

MINUTES

PLANNING COMMISSION
City and Borough of Juneau
Michael Satre, Chair

REGULAR MEETING
January 28, 2014

I. ROLL CALL

Mike Satre, Chairman, 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 pm.

Commissioners present: Mike Satre, Chairman; Dennis Watson, Vice Chairman; Bill Peters, Karen Lawfer, Ben Haight, Gordon Jackson, Paul Voelckers

Commissioners absent: Dan Miller, Nicole Grewe

A quorum was present

Staff present: Hal Hart, Planning Director; Travis Goddard, Planning Manager; Sarah Bronstein, Planner I; Amy Mead, City Attorney; Beth McEwen, Deputy Municipal Clerk

II. APPROVAL OF MINUTES

- December 3, 2013 – Special Planning Commission Meeting
- January 7, 2014 – Special Planning Commission Meeting

MOTION: by Ms. Lawfer, to approve the December 3, 2013, and the January 7, 2014, Special Planning Commission Meeting minutes with any changes by staff or fellow commissioners.

There being no objection, the minutes from the December 3, 2013, and the January 7, 2014, Special Planning Commission meetings were approved.

III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS - None

IV. PLANNING COMMISSION LIAISON REPORT

Mr. Nankervis said cell phone towers were an issue at the Assembly meeting held Monday night. The Assembly moved to ask Law to draft a moratorium on that issue, with an ordinance to come before the Assembly hopefully due sometime in May.

The Assembly made about eight board appointments at its meeting, said Mr. Nankervis. On February 6, Assembly is meeting with the Social Services Advisory Board, and on February 10, the Assembly has an executive session on parking issues.

The pay-parking boxes are on the way via barge. These parking boxes will be placed at the library parking garage, at Second and Franklin, and at the shopper's lot at Main and Egan, said Mr. Nankervis. The boundaries covered by the parking boxes run from the Library parking garage, up Franklin Street to Fourth Street, over to Main Street, and back down to the shopper's parking lot. Cars parking within this boundary will have two hours free parking, with money required after that time limit, said Mr. Nankervis.

On February 26, the Assembly Finance Committee will be meeting with the School Board and the Airport Board. The Assembly would like to get together with the Planning Commission during a Committee of the Whole meeting, said Mr. Nankervis. He added that the Atlin/Harris appeal is still within the 45 day deadline, and the Assembly is waiting to see the draft of its decision from the Law department.

V. RECONSIDERATION OF THE FOLLOWING ITEMS - None

VI. CONSENT AGENDA

CSP2013 0031 was pulled from the Consent Agenda and placed on the Regular Agenda for purposes of discussion.

CSP2013 0033:	Renovation of Centennial Hall, including roof replacement, upgrade of existing toilet facilities and construction of additional toilet rooms, domestic water piping replacement, and sound system upgrade.
Applicant:	City and Borough of Juneau
Location:	101 Egan Drive

Staff Recommendation

Staff recommends that the Planning Commission adopt the findings in this staff report and recommend to the Assembly that CSP2013 0033 is consistent with locally adopted plans and policies.

MOTION: *by Mr. Watson, to approve CSP2013 0033 on the Consent Agenda with conditions and findings as provided by staff, and asked for unanimous consent.*

There being no objection, CSP2013 0033 was approved.

VII. CONSIDERATION OF ORDINANCES AND RESOLUTIONS - None

VIII. UNFINISHED BUSINESS - None

IX. REGULAR AGENDA

CSP2013 0031: Mendenhall Valley paving and roadway reconstruction for dust control. Roadways to be paved include: Blueberry Lane, Powers Street, Gene Street, Goat Hill Road, Lee Street, Lee Court, Spring Way, Wilma Avenue, Barrett Avenue, Bentwood Place, Sasha Avenue, Tongass Boulevard and Rivertrail Way.

Applicant: State of Alaska DOT & PF

Location: Blueberry Lane, Powers Street, Gene Street, Goat Hill Road, Lee Street, Lee Court, Spring Way, Wilma Avenue, Barrett Avenue, Bentwood Place, Sasha Avenue, Tongass Boulevard, Rivertrail Way

Staff Recommendation

Staff recommends that the Planning Commission adopt the findings in this staff report and recommend to the Assembly that CSP2013 0031 is consistent with locally adopted plans and policies, as required by CBJ 49.15.540 and AS 35.30.010.

Ms. Bronstein informed the Commission that the Department of Transportation and Public Facilities (DOT&PF) project spans the Mendenhall Valley. All of the roads are CBJ owned and maintained, said Ms. Bronstein. The project is federally funded through a grant called Congestion Mitigation and Air Quality (CMAQ). The total length of roadway to be paved amounts to 1.2 miles composed of small road segments.

The Mendenhall Valley was identified as a non-attainment area, said Ms. Bronstein. This means that the air quality was measured and deemed not up to Federal standards. In order to meet those standards, the Department of Environmental Conservation (DEC) worked with DOT&PF to develop a plan for paving roads to reduce the amounts of Large Particulate Pollution (PM10) in the air. The sources include wood smoke and road dust, said Ms. Bronstein.

Federal air quality standards were achieved in 1993, said Ms. Bronstein. However, even though this was achieved, the air quality must be maintained. DEC adopted an attainment plan, and in 2009 DEC adopted a limited maintenance plan to control PM10, said Ms. Bronstein. Those plans all included action items for paving roads to control PM10 dust.

Ms. Bronstein explained that the project before the Commission from DOT&PF includes an MOU (Memorandum of Understanding) between DOT&PF and CBJ regarding how the streets will be managed, and how the project will be managed between the two agencies.

There is direct language in the Comprehensive Plan regarding air quality, which directs the City to continue regulatory measures, and capital improvement projects to protect and improve overall air quality, said Ms. Bronstein.

Mr. Sartre asked Ms. Bronstein to explain the roll in this process of the Planning Commission in a City/State project review as opposed to a conditional use permit application.

Ms. Bronstein explained that all capital improvement projects are required to go through a City/State review. The Commission has 90 days to review the project, to find the project consistent or not consistent with adopted ordinances and plans. In this case the review includes Title 49 and mainly the Comprehensive Plan, said Ms. Bronstein; when the Commission makes a finding, it is actually a recommendation to the Assembly for a final vote.

Resident Joe Edwards said there are currently plans for a new bridge, and four alternate plans for diverting traffic. One of those plans includes blocking off Industrial Blvd. to a left-hand turn coming onto the highway, and routing everything down Brentwood. There is a tremendous amount of traffic now, said Mr. Edwards. If they pave it, he thinks people will drive faster.

Mr. Edwards said his suggestions would be to make some effort towards speed control, with appropriate signage and possibly lights erected to notify drivers of their speed. He also suggested that every tree around the Fish and Game lab (on the corner of Jensine and Brentwood) be removed to aid with visibility. Stating this was not a complaint about the new coffee drive-through, Mr. Edwards said that it is adding significantly to the traffic on Jensine.

Resident Paul Simpson told the Commission that he has a business on Bentwood drive. He said some of his property corners are located in the street. Mr. Simpson said that he wanted to make sure the public had adequate opportunity for input before changes were implemented by DOT&PF.

Ms. Olsen said she is a resident on Spring Way, one of the streets identified by DOT&PF for paving. She asked if the property owners would have to pay for any portion of the paving project. She stated that when the neighboring property was built upon, that the fire hydrant was removed. She wanted to know if they were going to get a fire hydrant installed to replace the one which was removed. She said when she had called the City about the fire hydrant, that she was told that a fire hydrant would be installed when the street was paved.

Chairman Satre said this is a DOT&PF project, so residents will not be assessed for the paving. He added that he did not think residents would be assessed for any CBJ improvements in the project areas either. The City and Borough of Juneau will conduct all necessary utility

improvements to the right-of-way, Chairman Satre quoted from the project materials. Chairman Satre added that should include the fire hydrant.

Resident Mark Petrowski said that if Lee Court was paved, that the steep street would be even more treacherous on icy days. He said a number of vehicles cannot make it up the hill in its gravel state, and that it would be more of a safety issue if it was paved, unless the CBJ planned on performing a lot more maintenance on the road than is currently performed.

Lee Court resident Rich Preston said he supported the statements about the steepness of Lee Court. He said the street is not maintained properly. Mr. Preston said that he was in favor of paving the street. He said it would take proper maintenance by the City. He said that steep streets such as Blueberry Hill are high on the city's maintenance list, and he felt that Lee Court should be as well. Mr. Preston said he was concerned that with paving that the grade be adequate so that his home did not experience flooding.

DOT&PF project manager Chad Howard said that DOT&PF was still in the early phases of design, so that the remarks of property owners could be given full consideration. He said the project involves the paving of existing roads, and that it would not involve many changes to the roads prior to paving.

Chairman Satre said it would be helpful if Mr. Howard could address the concerns about traffic management near Industrial Blvd.

Mr. Howard said that was a separate project, and that he could not respond with any details for that project. He took the contact information from those who had expressed concern about the traffic in the Industrial Blvd. area, so that a DOT&PF representative could contact them. He said that he expected both of those projects to transpire this coming summer.

Mr. Voelckers asked if the MOU addressed the possibility that additional maintenance may be required for the roads, especially since asphalt could make the roads more slick.

Mr. Howard said he was pretty sure that they were roads owned and maintained by the City.

Mr. Voelckers asked if additional maintenance would be addressed by the City once the paving project was complete.

Ms. Bronstein said it was her understanding that all maintenance fell to the City, which would include any unintended needs.

Mr. Watson asked if the State would remedy potential problems such as the water runoff problem mentioned by Mr. Preston.

Mr. Howard said they are still in the early design stage, where these problems expressed by property owners can be addressed.

Mr. Watson said that whatever DOT&PF can do to communicate with the neighbors would go a long way to smooth out concerns. Mr. Watson said he would appreciate Mr. Howard passing the concerns expressed by the residents to the project manager of the project affecting the traffic in the Industrial Blvd. area.

Ms. Lawfer asked if these were the last of the dirt roads to be paved.

Ms. Bronstein answered that there are other gravel roads within the Borough that are not included in this project. She said there would be CMAQ funds for future projects.

Mr. Haight asked what the project schedule would be for design, bidding and construction.

Mr. Howard said they hoped to put the project out to bid this spring followed by construction in the summer.

MOTION: *by Mr. Watson, to approve CSP2013 0031, accepting staff's findings and recommendations, and asked for unanimous consent.*

The motion was approved by unanimous consent.

X. **BOARD OF ADJUSTMENT**- None

XI. **OTHER BUSINESS**

- Boards and Commission Training

Chairman Satre introduced Deputy Clerk Beth McEwen, and City Attorney Amy Mead. He said this training is traditional when new Commissioners are appointed to the Commission, to provide an overview of the rules by which Commissioners must abide, along with some tools to enable the Commissioners to do their job.

Ms. McEwen provided the Commission with copies of the *CBJ Boards, Committees and Commissions Informational Pamphlet*, the *Complete Idiot's Guide to Robert's Rules*, a Planning Commission fact sheet, a fact sheet on how to apply for boards and commissions, *Chapter 01.45* in the *Code of Ordinances* regarding conflict of interest, and an excerpt from *Title 49 (49.10)* on administration and compliance. She also provided the Commissioners with a handout on rules of order adopted by the Planning Commission.

Ms. McEwen covered:

- The Basics; Becoming Familiar with the CBJ Website
 - ✓ CBJ Board main page
 - ✓ Fact Sheets

- ✓ Links to individual Board pages
- ✓ How to calendar and cancel and follow meetings
- Role of CBJ Boards and the Planning Commission
 - ✓ CBJ Budget “Overview of Governmental Functions” and how the Commission fits in with the big picture
 - ✓ Types of Boards
 - ✓ Governing Legislative Documents
- Navigating the Rules of Procedure
 - ✓ Board Informational Pamphlet
 - ✓ Open Meetings Act including Executive Session
 - ✓ Planning Commission Rules of Procedure
 - ✓ Commission Role as a Quasi-Judicial Body
 - ✓ Assembly Rules vs. *Masons* vs. Robert’s Rules of Order
- Board Structure and Member Roles/Responsibilities
 - ✓ Appointment/Reappointment Process
 - ✓ Alaska Public Office Commission (APOC) Filings
 - ✓ Attendance/Vacancies/Board Membership and Term Limits
 - ✓ Election of Officers, Appointments of Subcommittees and Other Duties
 - ✓ Role of Liaisons; Voting and Non-Voting Liaison Positions

Ms. McEwen, with the assistance of City Attorney Amy Mead, reviewed the materials with the Commission, and requested comments and answered questions.

CONFLICT OF INTEREST

Ms. Mead reviewed the topic of conflict of interest with the Commission. Commissioners cannot vote or deliberate on any item when they have a personal or financial interest. This applies to Commissioners, and their family members as well, said Ms. Mead. This would include items which include former employers within the past three years, and items in which a Commissioner has a financial interest. Conflict of interest is outlined in Chapter 01.45 of the City Code, said Ms. Mead. If Commission members have questions about their interest in a specific matter, they are to call the City Attorney’s office to clarify whether it is a conflict of interest or not, said Ms. Mead. Following the guidance from the City Attorney’s office protects Commission members from being charged with a Class B Misdemeanor for having a conflict of interest, she explained.

Chairman Satre asked if when a Commissioner does declare that they have a conflict, it is required that the Commissioner state the reason for their conflict of interest.

Ms. Mead said if a Commissioner was uncomfortable disclosing the perceived conflict, they could say that they have spoken with the City Attorney and they have confirmed there is a conflict. However, Ms. Mead said the public is entitled to know why a Commission member is

not voting and deliberating on a matter. To the extent possible, she said, this should be disclosed and placed on the record.

Mr. Voelckers asked if there was a perception of a conflict, if that should deter a Commissioner from participating in deliberations.

Ms. Mead responded that there is either a conflict of interest or there is not a conflict of interest. She said there are situations in which the appearance of bias or conflict comes into play, such as when a judge may step down from hearing a matter if there is a perceived conflict of interest. Commissioners are required to step down if they have a personal or financial interest in a matter, said Ms. Mead.

ROLE OF LIAISONS

Mr. Watson said in years past Planning Commission liaisons would become very involved in a topic. He asked what the line was that liaisons should not cross.

Ms. Mead said the role of a liaison is to act as a conduit of information from the Planning Commission to the board they are serving in that liaison role. She said that liaisons do not vote or deliberate on the boards in which they serve.

Ms. McEwen added that all liaisons on all boards abide by the Assembly Rules of Procedure.

ALASKA PUBLIC OFFICES COMMISSION (APOC)

Mr. Jackson said that he was having a very difficult time getting to Alaska.com to record his APOC information. He asked if that could still be managed via paper rather than online.

Ms. McEwen said filing with APOC by paper is no longer an option for those who serve in communities over 15,000 people.

RULES OF PROCEDURE

There is some information in *Title 49* which needs to be clarified regarding which authority is followed for rules of procedure, said Ms. McEwen.

Chairman Satre said he has mentioned this to the City Attorney and asked that the Commission Rules of Order be reviewed due to conflicts in that language with Title 49.

There are a few items that Chairman Satre said he wanted to emphasize for the new Commission members. He said that according to the rules, that no new business should be taken up after 10:00 p.m. unless five members vote to take up the new business. Chairman Satre said that the Commission meetings adjourn by 11:00 p.m. unless the Commission is very close to a decision.

Chairman Satre said that the Commission strictly adheres to the order regarding public

hearings; staff presentation, applicant, and public testimony, with the applicant then having a chance to respond.

Chairman Satre said that protocol during meetings has always been followed by the Commission, even when there have been conflicts. He said over the years the Commission has had some wonderful discussions with differences of opinion, but that with very rare exceptions have those dialogues spread into public discourse. It is very important that all interested people are given the opportunity to be heard on issues before the Commission, said Chairman Satre.

Special motions before the Commission require six members, said Chairman Satre. He asked the City Attorney if there are five Commission members present for a meeting, and one member has a conflict therefore reducing the voting members to four, if there was a rule which applied to this situation.

Ms. McEwen verified that the number needed for a vote in the above situation changes, but that two members must have conflicts and be excused from voting on the issue, in which case the voting majority on an issue can be changed to four members. She added that the Commission may want to clarify its rules regarding what Commission members are allowed to vote on an issue that has been continued from one meeting to the next meeting.

Mr. Haight asked what the rules are regarding how the Commission members deal with the public (ex parte contact) outside of a meeting.

RECONSIDERATION

Mr. Voelckers asked about the role of reconsideration during a meeting.

Ms. Mead answered that reconsideration is implemented by a member who thinks the issue “went wrong” the first time it was considered. Under both Masons’ and Roberts Rules of Order, the only person who can move for reconsideration is a person who has voted on the prevailing side, said Ms. Mead.

We don’t follow that rule,said Ms. Mead. Anyone can move for reconsideration, or give notice of moving for reconsideration”.

Chairman Satre added that immediate reconsideration can be granted with six votes in favor by the Commission.

The time for reconsideration is past if a motion for reconsideration is not made at the next regularly scheduled meeting, said Ms. Mead. She added that Assembly rules state that as a general concept, Commission members are to make a decision based upon the information provided as part of the record.

Chairman Satre distinguished the role of the Commission from when it acts an adjudicating body compared to when it is hearing about information such as the Comprehensive Plan, in which members are not acting as an adjudicating body.

APPEALS

Mr. Watson asked about the role of Commission members regarding appeals.

Ms. Mead said to review the rules regarding the standard of review that the Assembly applies to appeals. She said to keep in mind what the Assembly considers when making its decision on appeals. She said when the Commission is making decisions on the record, it is important to the Assembly as an appeal body to be informed as to why the decision on an issue under appeal was made by the Commission. Clear articulation of the reason behind its decisions for the record is the best thing the Commission can do regarding appeals, said Ms. Mead.

Ms. Mead clarified that advice from the City Attorney's office to the Commission should be on procedural issues only.

Regarding the role of the Commission in the decision-making process, Chairman Satre said it was his understanding that variances do not set precedent; that each decision on a variance was unique in and of itself.

Ms. Mead answered in the affirmative.

OPEN MEETINGS ACT

Regarding the Open Meetings Act, Ms. McEwen told the Commission that what could be perceived as "serial meetings" was forbidden. Emails to one another regarding an issue or meeting with each other to discuss an issue outside of the public meeting are forbidden, and would be considered a violation of the Open Meetings Act., said Ms. McEwen.

Chairman Satre added that it is important for Commissioners to remember that even though it may have made a final decision on an item, to remember that it was appealable to the Assembly, and until the issue had made it through the Assembly process, it was off limits for members to speak about with each other or the public.

Ms. Mead told the Commission to be aware that any device they may use, such as a cell phone or laptop, is subject to public disclosure in a law suit.

Ms. McEwen reminded the Commission that items carrying a large public interest require a higher level of public notice than the average notice.

XII. DIRECTOR'S REPORT

MAP OF BUILDING PERMITS

Mr. Hart distributed a map of building permits issued resulting in new dwelling units for 2013.

Mr. Hart said that the department is tracking the growth of the neighborhoods over time, which will be shared with the Commission in the future.

SPECIAL MEETING CANCELLED

Mr. Goddard told the Commission that there would not be any special meeting required for February 21, due to the Assembly's adoption of a schedule for the cell tower ordinance.

WORK PLAN

Mr. Goddard shared a work plan adopted by the Assembly at its regular meeting. It includes the master plan which he termed the "vision document", and the ordinance/resolution that accompanies it.

Chairman Satre clarified that the master plan assumes that the ordinance will be adopted by the Assembly.

Mr. Goddard said the master plan is currently at the point where it will go through the vetting process via public meetings.

XIII. REPORT OF REGULAR AND SPECIAL COMMITTEES

COMMISSION ON SUSTAINABILITY

Mr. Haight reported that the Commission on Sustainability retreat was held on Saturday to define goals and objectives for the year. One goal defined is to really dig into the waste management problem in Juneau, said Mr. Haight. There was also discussion centered on working on the Comprehensive Plan on sustainability, including the quality of life in Juneau, said Mr. Haight. They also discussed developing short power for cruise ships as they dock in Juneau, he added.

XIV. PLANNING COMMISSION COMMENTS AND QUESTIONS

Mr. Watson said that more than a few times he has tried to attend the Wetlands Review Board meetings, finding that their dates are not the same as those posted on the web site. Mr. Watson said that six times in the past year they did not meet, and three times there were incorrect dates. Mr. Watson said that he thinks they play an important role in the community, and for them to miss six meetings in a 12 month time period is discouraging.

XV. ADJOURNMENT

The meeting was adjourned at 9:17 p.m.