. Weldon said she believes the City gave \$10,000 to maintain the Douglas cemeteries and Chair Becker replied it was put in the budget but then they were told to take the issue to Lands for a final recommendation.

Mr. Voelckers said he agrees with Mr. Mertl’s sentiment. Mr. Voelckers asked Mr. Chaney to confirm that the Catholic dioceses was also interested in a transfer to the City and Mr. Sanford instead replied the Catholic Community Administrator wrote to the Douglas Advisory Board that they are interested in pursuing this matter with the City but Mr. Sanford was unsure what this meant. Mr. Sanford said the Ross Estate ownership could not be determined, which means the City would need to go through quiet claim to take those pieces of property that way.

In the interest of time, Ms. Weldon moved that the City find title to these properties and go from there. If the title cannot be found, the City should try to own them, said Ms. Weldon.

Mr. Edwardson said rather than try to find the titles, there might be a combination of quiet title actions, quit claims, and clouded titles and that the Lands Committee should direct staff to find out what the scope would be of taking over each one of these to see what size the project would be, along with cost estimates.

Chair Becker asked Ms. Weldon for a motion, and Ms. Weldon said she did not think this item needed a motion but instead only to provide direction to staff. Chair Becker emphasized staff does not have to have all the information at one time, but instead can work one cemetery at a time. Mr. Chaney said staff will provide an update to the Committee. Chair Becker asked Mr. Chaney for his recommendation on the Eagles property and whether the City should take that over now. Mr. Chaney said he would discuss this with the City Manager and come back with a recommendation.

VI. STAFF REPORTS

There were no staff reports.

VII. COMMITTEE MEMBER / LIAISON COMMENTS AND QUESTIONS

There were no committee member/liaison comments and questions.

VIII. ADJOURNMENT

There being no further business, the meeting was adjourned at 6:04 pm.