

MINUTES

PLANNING COMMISSION CITY AND BOROUGH OF JUNEAU Michael Satre, Chair

REGULAR MEETING January 24, 2012

I. CALLED TO ORDER

Chair Satre called the regular meeting of the City and Borough of Juneau (CBJ) Planning Commission (PC), held in the Assembly Chambers of the Municipal Building, to order at 7:00 p.m.

Commissioners present: Karen Lawfer, Jerry Medina, Nathan Bishop, Benjamin Haight, Marsha Bennett, Nicole Grewe, Dan Miller, Dennis Watson, Michael Satre

A quorum was present.

Staff present: Dale Pernula, CBJ Community Development Department (CDD) Director; Greg Chaney, Laura Boyce, Teri Camery, Eric Feldt, Beth McKibben, CDD Planners

II. APPROVAL OF MINUTES

December 20, 2011 – Regular Meeting

MOTION: *By Mr. Miller, to approve the December 20, 2011 regular PC minutes, with corrections.*

There being no objection, it was so ordered.

III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS - None

IV. PLANNING COMMISSION LIAISON REPORT

Chair Satre announced that the Assembly is meeting tonight so Mr. Smith is unable to join the PC, but he looks forward to attending the next one.

V. RECONSIDERATION OF THE FOLLOWING ITEMS - None

VI. CONSENT AGENDA

Chair Satre announced that two related items CSP20110011 and USE20110031 were removed to the Regular Agenda prior to the PC meeting convening. There is one item remaining on the Consent Agenda, CSP20110012, and he inquired if there is public comment this item. A person

from the public requested CSP20110012 be removed. No one from the Commission had questions. Chair Satre moved CSP20110011 to the Regular Agenda.

VII. CONSIDERATION OF ORDINANCES AND RESOLUTIONS - Heard out of sequence

VIII. UNFINISHED BUSINESS - None

IX. REGULAR AGENDA

CSP20110012

A City Consistency Review (CSP) for reconstruction and improvements of Irwin and Rheinhardt Streets and a portion of Martin Road.

Applicant: Joe Castillo, CBJ Engineering

Location: Irwin & Rheinhardt Streets, Martin Road

Staff report

Ms. Boyce stated that this project is for utility and street reconstruction improvements along Rheinhardt and Irwin Streets and Martin Road. One change is proposed as a Blue Folder item, as CBJ Engineering agreed to amend the plans to the sidewalk on Martin Street to provide an ADA ramp where it ends adjacent to Seater Street, which will:

“Provide an ADA ramp at the upper terminus of the Martin Street sidewalk nearest Seater Street to provide barrier free access for pedestrians.”

Along Irwin Street the existing water main will be replaced, and they will reconnect residential water services. The existing storm drainage system will be upgraded and replaced. Stormwater laterals will be stubbed out to properties. The sewer main will be replaced. A rockery wall will be replaced with a concrete cantilevered wall. A guardrail will be installed, and the roadway and sidewalk will be improved. In addition, there is an agreement with AEL&P to replace and relocate two power poles.

Along Rheinhardt Street the storm drainage system will be upgraded and replaced. The curb and gutters will be on the south side, and the valley gutter will be replaced on the north side. The sidewalk in front of Westridge Condos will be replaced. The stormwater system will be installed, and the road will be repaved.

Along Martin Road the water mains will be replaced as well as the storm drainage system. Stormwater service laterals will be stubbed to properties. There will be a new 4' sidewalk, curb, and gutters installed adjacent to Evergreen Cemetery. The road will be repaved. A guardrail will be installed at the top of Martin Road near Hermit Street. AEL&P has agreed to replace and relocate another power pole in this area as well.

She referred to the Typical Sections on page 4 of Irwin and Rheinhardt Streets and Martin Road. She provided a slide of the Vicinity Map (attachment A), and photographs of existing conditions of the streets.

Public testimony

John Bohan, representing the applicant CBJ Engineering, said these are old streets in need of repair below and above ground. They are taking the opportunity to add segments of sidewalks to

allow pedestrians safe access to the highlands along Martin Road. A couple of concerns relate to construction vehicles encroaching in the upper area of Rheinhardt and Hermit Streets in regard to a private access area near the Westridge Condos. CBJ Engineering requires the contractor to work with residents, and they are to obtain written permission from private landowners to use private land, as CBJ Engineering does not want to be responsible for private property damage.

Susan Hargis, 202 Hermit Street, said she appreciates increased access that the project will provide. When she purchased the property in 1994, she found out that the upper area of Rheinhardt Street a City roadway encroaches on her and the townhouse owner's property. This is in the area where the City roadway starts to curve around at the end of Rheinhardt Street. She referred to attachment A, noting that a white line shows where their property line is located with the City roadway encroaching onto it shown as the black line. They would like to go on record stating that they want the City to vacate that portion of the roadway to give them back their property. They realize the City has been encroaching on this property for many years, but they now want to use that portion of their property. She realizes that if the City were to do so it would likely end the roadway in front of the townhouses, which they are all okay with. They prefer the street either to be moved over onto its platted right-of-way, or for the City to end Rheinhardt Street sooner because they would still have sufficient space to install project infrastructure. They do not feel this would eliminate access to other properties in terms of installing water or sewer lines.

Mr. Bishop asked if they have actual easement documentation. Ms. Hargis said they do not with the City, but they have an easement with Westridge Condos for Hermit Street above their property where it arches around, which is a private street.

Mr. Watson asked if it was disclosed at the time of the title search when she purchased her property in 1994 that the City had installed a road across that property. Ms. Hargis said it was not, but when snow is not present she views nails that show their property line is in the middle of the right-of-way, which is almost to the far edge of Rheinhardt Street. Her assumption is that there was a steep hillside in the area so the City decided to install the road where it was most practical. When she moved in she felt that was okay, but now she and the other townhouse owners want it vacated by the City. Mr. Watson asked if Rheinhardt Street was a gravel or paved road when she purchased the property; Ms. Hargis said it was a paved.

Ms. Lawfer asked if Ms. Hargis' property line includes the "U" shaped portion above it. Ms. Hargis said it does, and it's in the easement agreement with Westridge Condos.

Chair Satre thanked Ms. Hargis for making the PC aware of this situation.

Mr. Bohan said a sign is posted stating where the end of the road is on Rheinhardt Street. That sign was probably placed somewhat arbitrary in relation to Ms. Hargis' property, but the public road can end wherever CBJ Engineering decides that it should. The main access through that road is to the condos and for the people that live up above the project area. The City could vacate that portion of property, but if they were to do so it would not necessarily relieve the prescriptive easement rights of those other people using it because they have been doing so for a long time. He is not a land attorney, nor does he know all the specifics, but he does know that there would be consequences. If this ends up being a serious issue, they are able to relocate the existing sign back to the corner of Ms. Hargis' property to end the public road of Rheinhardt Street. This is essentially all CBJ Engineering would be able to do, although the larger issue

would be working with the neighbors residing above Rheinhardt Street for continued roadway access.

Mr. Watson asked how much it might impact this project if CBJ Engineering is unable to cross that property and end reconstruction at Ms. Hargis' corner property line. Mr. Bohan said it would not be a big deal because in reality ending the roadway at that property line would still provide a private driveway to the residents up above.

Mr. Medina asked how far up CBJ maintains Rheinhardt Street. Mr. Bohan said to the City sign at the end of the roadway, and they may possibly be encroaching onto Ms. Hargis' property, but not too far.

Mr. Bishop asked if this reconstruction project is on the Capital Improvement Program (CIP) list, and what the primary purpose is. Mr. Bohan said it is on the CIP list, and the Rheinhardt Street portion of the project is for resurfacing that street, including installing retainage on the lower side, which is very steep. It is a good fit to get all the reconstruction done on these three streets at the same time, which will complete the last portion of the Casey Shattuck Subdivision road reconstruction.

Public testimony was closed.

Commission discussion - None

Staff recommendation: That the PC recommend to the Assembly authorization of the proposed Irwin and Rheinhardt Streets and Martin Road Reconstruction project.

Commission action

MOTION: *By Mr. Miller, that the PC recommends to the Assembly authorization of the proposed Irwin and Rheinhardt Streets and Martin Road Reconstruction project.*

Mr. Miller spoke in favor of the motion, stating that this is a good project. The vacation issue might be handled separately through the CDD process, and if such an application is provided to the PC and CBJ Engineering is required to end Rheinhardt Street sooner, he does not know if it will change the use at all, but it will make it so the City does not have to plow as much snow in the future in that area.

Mr. Bishop spoke in favor of the motion. He believes it is a nice area that deserves renewal, and the vacating issue might be resolved with CDD, including the Assembly if need be, but doing so will probably not require action by the PC.

Chair Satre encourages CBJ Engineering in the final construction drawings to ensure they are not encroaching a City street onto private property, including properly relocating the existing sign at the end of Rheinhardt Street.

There being no objection, it was so ordered and CSP20110012 was approved as presented by the PC.

CSP20110011 & USE20110031

A Conditional Use Permit (CUP) and CSP for deferred maintenance of existing moorage at Statter Harbor and removal and replacement of the adjacent DeHarts moorage facility

Applicant: CBJ Docks & Harbors

Location: 11497 Auke Bay Harbor Rd.

Mr. Watson disclosed that he has a potential conflict of interest on this case. He has made public comments in support of this project, and he does not believe he should participate in voting for the project due to how supportive he has been for it. Chair Satre confirmed that the City Attorney advised Mr. Watson to step down; Mr. Watson said that is correct. Chair Satre allowed Mr. Watson to step down.

Mr. Haight disclosed that he is involved with this project as a consultant to the design team in regards to the electrical system for the harbor. He spoke with the City Attorney who advised him to step down. Chair Satre stated that in Mr. Haight's case his involvement has been minor, and if anyone on the Commission would like to see him stay on in reviewing this case they have the ability to do so. Mr. Bishop said he would prefer to have as much expertise on the PC as possible for making decisions and providing information so he would like to retain Mr. Haight on this case, to which the Commissioners agreed.

Staff report

Ms. Camery said these items were removed from the Consent Agenda because the PC received a letter this afternoon from Drew Maples who lists two concerns. His first issue is to request that the City assures timely completion of the project in one winter. He requests that before the demolition of the in-use float at DeHarts that the contractor must assure the City that the new floats are in Juneau or will be at the correct time, as any delay opening the new slips at Statter Harbor is to be avoided. His second issue is access to Statter Harbor during the construction phase. He states that the planned access presented at the informational meeting was not acceptable, which is when the public was told that a new access plan would be worked out. He lives aboard his boat, and has to use a very steep, uncovered ramp, which does not provide safe access to Statter Harbor. He said neither of these problems should stop this project, and he would instead like to see this project advance as quickly as possible; he is in favor of the project. Chair Satre asked if Ms. Camery would like to address the concerns of Mr. Maples; Ms. Camery deferred to the applicant, stating that these topics were not addressed in the staff report.

Public testimony

Gary Gillette, representing the applicant CBJ Docks & Harbors (D&H), said in regards to Mr. Maples' concerns, D&H has retained expert consultants who work in the marine construction realm. The experience the contractors and D&H have had in other construction projects is the method they used to set this project timeframe. While it is compressed, a consideration that helped them set the parameter for this project is because people do not want to lose their slips in the summer who want them back May 1, 2012. This is probably one of the worst times of year to complete this type of project in Juneau, but they have been successful in doing similar project timelines the past. D&H is before the PC so far in advance of construction of this project in order to obtain the permits to submit a bid in a timely manner, and to order materials to meet the timeframe, but it is ultimately up to the contractor to meet the schedule. D&H includes liquidated damages, so if the contractor does not meet the schedule a monetary penalty would be imposed. However, in this climate anything can happen and projects can get delayed, and the backup plan on this project is that there are other areas in the harbor where they can relocate boats, if necessary. While it may be inconvenient to some, ultimately they are going to have a

much finer facility and be able to better accommodate boats. Therefore, D&H asks for patience by users of the facility while they are trying to get this project completed within the timeline schedule of May 1, 2013, which D&H believes they can meet. He said Mr. Maples previously provided the second comment in the letter at the public meeting D&H held in December 2011. D&H informed Mr. Maples at that time that they intend to re-use an existing ramp, which is less steep and covered that was removed from a previous project downtown, which D&H has instructed the consultant to include it in this project.

Mr. Miller stated that during the last demolition of existing docks last summer at Statter Harbor a derelict dock was removed and stationed at the last float. He returned in his aluminum boat from a fishing trip and pulled up to it because that was the only open space. When he docked his boat he found that the derelict dock steel hoops that were cut, which were like “big can openers” sticking out. He does not know if that was a D&H project, or a private dock. Therefore, he asked when the docks are removed with this project if they will be taken away via land or water, and if there might be potential threats to boat traffic that will be using the harbor while the project is underway. Mr. Gillette stated that because the docks are in the water already and are rather heavy, the contractor might choose to tow and hoist them onto a barge to haul them away. The contract calls for the entire DeHarts facility to be demolished and completely removed from the site, but it might be possible that the contractor might ask to relocate some of the docks to Statter harbor later on.

Public testimony was closed.

Commission discussion - None

Staff recommendation: That the PC adopt the Director's analysis and findings and grant the requested CUP and adopt a favorable recommendation to the CBJ Assembly for the CSP. The permit would allow deferred maintenance of existing moorage at Statter Harbor and removal and replacement of the DeHarts moorage facility, with the following condition:

1. Prior to issuance of a building permit, the applicant shall submit a lighting plan illustrating the location and type of exterior lighting proposed for the development. Exterior lighting shall be designed and located to minimize offsite glare.

Commission action

MOTION: By Mr. Miller, that the PC adopt the Director's analysis and findings and grant the requested CUP, USE20110031, and adopt a favorable recommendation to the CBJ Assembly for the CSP, CSP20110011. The permit would allow deferred maintenance of existing moorage at Statter Harbor and removal and replacement of the DeHarts moorage facility, with the outlined condition.

There being no objection, it was so ordered and CSP20110011 & USE20110031 were approved as presented by the PC.

Mr. Watson returned to his seat on the PC.

VII. CONSIDERATION OF ORDINANCES AND RESOLUTIONS - Heard out of sequence

AME20120001

A Text Amendment (AME) to the Land Use Code Title 49 Relating to Development near Eagle Nests.

Applicant: City & Borough of Juneau

Location: Boroughwide

Staff report

Mr. Pernula stated this AME is an amendment to Title 49 to eliminate the regulation of eagle nests from the Land Use Code. The proposed ordinance would eliminate four provisions of the code. The first deals with the Allowable Use permit (AUP) in terms of CBJ §49.15.320 – Allowable use permit (f) and section (A) that states “Developments within 330 feet of an eagle nest located on private land,” and this exact same language is also provided under CBJ §49.15.330 – Conditional use permit (g) section (A), so both of those sections would be eliminated. Those two provisions are not that important at this time because no development is permitted within 330’ of eagle nests, except in certain instances. Another provision that would be changed is regarding bonus points under CBJ §49.60.200 – Sensitive areas, which is to eliminate the language “...eagle nesting areas...” in the first paragraph, including eliminating section (1). The next provision is under CBJ §49.70.310 – Habitat (a) and sections (2) and (3), which would be eliminated as well. He cited the definition of development, CBJ §49.80.120, which provides aspects that are not permitted on public land within 330’ of eagle nests, or within 50’ on private land. To provide any flexibility, staff has generously allowed variances to those restrictions, which is not the best method to regulate. The preferred method is to have standards for when and where development can occur within distances of eagle nests, but that is not what is in the current code.

The staff report deals with compliance with the 2008 CBJ Comprehensive Plan (Comp Plan). A few items that should be amended are on page 2 of the report where he underlined a section found in the Comp Plan under Eagle Nesting Areas that would no longer be accurate. He referred to Policy 7.14, stating that this policy would be limited in its implementation. On page 3 of the report, under Implementing Actions, 7.14.IA1 includes variance criteria that apply to development within the buffer area around bald eagle nests, which would not be necessary because they would no longer regulate eagle nests. Found on the same page of the report, he cited 7.14.IA3. He also included Relevant provisions of CBJ §49.05.200 – Comprehensive plan (c) on pages 3 and 4 in the report. Further, he included four reasons for adopting the proposed ordinance listed on page 4, which he cited. The difficulty staff has found is coordinating conditions that they might impose through direct regulations or conditions of variances with detailed conditions provided by the US Fish and Wildlife Service (USFWS).

The Assembly introduced this ordinance, and they will hold a hearing on it Monday night (January 30, 2012) at 7:00 p.m.

Mr. Bishop explained that typically the Title 49 Committee reviews changes to Title 49, and the PC will be working on updating the Comp Plan, but neither one of these processes are being taken into consideration in this case. He is not certain why this ordinance to amend the code relating to development near eagle nests is being presented, or why it’s being pushed forward so fast, rather than reviewing it through the typical processes. Mr. Pernula said this request is a direct result of concerns that the State Department of Transportation (DOT) had on regulations of eagle nests and a road project. Following that issue, it was proposed by the City Manager’s

office that this ordinance be adopted. The recommendation the PC makes to the Assembly will be provided to them either tomorrow or the next day.

Ms. Grewe asked if frustration by DOT was due to many projects, or just their last project the PC recently review for out the road, including whether this has been an ongoing discussion between DOT and the City Manager's office. Mr. Pernula said he was not present when those discussions took place. Ms. Grewe said she has been on the PC four years, and these issues regarding development around eagle nests have always existed, but the PC has dealt with them. Mr. Pernula said the latest DOT case was unique compared to most of the others because they were proposing blasting, and in many of the other cases they weren't. They have dealt with eagle nests during continuous blasting in the past in relation to rock quarry projects, but not with road projects. Mr. Haight said blasting during road construction projects had to occur during the Tee Harbor and bypass at Auke Rec near eagle nests, so he asked whether the USFWS required monitors in those situations. Mr. Pernula said staff was not knowledgeable of blasting that might have taken place within 330' of eagle nests in those projects, but other permits might have been required that he is unaware of.

Mr. Watson said staff's first reasoning (on page 4) states that bald eagles were delisted on August 8, 2007, which was close to the time that the PC was finalizing the last Comp Plan update, and he believes eagle nests were included in that plan when this new finding from the federal government came out. Mr. Pernula said there were provisions for dealing with bald eagles in the prior Comp Plan as well, but that was changed somewhat during the last update of the plan and may have been because of that.

Ms. Bennett commented that how the community comes down on this issue with regard to eagles is different than how expense is measured on eagle damage, including that the USFWS is no longer willing to cooperate, so she wonders whether there can be a compromise.

Mr. Miller referred to the USFWS permit in the packet, stating that it provides a detailed list of rules and regulations. He recalls some of the past variances the Commissioners reviewed, and the conditions the Board of Adjustment (Board) placed on those permits were different than those that were listed in this USFWS permit. Mr. Pernula said he provided some of the conditions that the Board previously imposed in the past on variances, but staff are not experts so their conditions are not nearly as detailed as what the USFWS requires, i.e., requiring bonds to be obtained, and so on. Mr. Chaney added that although the USFWS permit is complex, it allows for eagle take. The City permits are to protect eagle nest sites and the surrounding area, so that is the big difference in the purpose between these agencies.

Public testimony

Jeffery Sauer, 636 Harris Street, Vice President of the Juneau Audubon Society (JAS), said he submitted written comments provided to the PC in the Blue Folder. Mr. Haight stated that pages 1 and 3 were provided, but page 2 is missing. Mr. Sauer continued, stating that the proposed ordinance is in violation of the Comp Plan, which should not be taken lightly. He questions whether this case is being proposed without sufficient review. If the policies of the Comp Plan are still valid, maybe there is another remedy besides elimination of the entire ordinance. The third reason listed in the staff report (on page 4) seems to be the "heart of the matter" that there is now lack of expertise from the USFWS. It also states, "... (because we cannot get input from experts as we did in the past) the current code provision not allowing development near eagle nests is too restrictive." He explained that if the current code provision is too restrictive they

should deal with it by amending the code, rather than eliminating the ordinance, especially when what they are proposing violates the Comp Plan.

He understands that the USFWS has provided formal comment on variances, and perhaps they do not have the manpower to continue doing so at this point in time, but there are other options. The CDD staff has unique skills to provide input on eagle nests, which they have been doing for 10 years. Staff has a certain amount of eagle expertise and other skill sets on the conditioning variances. This includes the compromise that this body has undergone so many times in providing reasonable approaches to variances on eagle nests because staff has this information available for them. The first is the USFWS Federal Bald Eagle Nest Guidelines that set dates when nest sites are chosen, when eggs are laid, etc. In addition, there are also over 10 years of comments provided by USFWS to CDD, which staff has on file. After doing this over 10 years, he does not believe there is very much new information to be had by staff, so he suggests they continue on as they have, rather than eliminating this ordinance. He is not too sure that the USFWS actually stated that they will not do anything for the borough, but staff should still be able to consult with them. Even so, he would like to know exactly what USFWS is willing or not willing to do. In addition, two recently retired bald eagle experts from the USFWS are in Juneau named Mike “Jake” Jacobsen and Phil Shempf, and the CDD staff for a nominal fee might consider hiring them. The CDD staff might not have to hire those eagle experts very often because of the wealth of knowledge, history, and information that the borough already has. Perhaps the Commissioners should start exploring some of these options, including delegating committees of the PC do so as well.

[Staff provided copies of page 2 of Mr. Sauer’s written letter to the PC.]

BREAK: 8:04 – 8:06 p.m.

Mr. Sauer continued, stating that the most important aspect is the interplay between the USFWS permit and what the borough is proposing in the borough eagle ordinance. He realizes there is talk about the USFWS having had many restrictions, but this overall situation is not clear. He explained that Mr. Pernula mentioned in the staff report that if there is an elimination of the eagle ordinance, eagle nests will no longer be regulated so the question is whether the borough could fall back to the USFWS. He does not believe so, which he explains on page 3 in comment 5 of his letter. This means that if the borough eliminates its eagle ordinance, they will allow future development around eagle nests. He believes such uncontrolled development around eagle nests is not in the borough’s interest, marks a huge change from the borough’s past, and is simply not warranted. The federal Fish and Wildlife Eagle Take permit is not mandatory. That permit fee is \$500, but the average citizen is generally not required to obtain them for small projects. The borough has had control over eagle nests in terms of development in this City in many cases, e.g., if a landowner later has an eagle nest on their property where they want to clear-cut they would not be required to obtain a federal permit. He does not think this is what the PC wants. The JAS believes the borough has authority to regulate development around eagle nests, which is separate from the USFWS, not a substitute.

Mr. Watson asked if the JAS took a position with the USFWS on the bald eagle delisting in 2007. Mr. Sauer said bald eagles were never endangered in Alaska so that was a non-issue, as they were only delisted in the rest of the US, which should not be used as a reason to eliminate the borough eagle ordinance. Mr. Watson said the USFWS allows taking of eagles in Alaska. Mr. Sauer said the JAS does not take issue with the USFWS’s regulation over the issue of taking

eagles because they have their role to play. Mr. Watson asked if Mr. Sauer is aware of DOT's purpose in widening and straightening portions of Glacier Highway during their next reconstruction project. Mr. Sauer said he does, and the JAS typically agrees with how this body has historically dealt with conditioning permits for such projects in terms of protecting eagle nests through their variance process. The JAS disagreed with the action by this body a few weeks ago with the DOT variance, but they generally agree with the overall process that they are asking this body to continue. The JAS believes developers can continue to deal with restrictions by both the USFWS and the borough because there is a history of doing so.

Mr. Chaney said a comment was made that this ordinance has been in effect for 10 years, but it is actually 25 years since 1987.

Tina M. Brown, 19400 Beardsley Way, President of Alaska Wildlife Alliance (AWA), said she is testifying as an individual, as well as on behalf of the AWA. She provided written comments in the Blue Folder, and agrees with Mr. Sauer. She stressed the importance of eagle trees. The eagles defend those particular trees, as they do not go to just any tree to nest. In her written comments she referred to and quoted portions of the book *Southeast Alaska's Natural World* by Bob Armstrong and Marge Hermans and the JAS flyer titled *Field Guide to the Bald Eagle* that both contain good information, which are readily available in Juneau or the Commissioners can borrow them from her.

The recently retired experts that Mr. Sauer mentioned from the USFWS would probably be glad to help the CDD staff. She believes there might also be a biologist at the Alaska Department of Fish & Game (ADF&G) who might be available to provide expertise as well.

This ordinance affects more than one generation of eagles throughout the borough, which is an area almost the size of Delaware and Rhode Island combined. The eagles in this community travel to other areas outside of Juneau, so the ordinance does not just impact Juneau. This issue addresses and reflects the standards and values of Juneau, so whatever the decision is by the PC it will make a huge statement. This proposal is not practical because the current process seems to be working okay, so if this ordinance is not passed nothing will change and everything will remain the same. The current system has worked for years. There are many precedents to protect wildlife that the borough has been involved in, which include salmon, waterfowl, eelgrass, shorebirds, and stellar sea lions. They have also been protecting eagles, and the AWA is asking that the borough continue to do so. If a landowner clear-cuts to an eagle tree, that person would probably be taking an eagle and its nest because that tree would no longer have any protection from other trees, which would be harmful. The passing of this ordinance would permanently place the bald eagle national symbol in jeopardy, which would set a bad precedent. It would relinquish borough authority to others, but they do not specifically know who those others are. The borough should not give up their control on this issue. If the ordinance is not passed, the borough can continue granting variances with conditions, which is what they are tasked with. The quality of eagle monitors is out of the borough's control, as they are not going to be hiring them, but she has never seen qualifications for hiring monitors of eagles. The borough would not know the type of blasting or heavy equipment that would be used for certain projects if this proposal is approved, including how many eagles that would affect. The USFWS requires bonds to be posted in the event damage happens to eagles, but that is after the fact—dead is dead.

The PC has eight written comments from the public provided in the Blue Folder opposing this ordinance, and more than two of them are fairly well known for their authority to speak on this subject. Two other people are from wildlife groups who represent many others, including the verbal testimony provided to the PC tonight. This represents a significant portion of the public opposing this issue. The AWA urges the PC to do the right thing for wildlife and all those who value it by voting against this proposal to retain power to continue to control eagle issues as they arise. She thanks the Commissioners for their service to this community.

Greg Brown, 19400 Beardsley Way, owner of Weather Permitting Alaska, said it is real easy for people who live in Juneau to take eagles for granted because they are around them all the time, but most visiting folks do not. He conducts about 200 high-end wildlife tour trips per year, which provide him the chance to speak to 200 focus groups. He asks each person 15 questions and records their answers, which he uses to adjust his business, and this is how his company is now rated as being the top wildlife tour in Juneau. When he asks them the type of wildlife they want to see, and 78% of the people respond by saying whales, bears, eagles, and wolves. In addition, 12% listed the same wildlife, but placed birds at the top of the list. These statistics help him shape the trips, so there is a very distinct value in wildlife. A couple of years ago he provided a presentation to the University of Alaska-Southeast (UAS) in which they looked at whales, and determined that one whale is worth \$32 million over its lifetime to the CBJ, which the UAS confirmed. He has provided the same presentation to the National Oceanic Atmospheric Administration who agrees with this. About six to eight months ago the Juneau Economic Development Council came out with its own estimation that turned out to be within \$50,000 of their estimate, which is fairly close. A brown bear is worth, pre-sales tax revenue, \$120,000 to the CBJ during its lifetime, and this is for every brown bear that comes out of the Pack Creek and Windfall Lake areas. Eagles have a value as well and he has just started a study to place a valuation of them, although he was unaware of this case until two days ago, but he suspects it will be about \$30,000 per eagle. The birth process of eagles is comparable to the production of cars because if either is halted they are unable to regain lost time, but with eagles this only happens once per year. From the perspective of business owners, there is real value in local wildlife. If the PC has to provide a variance to projects at times for eagles, then so be it. He encourages the PC not to lose control of this revenue stream for the borough, which has a real monetary value that they have the potential of losing for good if they eliminate the eagle ordinance.

Mary Lou King, 1700 Branta Road, said the borough should not eliminate the eagle ordinance. The decisions were made for the USFWS in Washington, DC. She thought when she signed on to having statehood that the people of Alaska would make more of the decisions on the things that directly affect it. Eagles are very exciting and an important part of the lives of people in Juneau, and they have a lot to say about them. She can't help but believe that all the people here tonight must have some sort of feelings for eagles too, which may be good, or may be bad. The eagle ordinance contains on pages 1 and 2 the word "may," which is used several times, but her feeling is that the borough should retain the ordinance. If they need to make adjustments to the eagle ordinance, then the PC should do it.

Public testimony was closed.

BREAK: 8:29 – 8:35 p.m.

Commission discussion

Mr. Watson said comments were made that they would no longer have any control over eagle nests, but he does not believe that would be the case with what would be retained in the proposed ordinance. Mr. Pernula said the proposed ordinance would eliminate provisions of the CBJ code that restricts development within 330' of eagle nests. Mr. Watson confirmed that the proposal is not to eliminate the entire ordinance. Mr. Pernula agreed, stating they are only proposing eliminating the portions in reference to eagle nests.

Ms. Grewe asked if letters of support were provided for the text change to the Comp Plan and ordinance; Mr. Pernula said he is not aware of any.

Mr. Miller said he understands the reason this ordinance is difficult is because it is so stringent, so many times in order to allow a project to move forward the Commissioners have had to make conditions up as they go to variance permits. This is rather than having regulations in code to base those decisions on. The last variance the Board approved, but according to the ordinance they probably shouldn't have, although the USFWS permit provided rather stringent conditions on it so he understands the dilemma staff is experiencing with the process. However, he wonders if any thought was provided to revising some of the standards and incorporating eagle nest regulations with fish and wildlife permitting, rather than eliminating provisions of the code relating to eagle nests in its entirety. Mr. Pernula said there has not been a lot of thought provided in doing so, with the exception that on page 3 IA 7.14.IA1 is what was incorporated when the update of the Comp Plan was implemented, which he cited.

Mr. Chaney stressed that the USFWS process is different than the boroughs, as the CDD staff conducts plan reviews of all building projects. If staff comes across an eagle nest within a certain distance of a building project, the borough process would be triggered. The USFWS does not possess knowledge of the Building permit review process, so the USFWS would not be involved with such projects unless an applicant goes to them. Mr. Miller stated that this is the case now; Mr. Chaney said if they eliminated eagle nests from the City ordinance the borough would no longer be involved.

Ms. Bennett asked staff to explain what has changed now that the state no longer has the Alaska Coastal Management Program (ACMP) in terms of local control, and asked how that now compares to local, state, and federal regulations. Mr. Pernula said the way it worked for Juneau when the ACMP was in effect was all the agencies who regulated a particular type of development would meet to discuss the issues through a coordinated effort, but that's no longer true statewide, but for some of the smaller coastal communities their primary input was mainly through the ACMP. In terms of this case, the federal and local government has the only input on eagle nests, which is a separate issue that was never dealt with through the ACMP.

Chair Satre the PC has a Title 49 Committee who reviews changes proposed by staff, including aspects that might stem from a goal of the Assembly, or internal discussions. When that happens such changes are reviewed in public committee meetings, and later presented to the PC for public comment, which includes review by the CBJ Department of Law, then they are forwarded onto the Assembly for final approval. However, this does not prohibit the Assembly from initiating a change to Title 49, so the Assembly has introduced this proposed ordinance before it was presented to the PC tonight, and now this body has to provide a recommendation to that body on it. He asked if the code provides a requirement for staff and the Commissioners to work through the PC's committee structure as a whole in terms of this case. Mr. Pernula cited CBJ §49.75.410 – Text amendments, stating that section (b) provides the Assembly the ability to initiate an

amendment, and then such an amendment has to go through the PC's process. Chair Satre said the Assembly is only able to act once the PC provides them a recommendation, so it was an accelerated timeline on this AME. However, e.g., if the PC were to continue this case in order to refer the review by the PC's committee, or did something different than recommend to the Assembly to adopt or deny the proposed ordinance, he asked if the Assembly would be required to wait for the PC's action. Mr. Pernula said he does not see any language in CBJ §49.75.410 that states that the Assembly would have to do so. Chair Satre stated that since the PC has held this hearing on the proposed ordinance tonight, the Assembly could act on it regardless of what the PC did. Mr. Pernula said he would have to research this, as there might be another provision at the beginning of the code.

Staff recommendation: That the PC forward the proposed Ordinance to the Assembly with a recommendation for adoption and amend the Comp Plan at its next update.

Commission action

MOTION TO CONTINUE: *By Mr. Bishop, that the PC recommends to the Assembly not to adopt the ordinance as written to allow the PC more time to work on updating the 2008 CBJ Comprehensive Plan to provide that this ordinance conforms to that updated plan.*

Mr. Bishop explained that the PC received written comment and heard verbal testimony from the public on this case recommending against it. There are no public comments recommending in favor of the ordinance, although some would prefer to see changes made. He believes it is the responsibility of the Commissioners to take into consideration the position of the public and ensure this proposed ordinance conforms to the Comp Plan. This is an important decision affecting development in this community and it should not be based upon personal beliefs, rather on the desire that the community has expressed which is through the updated Comp Plan and public testimony provided tonight.

Mr. Miller said he agrees that the PC should not recommend the ordinance to the Assembly as written. He believes the PC is provided guidance through the Comp Plan, which allows them to amend the proposed ordinance, and then recommend such an amended ordinance to the Assembly. He referred to IA 7.14.IA1 on page 3 of the report, which states, "Amend the Land Use code to include variance criteria that apply specifically to requests to allow development within the buffer area around a bald eagle nest. Developing these criteria is of crucial importance..." Members of the public have asked not to eliminate provisions for eagle nests in the ordinance, rather to make changes to it so the PC continues to maintain control of eagle nests. He believes the PC can do so, and he does not believe trying to figure all this out right now is what this body should be doing. It is possible for the PC to provide recommendations to staff on the ordinance, and then have them represent it to the PC before it's provided to the Assembly.

Mr. Bishop said he arrived at the last PC meeting with the DOT proposal realizing that they needed to make changes because the current requirements have proven to be difficult in reviewing eagle nest cases. However, this is not what is before the PC; rather it is whether or not this body is going to recommend to the Assembly to adopt this ordinance. He believes the Commissioners should take the opportunity to review the proposed ordinance while taking into consideration public comment for revisions. He supports staff's desire to provide changes to the ordinance, but they have to go through the proper process to do so.

Ms. Grewe confirmed that the motion to continue is for the PC to recommend to the Assembly that they not amend the ordinance as proposed. This includes taking the ordinance through the appropriate process, but she is not interested in revising language at this PC meeting because that is a long-term issue even if the PC chooses to take that up. She believes the PC has to make a decision either way about what's in front of this body, and then move forward.

Mr. Watson spoke against the motion. He has a lot of respect for the USFWS. He remembers when bald eagles first were protected under the Bald and Golden Eagle Protection Act, and the reasons why that happened. He has the same respect for that agency when they made the decision that Alaska was not to be included to the degree the Lower 48 was because the USFWS had scientific reasons for doing so. He does not believe that this body possesses that type of knowledge. He is in favor of forwarding the ordinance to the Assembly with the PC's recommendation. If the Assembly feels the ordinance needs refining, they can direct it back to the PC, which they have the authority to do, and if so, the PC could take appropriate action at time.

Mr. Medina appreciates the public comments and commends them for being involved in the public process. He is opposed to the PC amending the proposed ordinance, as he believes it is fine as is. He is able to empathize with staff not having expertise, but they're bright and professional enough to go through their review process and not take this lightly, which should be viewed on a case-by-case basis.

Mr. Haight said he agrees with the motion. Given the fact that the Commissioners are on "both ends of the spectrum" on this issue, the PC has to review the proposed ordinance through the process. Anything the PC revises in the proposed ordinance may have a reflection on other components of the code, so they have to ensure nothing is missed during due process.

Ms. Bennett said the Title 49 Committee is the logical body to review this case, and she agrees with the motion.

Ms. Grewe spoke in favor of the motion because the proposed process is flawed. The Comp Plan is the vision of the community, and this ordinance is local law, but neither of these should be taken lightly. She did not find the four reasons in the staff report (on page 4) particularly compelling to warrant a change in the Comp Plan or the local law without the correct process of considering this change in an appropriate manner. The PC has regulated eagle nests through variances, and maybe that isn't perfect planning but it is what this body has historically done quite often, which seems to work for eagles. She was not in attendance at the last PC meeting for the vote recently, but she does not remember this being a heated issue any other time. She does not see anything as being "positive" per the proposed changes. She realizes that such variances have been frustrating for DOT, contractors, and developers, but there has been no public outcry, or support of these changes at this meeting, although it appears that they are considering changing the plan and local law due to efficiency and development for a town of 30,000.

Ms. Lawfer said she is in favor of the motion. They are addressing eagle nests and trees, and nowhere in the packet does she find where the federal or state government deals with the actual habitat of eagle trees. The information in the packet does not address ADF&G's habitat role in relation to eagle trees. The federal government is focusing on the eagles and eggs, but Mrs. Brown is the only person who spoke about eagle trees, which is significant.

Mr. Miller asked if the motion is to not recommend the proposed ordinance to the Assembly, or to send it to the Title 49 Committee in order to run it through the PC's typical review process. Chair Satre stated that there are two parts to Mr. Bishop's motion. The PC is making a recommendation on the proposed ordinance, and the PC could also make a recommendation that the PC wants to see a public process on that. It is very important that each Commissioner elucidate their reasons why they support or oppose this motion because there are very differing opinions among the Commissioners. The record that the PC is creating needs to be forwarded to the Assembly, along with the PC's recommendation so the Assembly knows why the PC does not want them to adopt this particular ordinance. Mr. Pernula said the hearing is next Monday night before the Assembly, although the full record will not be prepared by that time. Therefore, staff will prepare a Notice of Decision (NOD) for the PC, so he requests that the Commissioners express as best they can their response to the motion.

Mr. Medina opposes amending the proposed ordinance because it is his understanding that the Assembly is going to take action on this case. He feels that Mr. Bishop's suggestion is a good one, but he does not think the timing is right.

Chair Satre suggested that Mr. Bishop's motion simply be not to adopt the proposed ordinance. Mr. Bishop clarified that the motion is in fact not to adopt the ordinance to allow the PC more time to run it through the process as stipulated in the Comp Plan.

Ms. Grewe does not necessarily agree with running the proposed ordinance through the process, rather she prefers to forward a strong vote by the PC to the Assembly, and then see where that goes. The majority of the Commission would like to continue to work on this, but not all of them, so she asked if this will be part of the record forwarded to the Assembly. Chair Satre said the record is what the PC has heard, and if the Commissioners provide a simple motion not to adopt the proposed ordinance, then that is what will be provided to the Assembly. In addition, the PC could provide a second motion to recommend action per the PC's discussion, and then staff could craft such language as part of the PC's message to the Assembly. Ms. Grewe said she would be in support of saying that the PC would be willing to consider the proposed ordinance if it were presented to the Title 49 Committee, which she is the chair of, but she is not sure that they should state that the Commissioners want to definitely "put it on their radar." Chair Satre clarified that it is stated in the Comp Plan that the PC is tasked with addressing this proposed ordinance.

FRIENDLY AMENDMENT: *by Mr. Miller, that the PC amends the motion to continue to add action by the PC after their discussion, and staff shall craft such language as part of the PC's message to the Assembly.*

Mr. Miller said this is the second portion of the motion to continue. He explained that the existing ordinance makes it difficult because CBJ §49.70.310 Habitat, subsection (a) states, "Development in the following areas is prohibited: (2) Within 330 feet of an eagle nest on public land; (3) Within 50 feet of an eagle nest on private land, provided that there shall be no construction within 330 feet of such nest between March 1 and August 31 if it contains actively nesting eagles." He explained that if a contractor is intending to cut in a roadway in a certain location because it is the only safe area to do so, the PC would not be able to allow that even if it made sense. DOT would also not be permitted to improve certain dangerous stretches along Glacier Highway because this ordinance states that they are prohibited from doing so. Therefore,

the PC should incorporate certain aspects to streamline the process to provide for better projects in relation to eagles once this section is revised. Mr. Bishop said this was already included in his initial motion to recommend to the Assembly to not take action on the proposed ordinance to allow the PC time to prepare a new ordinance for the Assembly. This is so the PC could address some of the issues being considered by running it through the Title 49 Committee when updating the Comp Plan in order to address them. Mr. Miller said he is okay with the method in which Mr. Bishop just explained his motion. Ms. Grewe said to not take action is different than approving or denying the proposed ordinance. Therefore, the first time Mr. Bishop proposed the initial motion was for the Assembly not to approve the draft ordinance, but now he just stated to let the PC consider it, which is like tabling it and potentially giving it life. Mr. Bishop said his intent is that the Assembly not approve the draft ordinance as proposed, but rather provide the PC time to prepare a new ordinance that addresses the issues and ameliorates them per the development code. Mr. Medina said he would rather see a separate motion in relation to these aspects. The PC should state that either they are going to approve or deny the proposed ordinance, and then go from there. He explained that he can support the denial of the proposed ordinance, but he does not necessarily agree with Mr. Bishop's reasoning because he thinks the Assembly is going to take action on this regardless, but the PC is going to have a difficult time adopting the motion as stated. Mr. Bishop said he has mixed feelings about the proposed ordinance. He is not as passionate about eagles as many others are at this PC meeting tonight. There are a lot of good reasons for their passion, and he thinks eagles are an important part of this community, which he respects and it's important that the PC take this into consideration. On the other hand, he has also been involved in development in this community for many years, and he has run variances for eagle nests through the PC at other times in his career, which he knows has been problematic. This is an issue for other members of the community who would like to see some changes made to this ordinance so he respects both sides, and he would like the PC to take action on both aspects mentioned. He is opposed to retaining the proposed ordinance as is because it is poorly written. Mr. Medina said he has no problem taking separate action on the second portion of Mr. Bishop's motion, but he just wants the PC to make it clear on the first portion separately.

FRIENDLY AMENDMENT WITHDRAWN: *By Mr. Miller*

MOTION WITHDRAWN: *By Mr. Bishop.*

Mr. Bishop said another Commissioner can make a new motion, and he will then follow up with an amendment.

Chair Satre said there is a bit of diverging voice on the PC. He stated that while the Commissioners are free to do as they wish, he encourages them to provide a very simple motion in regards to the proposed ordinance, not amend that motion, and then follow it up with a second motion on the PC's discussion regarding follow-up action.

Mr. Watson said he has heard compelling discussion tonight in terms of this ordinance, and it is possible he might not vote the way he originally indicated that he would. He prefers the PC to provide an up or down vote. During previous Assembly meetings he has attended on appeal cases of decisions by the PC, the Assembly has stated that the information by the Commissioners was not as clear as it should have been, so they have to be as concise as possible.

Chair Satre recommends that the maker of the motion do so in the affirmative to adopt the ordinance, as has been their tradition. Mr. Bishop confirmed with staff that once a motion is made to deny the application and if it is passed there is no further discussion on that case. Therefore, the motion has to be made in the affirmative, and then the Commissioners would be allowed to amend it; Mr. Pernula said that is correct.

MOTION: *By Mr. Miller, that the PC adopts staff's analysis and findings and forwards the proposed Ordinance for a Text Amendment (AME), AME20120001, to the Land Use Code Title 49 Relating to Development near Eagle Nests to the Assembly with a recommendation for adoption and amend the Comprehensive Plan at its next update.*

Mr. Miller spoke against the motion.

Mr. Haight said if the PC votes in denial not to approve the application, it would not be forwarded to the Assembly. Chair Satre clarified that instead the application would be presented to the Assembly regardless, although a vote in the affirmative would be for a recommendation to the Assembly to adopt the application as introduced, and a vote against would be for a recommendation by the PC to the Assembly to not adopt it.

Mr. Bishop spoke against the motion, stating that he does not think this is the best way to proceed. He is uncomfortable moving forward with a recommendation to not adopt the ordinance without providing the Assembly reasoning. It is important for the Commissioners to provide to the Assembly justification for working towards providing them an ordinance that addresses the issues. He believes if the PC were to deny the ordinance, it would later be presented to the Assembly and they will probably approve it anyway.

Mr. Pernula suggested that the PC take action on the motion before the Commissioners. After they do so, then they should make a separate motion regarding findings of why the Commissioners voted in the method they did. Chair Satre said that may work, although there is a divergence of opinions among the Commissioners. Mr. Bishop said doing so seems to be contrary to the discussion they just had, as Mr. Pernula is now stating that the PC can make two motions. Mr. Pernula said the second motion would just be on the findings, not on the action. Chair Satre said the PC has done so before.

Ms. Bennett said she intends to vote against the motion. The Comp Plan review is already listed as being a top priority on the PC's goals and it is fairly close to being updated, so it makes sense to consider this ordinance under that process and not rush into it.

Ms. Grewe said the Assembly will consider the PC's vote and review the minutes of this PC meeting, and people in this community are familiar with the bald eagle issue so the Assembly will probably send the case back to the PC anyway as the Commissioners are working on updating the Comp Plan. There is a list of items to be updated in the Comp Plan, which is not always via a motion by the PC, rather it is for the Commissioners to pay attention to those issues using a variety of methods.

Chair Satre commented that there is the possibility that the Assembly may not take the PC's discussion on this case into consideration.

Mr. Medina asked procedurally if there is anything that prevents the PC from providing a text amendment to the Assembly at a future date regarding an eagle nest ordinance. Mr. Pernula said the PC could initiate text changes, e.g., if the motion passes, the PC is still able to propose a new ordinance in the future regulating eagle nests. Mr. Medina said this would probably accomplish what Mr. Bishop wants to do rather than denying the motion as is, and at some future point he requests that the PC work on text language that's amenable to this body and forward it onto the Assembly.

Ms. Lawfer spoke in opposition to the motion for the eagle nests ordinance. She thinks the PC should present the results of their vote, including a three- or four-point rationale as to why the vote went the way it did. One of the points should be how they decided to address the issue, which may not be by changing numbers or removing aspects of the ordinance, rather it could be that they are developing extra criteria. She stressed that they have to provide their rationale to the Assembly as to why the Commissioners are taking further action, rather than just approving or denying the motion.

Chair Satre explained that normally whether it is an appeal process or a recommendation on an ordinance, when they are forwarding a recommendation on those to the Assembly the PC minutes are presented that potentially reflect the diversity of opinions by this body, but it sounds like that might not be the case in this instance. He worries about the PC agreeing on a three- or four-point rationale moving forward due to the diverse comments made tonight by the Commissioners. He realizes Mr. Pernula mentioned the possibility of crafting a document that attempts to capture the divergence of opinion by the Commissioners. He speaks against the motion, not because he believes the ordinance shouldn't be amended, but because the past few years of regulating eagle nests through variances has been somewhat painful. He would like to see some prescriptive standards. He finds issues with the staff report, particularly the justifications 1-4 listed on page 4, as he would have been fine with omitting 3 because it muddles the issue. He thinks just the rational justification of 1, 2 and 4 would have been better. If the PC gets the opportunity to work on this ordinance later, there should be a tiered approach dealing with eagle nests. If the City and its citizens, boards, commissions, and assemblies value eagles on City land, then they can place many restrictions upon them. Those that are on public land where the City is a partial owner, there might be less restrictions. On private land, those areas might have the least restrictions applied. This has always been his idea of how they should institute a tiered approach to regulate potential impacts to eagle nests. Even so, this might come out of the Assembly process or through one of the PC's processes later on.

MOTION RESTATED: Mr. Miller, that the PC adopts staff's analysis and findings and forwards the proposed Ordinance for a Text Amendment, AME20120001, to the Land Use Code Title 49 relating to development near eagle nests to the Assembly with a recommendation for adoption and amend the Comprehensive Plan at its next update.

Mr. Miller explained that an affirmative vote by the Commissioners on the motion would send this application to the Assembly with a recommendation of approval by the PC. A vote against the motion would send this application to the Assembly without a recommendation of approval by the PC.

Roll call vote

Ayes:

Nays: Miller, Bennett, Medina, Grewe, Haight, Lawfer, Bishop, Watson, Satre

Motion unanimously fails: 0:9, and AME20120001, was recommended as presented by the PC for the Assembly not to approve the ordinance.

MOTION: *By Mr. Miller, that the PC at some future point plans to work on text language to the eagle nests ordinance amenable to this body, and will forward it onto the Assembly.*

Per the 2008 CBJ Comprehensive Plan:

Implementing Action 7.14.IA1 Amend the Land use code to include variance criteria that apply specifically to requests to allow development within the buffer area around a bald eagle nest. Developing these criteria is of crucial importance in order to allow responsible development within 330 feet of eagle nests, especially those nests that post-date adjacent development. It may be appropriate to adopt regulations for development near eagle nests based on the level of tolerance of the subject eagles to human activity.

This IA 7.14.IA1 of the Comp Plan provides the PC direction on the method in which to move forward to amend the eagle nest ordinance by incorporating a text amendment in the future. The PC intends to do so under the PC processes, which will take time and this is the reason the PC voted for a recommendation of denial on this case to the Assembly.

Chair Satre said this motion allows for leeway in terms of differing opinions by the Commissioners on the PC regarding this case, as direction is provided in the Comp Plan for them to review the eagle nest issues. This is a decent basis to show findings for the PC's vote on the initial motion of this case.

Mr. Bishop said he wishes to revise the motion to condense it.

FRIENDLY AMENDMENT: *By Mr. Bishop, that the PC finds that the eagle nest ordinance does not conform to the 2008 CBJ Comprehensive Plan. Further, the 2008 CBJ Comprehensive Plan guides the PC to amend the Land Use Code to rationalize the eagle nests variance criteria. In addition, the PC finds a need to run these changes through the 2008 Comprehensive Plan update prior to changing the Land Use Code.*

Mr. Miller said he agrees with Mr. Bishop's friendly amendment, except the third sentence.

FRIENDLY AMENDMENT REVISED: *By Mr. Bishop, that the PC finds that the eagle nests ordinance does not conform to the 2008 CBJ Comprehensive Plan. Further, the 2008 CBJ Comprehensive Plan guides the PC to amend the Land Use Code to rationalize the eagle nests variance criteria.*

Mr. Miller accepted Mr. Bishop's friendly amendment.

Mr. Watson spoke in favor of the motion.

There being no objection, it was so ordered.

IX. REGULAR AGENDA - Continued

CSP20110009

A CSP for the reconstruction of Main Street from Second Street to Fifth Street in Downtown Juneau.

Applicant: Skye Stekoll, CBJ Engineering

Location: Main Street from Second St. to Fifth Street

Mr. Haight disclosed that he is consulting regarding street lighting and utility work for Dowl HKM. Chair Satre asked if any Commissioners feel this involvement rises to the level to warrant excusing Mr. Haight from the PC on this case, to which the Commissioners did not.

Staff report

Mr. Feldt said CBJ Engineering will be bidding out the last phase of the Main Street road reconstruction project. This project is listed in the CIP FY2010-2015. Staff has not received any public comment. Staff would have normally placed this case on the Consent Agenda, but CBJ Engineering requested to receive comments from the PC to forward to Public Works about including the canopy. The main project will be narrowing the road to slow traffic to increase pedestrian safety and environment in the Main Street corridor.

He asked if the PC would like a presentation on the full report, or just on the canopy, to which the PC agreed to hear the latter. Mr. Feldt provided slides of canopy drawings. The canopy would be attached to the JD Phone Company building and be a self-supported structure to Calhoun Avenue, similar to what exists at the Bishop Michael Kenny Memorial Peace Park (corner of Third and Seward Streets). Details of the canopy have not yet been decided upon. The canopy is recommended and encouraged per the Comp Plan to be constructed in this area of downtown. He requests comments by the PC, which will be forwarded to Public Works.

Mr. Miller asked if the new canopy would require a variance. Mr. Feldt said that would depend upon its design, noting that the canopy would have a stepping element to it due to the topography, but it might be of a level that could be compliant with the code. Mr. Pernula said many downtown canopies were constructed in the past couple of years that required obtaining variances for height, so staff is in the process of evaluating the very narrow range of heights permitted in the code. He would like to see a change to that code before these canopies are installed. Mr. Haight asked was the canopy installed alongside the new Parking Garage conforming to current code. Chair Satre said the City had to obtain a variance for that canopy. Ms. Grewe said that canopy provides adequate rain protection, but the other canopy on the corner Third and Seward Streets does not because it's too high.

Public testimony

Skye Stekoll, representing the applicant CBJ Engineering, said they are seeking additional support from the PC to secure funding for the canopy, which can be considered separate from the street project. The goal is for the canopy to provide adequate coverage that works for pedestrians, which has not yet been designed, but he knows of one area that the architects believe might need to be higher than what the ordinance currently allows.

Chair Satre said at a previous Public Works & Facilities Committee (PWFC) meeting there was talk about the potential for this canopy, the additional cost, and some ideas about designing for it, but possibly constructing it later on if they are successful in seeking funding. Mr. Stekoll said the footings of the canopy would be on state property, so construction would be dependent upon them. Even so, they intend to at least design the canopy and install the footings now, and they could possibly wait to install the actual canopy later on.

Mr. Miller asked if the installation of the canopy would increase the use of the new Parking Garage. Mr. Stekoll he does not know for sure, but it would make for a more pleasant experience for pedestrians.

Ms. Lawfer stated that the proposal provides two designs for the street project and one requires the loss of parking spaces, but the other does not, so she asked if both alternatives support constructing the canopy. Mr. Stekoll said they do, as they were able to retain sufficient sidewalk width by narrowing the traffic lane in each alternative.

Mr. Haight said typically stepped canopies have flat roofs, but in this case the self-supporting canopy structure might have to be sloped to follow grade; Mr. Stekoll said not necessarily. Mr. Haight asked if consideration was provided to possibly installing a translucent wall on the backside of the canopy to provide additional protection at the corner of Third and Seward Streets. Mr. Stekoll said doing so was briefly discussed, but at this point they have not yet gone into such detail.

Public testimony was closed.

Commission discussion - None

Staff recommendation: That the PC adopt the Director's analysis and findings and recommend approval of the Alternative 1 proposal street design for Main Street between Second and Fifth Street to the Assembly.

Commission action

MOTION: *By Mr. Watson, that the PC adopts the Director's analysis and findings and recommends approval of the Alternative 1 proposal street design for Main Street between Second and Fifth Street to the Assembly, as presented.*

Mr. Miller stated that if CBJ Engineering is able to secure funding for the canopy, it would make using the new Parking Garage much more of a pleasant experience.

FRIENDLY AMENDMENT: *By, Mr. Miller, that the PC recommends CBJ Engineering to pursue funding for the proposed canopy.*

Mr. Watson accepted Mr. Miller's friendly amendment.

Ms. Lawfer said she is concerned that when on-street parking is not provided, drivers of vehicles tend to speed because they do not have to be concerned about people opening doors of vehicles, and so on. In addition, there are only two 15-minute parking spaces in front of the Alaska Office Building and the remaining are 1-hour spaces, so they should make all those spaces short-term in that entire corridor. With the addition of the canopy, long-term parkers could use the new Parking Garage. Chair Satre said this is not particularly germane to this case, but Mr. Pernula could forward this request to Mr. Lyman so that he can take it into consideration while working on parking management in downtown.

There being no objection, CSP20110009 was approved by the PC, including that the PC supports the pursuit of funding by CBJ Engineering for the proposed canopy.

BREAK: 9:38 to 9:43 p.m.

CSP20110007 & USE20110026

A CUP and CSP for the 118,000 square foot State Library, Archive, and Museum (SLAM) Facility – at one time proposed to be called Library, Archive, Museum Project (LAMP)

Applicant: ECI/HYER Inc.

Location: 395 Whittier Street

Mr. Haight disclosed that he is a consultant to the electrical/mechanical engineering consultant in Anchorage to provide peer review and assistance in the field. Chair Satre asked if any Commissioners see this rising to the level of a conflict in order for Mr. Haight to stand down, to which the Commissioners did not.

Staff report

Ms. McKibben stated that she will report on all three related cases CSP20110007, USE20110026, and VAR20110026. The cover sheet of Blue Folder incorrectly attributes item 4 on the list of cases to AME20120001, which should have been this case for a memorandum that provides an update on USE20110026 and CSP20110007. This addendum also provides for an advisory condition and a resolution from the Assembly recommending mitigation for the demolition of the existing museum by reusing the concrete exterior panels either inside or outside the new facility (Section 2). Staff did not want the Assembly recommendation to be overlooked, as there was no mention of the panels in the application recommendation. Staff is recommending this advisory condition be adopted with CSP20110007 and USE20110026.

The only public comment she received was a telephone call from a resident on Distin Avenue with concerns about the height of the SLAM building, although they did not actually object to it.

This is an application for an 118,000 square foot two-story SLAM building and 38,000 square feet of basement parking. The project will replace the current State Museum. The project is located on a 3.71-acre site in the Mixed Use 2 (MU2) zoning district. Street access is from Willoughby Avenue, and access to the underground parking garage is from Whittier Street. She provided a slide of a rendering by an artist of the future building. The initial building was constructed in 1967 to honor the centennial purchase of Alaska from Russia. The main floor will have a lobby, mezzanine gallery, and 20,000 square feet of museum exhibit area. This floor will also have a coffee bar, multipurpose room, and meeting rooms. The second floor will have a 10,000 square foot library reading room and research area. There will also be 20,000 square feet of archive and object storage space for both the museum and library in addition to staff offices and laboratories.

The site is located in the recently expanded PD-1 parking district (attachment B) that provides for a 60% reduction in required parking for new construction. This project provides 91 parking spaces within the PD-1, but with the 60% standard applied 82 parking spaces are required.

A minimum of 5% of the site must be maintained with vegetative cover in the MU2 zoning district, which results in 8,080 square feet per Condition 1, and light fixtures will be a full cutoff design per Condition 2.

In terms of bonus points, the maximum height limit in the MU2 zoning district is 35' and CBJ §49.60.145 allows the building to be 45' in height if they can accumulate no less than 5 bonus points. The City Administrative Code, Chapter 4, Part 3, provides how to award those bonus points. The Director determines bonus points, which must be approved by the PC. Staff recommends bonus points for non-vehicular access for pedestrian paths, sidewalks, bike paths and other pedestrian improvements beyond that required. The proposed development provides pedestrian access to the site from the east, south, and north, which connect the site to Willoughby, Whittier, and Egan. This facilitates recommendations of the Non-Motorized Transportation Plan and Comp Plan. Staff recommends a maximum of 5 points be awarded for non-vehicular access. Electric power bonus points can be awarded up to a maximum of 3 points for every 30% reduction, and staff is recommending 2 points. They have shown a 30% reduction in heating and HVAC systems, and 20-30% in lighting. The project design bonus points are allowed for preserving scenic vistas. A significant view analysis was provided in the application material, and the draft Willoughby District Land Use Plan (WDLUP) has a viewshed analysis as well. The proposed building falls within an area that the draft WDLUP that suggests allowing buildings up to 65' in height, and staff has recommended 2 points. Staff recommends a total of 9 bonus points for the 45' height allowance.

Per VAR20110026, the applicant is requesting a variance to the maximum building height from 45' to 52'. The building is designed to have a reverse gable roof with the highest section being 52'. The building was originally designed to fit within a maximum building height of 45' in anticipation of an approved height bonus. However, during site testing it was discovered that the water table is higher than anticipated so the basement level had to be elevated above it. As was mentioned earlier, the proposed building is within the planning area of the draft WDLUP, which recommends higher buildings, including that the viewshed analysis indicates that this area will have minimal impact from surrounding views. Staff recommends approval of this variance.

Public testimony

Brian Meissner, representing the applicant ECI/HYER Inc., said he is testifying on behalf of the SLAM project team. They are retaining the existing eagle tree at the current museum, which will be the main feature in the new lobby of the SLAM in celebration of the tradition of this being a Juneau project that serves the state. This project has undergone an extensive two-year public process.

In terms of the advisory condition, that Assembly motion was provided about a year ago. At that time, they were dealing with whether the existing museum building was eligible for status on the historic register, and the Alaska Historical Commission (AHC) and the local Historic Resources Advisory Committee (HRAC) determined that it was. During that time, there was a strong desire by Juneau residents to preserve the existing museum panels. They have explored this issue, which has a cultural aspect that draws a lot of emotion, but there is an outstanding question of their cultural authenticity in terms of whether the iconography was appropriately taken. The AHC were initially presented with a recommendation from the Alaska Office of History and Archeology (AOHA) that the existing building be given historic status due to its relationship in terms of historic events, which were part of the centennial celebration. In addition, the AOHA submitted a recommendation that the existing building was eligible for architectural significance to the AHC. The AHC debated both of these requests, and then completely agreed with the connection to historic events and the centennial celebration, but because of the cultural aspect and other issues they found the existing building not to be architecturally historically significant. Even so, the panel issue is not over, and they are not intending to take any exception to staff's

comments, but he just wanted to bring this up because it is a deep issue they continue to run into. However, they have reached a Memorandum of Agreement (MOA) on mitigation with the AOHA to do a research project of all centennial buildings built around the state at that time focusing on history and cultural impacts. During that time, many historical societies were developed that live to this day. They will create a publication from that information and play it forward to the 150-year celebration coming up in 2017, including conducting a statewide traveling exhibit, and an online exhibit. They will document the existing historic museum building through drawings, photographs, and a narrative about its history to be included as a permanent part of the collection in the SLAM. They will also include an exhibit that consists of a transparent model of the new building with a model of the existing building within it, including a descriptive storyboard.

Mr. Haight asked whether constructing the building to 52' might potentially impact light and air to the SLAM and adjacent buildings. Mr. Meissner said the building was sited as far west as possible to limit its impact to buildings to the north, as well as to the east to obtain accessible grades above the normal water table. The 52' high portion of the roof is set back from the edges, which minimizes shadow impacts. The reasons are to lift the clerestory so people can view Mt. Juneau and Mt. Jumbo when they are in the library, and to allow light to penetrate. Chair Satre asked what are the depths of the water table is in the area. Mr. Meissner said the basement is set at an elevation of 18', with the historic high tide being 21', the normal 15', and static 4.7'. With climate change, they might see the normal water table increase, so no critical components were designed in the basement. The elevation of Whittier Street is 26', but what they need for vehicle and accessible van clearance in the basement places the first floor at 32'. The building contractor was pre-selected, and last summer they monitored tides, which is where this data came from.

Ms. Bennett said she is still unclear whether the existing museum building panels will be destroyed. Mr. Meissner said they are not currently planned as being part of the design, but should the advisory condition be carried forward with the permit, they will continue to provide consideration as to the most appropriate method to use the panels.

Mr. Haight asked where the Nimbus will be relocated, and Chair Satre asked if it was found to have historical value. Mr. Meissner said it was found to have monetary value, and it will be placed in the front area of the plaza. The original artist and fabricators will donate time to bring the Nimbus back to its glory and replace its base.

Mr. Watson asked Mr. Meissner to speak to the view plane aspects. Mr. Meissner said the only view plane area they located downtown that could be minimally impacted might possibly be from Calhoun Avenue. They were shocked at how little impact this project would have to that view plane, which barely impacts the channel view, and provides no impact to mountain views. He provided a graph showing different heights of buildings in the area, and the first four were nearly the same height as the proposed SLAM building, which includes the Prospector Hotel, with the State Office Building and Willoughby Building being quite a bit higher.

Mr. Watson said last evening at a different meeting Mr. Meissner mentioned obtaining easements for an access road that could potentially turn into a street. Mr. Meissner said this building is the cornerstone of the WDLUP development, and the location where they are considering making an access point is at the rear of the SLAM, which is predicated upon the redevelopment of the Foodland area sometime in the future. For the sake of this project, they

have a need to create dedicated maintenance and fire access so they are in discussions with the landowner to create a lane, which becomes the first increment in creating a future public easement.

Wayne Jensen, 1210 Second Street, Douglas, representing the Alaska Committee, said the committee supports the approval of the conditional use and variance for this project. The committee was formed in 1995 with the mission to make state government work better by enhancing Juneau as Alaska's Capital City. There are 22 members on the Board of Directors, and some of them include Mayor Botelho, Senator Egan, member of the Assembly Mary Becker, Commissioner Dennis Watson, and he currently serves as the Chair. A specific interest of the committee is to enhance Capital infrastructure, particularly the Capitol Complex. All three components being the library, archives, and museum are important features in the Capitol Complex, which will enhance the state and the City of Juneau as a Capital City and they hope to see this project under construction soon, as this will be a valuable asset. In regards to the Main Street improvement project, the committee is looking forward to that as well, which will provide improved access to the Capitol Building.

Mr. Miller asked if Mr. Jensen has an opinion on the advisory condition regarding using the existing museum panels as part of the SLAM project; Mr. Jensen said he does not.

Chair Satre thanked the Alaska Committee for the fine Legislative Reception last week, which many Commissioners attended; Mr. Jensen thanked them for participating in that event.

Public testimony was closed.

Commission discussion

Ms. McKibben commented that Condition 4 was buried in the text of the staff report, which she cited. Chair Satre asked if the pedestrian improvements include a path being installed through the area of the existing parking lot near the Zach Gordon Youth Center, or if it is simply related to the non-vehicular improvements onsite. Ms. McKibben said Condition 4 is in relation to the discussion about non-vehicular improvements shown in the request for bonus points, which includes the pathway from Egan to Willoughby on the backside where Mr. Meissner showed that they are working to acquire an additional easement to provide a lane wide enough for emergency and fire access on the 3.71-acre site. Mr. Chaney added that what Chair Satre is referring to is solely for the applicant to obtain bonus points.

Staff recommendation: That the PC adopt the Director's analysis and findings and grant the requested CUP and CSP for the development of the SLAM. The proposed project includes an 118,000 square foot two-story building and 38,000 square feet of basement parking.

It is also recommended that the PC adopt the Director's analysis and the bonus point total per CBJ §49.60.150 to allow a maximum building height of 45 feet for this project.

The approval is subject to the following conditions:

1. Vegetative cover must be installed as shown in the plans prior to the issuance of a Certificate of Occupancy.
2. All exterior lighting fixtures shall be of a "full cutoff" design.
3. Prior to issuance of a building permit, the applicant shall submit a lighting plan illustrating the location and type of exterior lighting proposed for the development.

Exterior lighting shall be designed and located to minimize offsite glare. Approval of the plan shall be at the discretion of the CDD, according to the requirements of CBJ §49.40.230(d)

4. Pedestrian improvements must be installed as shown in the attached plans prior to the issuance of a Certificate of Occupancy.

Advisory Condition:

5. As mitigation for demolition of the Alaska State Centennial Museum (a historic place) one or more of the concrete panels be preserved and displayed, either inside or outside the new facility. A publication and interpretative exhibit on the history of the original museum will also be provided.

Commission action

MOTION: *By Mr. Watson, that the PC adopts the Director's analysis and findings and grants the requested USE20110026 and CSP20110007 for the development of the SLAM. The proposed project includes an 118,000 square foot two-story building and 38,000 square feet of basement parking. It is also recommended that the PC adopt the Director's analysis and the bonus point total per CBJ §49.60.150 to allow a maximum building height of 45 feet for this project. The approval is subject to the conditions outlined by staff, as presented.*

There being no objection, it was so ordered and CSP20110007 & USE20110026 were approved as presented by the PC.

[Note: This motion was reconsidered under the Other Business portion of the Agenda.]

Chair Satre adjourned the PC, and convened the Board.

X. BOARD OF ADJUSTMENT

VAR20110026

A Variance Request to exceed the 35' maximum height limitation in the MU2 zone to construct a 52' high roof, for the SLAM project.

(Staff recommended height bonus accrued to 45' for USE2011 0026.)

Applicant: ECI/HYER Inc.

Location: 395 Whittier Street

Staff report/Public testimony/Board discussion – Previously heard

Staff recommendation: That the Board adopt the Director's analysis and findings and grant the requested Variance, VAR20110026. The Variance permit allows a maximum building height of 52 feet as shown on the attached plans, for an 118,000 square foot two-story building and 38,000 square feet of basement parking for the SLAM.

Board action

MOTION: *By Mr. Watson, that the Board adopts the Director's analysis and findings and grants the requested Variance, VAR20110026. The Variance permit allows a maximum building height of 52 feet as shown on the attached plans, for an 118,000 square foot two-story building and 38,000 square feet of basement parking for the SLAM, as presented.*

Chair Satre said this project will be a great benefit to the City and the PC looks forward to the SLAM project.

There being no objection, it was so ordered and VAR20110026 was approved as presented by the Board.

Chair Satre adjourned the Board, and reconvened the PC.

XI. OTHER BUSINESS

MOTION FOR IMMEDIATE RECONSIDERATION: *By Mr. Watson, that the PC reconsiders USE20110026 and CSP20110007 and retains the motion as is, including to accept staff's advisory condition.*

Mr. Miller is concerned whether experts found cultural inaccuracies in terms of the existing museum panels because the condition in relation to this is just advisory, so they do not have to do it; Mr. Pernula said that is correct, and Chair Satre added that the applicant said they would take the advisory condition on the panels under advisement.

There being no objection, it was so ordered and CSP20110007 & USE20110026 were approved as is, and for the PC to also accept staff's recommended advisory condition.

XII. DIRECTOR'S REPORT

Discuss 2012 Goals & Priorities for the PC

Mr. Pernula said he reviewed the minutes of the December 20, 2011 PC meeting, and revised the goals accordingly, however, there seems to be differences of opinion among the Commissioners as to whether the goals should be listed as being long term rather than short term.

Ms. Grewe said she requested that communication outreach effort on the website be listed as a goal, which is not on the list that Mr. Bishop also wished to include as being a priority. Mr. Pernula said he spoke to the Management Information System (MIS) staff about this, and they think that they can create this, but they are currently busy converting the City database to new systems across departments, so they have not yet had time to work on this. Ms. Grewe stressed that she wants this placed on the list as being a long-term goal as a placeholder, to which the Commissioners agreed.

Ms. Lawfer said any department or commission has to address low- and moderate-income and homelessness including people who are couch surfing, which needs to be listed as a higher priority goal, not beyond 2 years. Mr. Pernula stated that when the PC last updated the Comp Plan in 2008 that was probably the number one issue. Ms. Lawfer stressed that homelessness and affordable housing should be a constant vigil. Chair Satre said there is no single solution, but this topic is in the forefront of all aspects that the PC deals with. Ms. Grewe she previously commented at other meetings that this PC is an active and vigilant land use and planning group. This includes decisions the PC makes on density and subdividing land, which pertain to affordable housing and it is a multi-faceted process. Ms. Lawfer agrees, but perhaps the titles of short-term and long-term goals should be revised because the PC has been vigilant with homelessness and affordable housing issues, which greatly impacts this town. Mr. Miller said he at times receives telephone calls from members of the Affordable Housing Commission (AHC)

so he knows they're getting work done, but they do not have a PC liaison, which might assist the Commissioners to do a better job. He was informed via telephone last night that a legislative bill was introduced so developers won't have to pay taxes until plats on subdivisions are finalized. Chair Satre said it instead actually allows the City to determine the process by which tax deferrals happen, and the PC should encourage the Assembly to formulate a position on this. He asked if a Commissioner was ever stipulated to serve on the AHC. Mr. Pernula stated that Ms. McKibben is a staff liaison to the AHC; Ms. McKibben said having a Commissioner serve in the AHC was not stipulated when the AHC was formed. Chair Satre said he believes former Commissioner Nancy Waterman used to attend the AHC meetings, so the current Commissioners might find time to attend future AHC meetings. Mr. Watson commented that just because homelessness and affordable house is a long-term goal on the priority list doesn't mean that the PC isn't working on it because they are, and with it being on the list as number 5 just means that they are working on it, not that it's the last priority.

Ms. Bennett commented that she provided written comments for the PC/COW meeting scheduled for January 31, 2012, as she'll be unable to attend.

2012 Capital Improvement Projects (CIP) discussion

Mr. Pernula said the PC has time to add CIP projects to the list, and Engineering Director Rorie Watt said he would meet with the PC to talk about those that are already listed. He included a copy of last year's CIP request by the PC. The largest project was to fund a study to find a suitable site for an Off Highway Vehicle (OHV) Park in Juneau, and they are looking at the site about 35 to 39 miles out the road, including that they have allocated funding. Ms. Grewe asked if CBJ land has been targeted for the OHV site, and whether the allocated \$50,000 is for planning and mapping of that property; Mr. Pernula said she is correct on all counts.

February 28, 2012 Regular PC Meeting

Mr. Pernula said there are going to be a couple of large issues presented at this PC meeting and he would like to know which Commissioners can attend; all present Commissioners indicated that they would be in attendance. He believes the downtown cruise ship dock case will be re-presented, and possibly PC legal training by the CBJ Law Department.

Comp Plan Update

The review of the Comp Plan by staff should be done by the end of February or the first part of March 2012, and then presented to the PC for review. Most of the recommendations by staff are not major policy changes. Staff reviewed which Implementing Actions were completed and are proposing to eliminate those; including presenting revised language for other areas of the plan. Mr. Bishop asked if staff reviewed areas for transitional rezoning possibilities. Mr. Pernula said staff has done so as a separate project, which was per the last update of the Comp Plan, and Ms. McKibben is handling this. Most of the rezoning has recently taken place by the PC on North Douglas, including the first of two phases near Pederson Hill that will be provided to the PC fairly soon.

XIII. REPORT OF REGULAR AND SPECIAL COMMITTEES

Mr. Watson said the PWFC recently met, and he attended that meeting on behalf of Mr. Satre. The committee reviewed the Berners Avenue reconstruction project, which the PC previously reviewed and made recommendations on to CBJ Engineering. He explained that CBJ Engineering disagreed with most everything the PC recommended, as they do not feel anyone

will pay attention to the stop sign and they did not agree with the 10' wide travel lane. However, CBJ Engineering did agree that if they were remaining funds, they would put it towards street lighting for the project. He informed the committee what the PC's reasoning was on that case, which he believes changed the mind of one of its members, which is when the committee agreed to hold off taking another look at that case at a future meeting.

In addition, the PC previously dealt with a Hughes Way case in the Fritz Cove area, and it appears the neighborhood has come to an agreement on their financial differences, which allows them to move forward. Mr. Pernula said the solution is going to be better than what was approved by the PC, as Hughes Way will be dedicated much further with a cul-de-sac being built at the end of that street. Mr. Watson believes that the hard work the PC provided on this case helped to push it along. Ms. Bennett said the planning staff provided a lot of time and work on that case as well; Mr. Pernula said since 2004.

Mr. Watson said it is his understanding that Parks & Rec is intending to remove the berms and pavilion at Marine Park. Mr. Pernula said this is the first he has heard about this. Chair Satre said that infrastructure it considered as being a public hazard because people are able to hide behind them and do untoward acts.

Mr. Watson said the Subdivision Review Committee met earlier tonight, and Ms. Boyce will draft comments made on the Subdivision Ordinance for review by the committee at its next meeting, which will be presented to the PC shortly thereafter. This ordinance has not been revised since 1987, which has taken nearly a year for the committee to review; Mr. Pernula added that staff started their review five or six years ago.

PC Committee Assignments

Chair Satre stated that staff provided an email of assignments to be made to the committees that does not go into effect until February 1, 2012. There was one opening on the Commission on Sustainability that Mr. Haight volunteered to serve on. He requested Mr. Pernula to ensure that staff updates the appropriate contact lists expeditiously so the Assembly and its Liaison to the PC are privy to them.

Mr. Bishop said the Lands and Resources Committee met last night and discussed cellular towers, and an interest was expressed to have the draft telecommunication ordinance require co-locating. He thinks this would be good. It was mentioned to have the City do so on their land, but he does not believe a decision was made in regards to this last night, which might be possible when the Assembly later hears that proposal.

In addition, the committee viewed HB 264 to defer property taxes for developers, and he urged the members to contact Mr. Miller, which he is glad to hear that they did. He believes this is a good bill for the most part, but he does not think it goes far enough, which he stated last night. It defers property taxes, which doesn't really do a whole lot of good. He thinks it needs to be more of an elimination of property taxes until the property is sold, as there is additional confusion on the bill because it currently states that it doesn't include improvements. However, this is a statewide legislative bill, and in the Mat-Su Valley and Anchorage area they do not have to have improvements in many of subdivisions so it doesn't take that into account, but in Juneau they are unable to have a subdivision without having the required improvements. Also, some of the definitions in the bill are vague, which they are attempting to clear up now. He realizes that the placing 'deferral' language in the bill was not the actual intention of its prime sponsor; rather it

was for 'exclusion'. However, the sponsor did not state that it was for 'exclusion' at that point, because they thought 'deferral' was more passive type of language, but that will probably be clarified when HB 264 is presented to the House of Representatives. Mr. Watson said he had a conversation with Representative Munoz who is the prime sponsor of HB 264, and Mr. Miller and Mr. Bishop might consider holding a discussion with her to assist in alleviating confusion.

Ms. Lawfer asked what time the PC/COW is scheduled to convene on January 31, 2012; Mr. Pernula said 5:00 p.m. in the Assembly Chambers.

XIV. PLANNING COMMISSION COMMENTS AND QUESTIONS - None

XV. ADJOURNMENT

MOTION: *By Mr. Watson, to adjourn the PC meeting.*

There being no objection, it was so ordered and the PC meeting adjourned at 11:00 p.m.