**Minutes of the Public Hearing**
**Denali Borough Assembly**
**Anderson School**
**March 12, 2008**

CALL TO ORDER The public Hearing was called to order at 6:45 PM.

ROLL CALL Assembly members present: Josh Hockin, Clay Walker, Baxter Mercer, Armeda Bulard, Robert Kohlsdorf, David Evans, John Winklmann and Eileen Holmes Absent: Teresa Chepoda Usibelli. Mayor Talerico was also in attendance.

PUBLIC COMMENTS

1.) **ORDINANCE 07-22, Version D:** an ordinance authorizing the sale of certain parcels of municipal entitlement land (MLE).

None

2.) **ORDINANCE 07-23, Version B:** An ordinance amending the Denali Borough Code of Ordinances, Chapter 3.05 titled Budget Generally.

Neal Laugman, Healy, spoke against this ordinance.

3.) **ORDINANCE 07-24, Version A:** An ordinance to amend Chapter 6.15 of the Denali Borough Code of Ordinances, titled Solid Waste.

Leroy Lausen, Healy, spoke against this ordinance.

Neal Laugman, Healy, spoke against the ordinance.

Cheryl Venachuk, Healy, spoke against this ordinance.

4.) **ORDINANCE 07-25, Version A:** An ordinance amending the Denali Borough Code of Ordinances, Title 5, Chapter 5.20 titled Boards of Review and Adjustments.

None

5.) **ORDINANCE 08-02, Version A:** An ordinance amending the Denali Borough Code of Ordinances Chapter 1.15.030 titled Ordinance Procedures.

Neal Laugman, Healy, spoke in favor of numbering an ordinance or having some kind of history for ordinances.

6.) **ORDINANCE 08-03, Version A:** An ordinance appropriating up to $100,000 from the Capital Projects Fund.

David Miller, City of Anderson, asked about the ordinance.

7.) **ORDINANCE 08-04, Version A:** an ordinance appropriating $400,000 from the Permanent Investment Funds to balance out the Denali Borough Landfill Closure Fund.

Neal Laugman, Healy, asked if there would be a penalty for withdraw.

Mayor Talerico stated that four months would incur ½ percent.

8.) **ORDINANCE 08-07, Version A:** an ordinance amending the Denali Borough Code, Chapter 9.25 titled, Gas Exploration and Development Regulations.

Julia Potter, DCC, the Council believes that other lands besides residential west of the highway need to be protected. She asked about the final best interest finding from the state prior to passage of an ordinance.

Neal Laugman, Healy, takes exception to a legal threat from the state.

Mitch Usibelli, UCM and Energy, is willing to answer questions and has any information dating back to the discussions on legality and letters that were sent to the borough beginning in 2005.

Neal Laugman, Healy, spoke about subdivisions along the highway.

Sid Michaels, Mile 280 Parks Highway, supports keeping section C in this ordinance.

Teresa Hall, Healy, feels that section A is a taking, section C can remain.

Rick Weibel, Healy, would like to see this ordinance go to each community.

9.) **ORDINANCE 08-08, Version A:** an ordinance amending the Denali Borough Code, Chapter 4.15, titled Disposal of Borough Property.

None

10.) **ORDINANCE 08-09, Version A:** an ordinance amending the Denali Borough Code, chapter 4.25, titled Classification of Borough-Owned Lands.

None

11.) **ORDINANCE 08-10, Version A:** an ordinance amending the Denali Borough Code, Chapter 4.05, titled Disposal of Borough Real Property.

None

ADJOURNMENT BULARD declared the public hearing adjourned at 7:10 PM

APPROVED: _____
Armeda Bulard, Presiding Officer

ATTEST: _____
Gail Pieknik, Borough Clerk

Date Approved: APRIL 9, 2008

# Minutes of the Regular Meeting
# Denali Borough Assembly
# Anderson School
# March 12, 2008

CALL TO ORDER

Presiding Officer Armeda Bulard called the regular meeting to order at 7:10 PM.

ROLL CALL

Assembly members present: John Winklmann, Armeda Bulard, Robert Kohlsdorf, Josh Hockin, Clay Walker, Eileen Holmes, Baxter Mercer and Dave Evans. Teresa Usibelli was absent and unexcused. Mayor Talerico was also in attendance.

PUBLIC COMMENT

Shelly Merrell, Healy, Denali Preschool and Learning Center, requested that the Lis Pendens be removed from her property.

Sid Michaels, would like to see the APOC Financial Disclosure that the school board, planning commission and assembly has to fill out on the next meeting agenda. He encouraged the assembly to place it on the November election ballot.

Pat Winklmann, Healy, asked that the assembly receive the day care building so that a non-profit group in the community could rent it for a day care center.

Cheryl Venechuk, Healy, heard that there is a non-profit forming to take back the day care. The city of Skagway owns a building to rent out for a day care. She encourages the borough to do the same. The cost to rebuild a building would be over $200,000.

Amy Spear, Healy, thanked the mayor for his time on the day care issue. She also thanked Shelly Merrell from the Learning Center. There are approximately forty children in pre-school and day care from around the borough. She asked the borough to help them keep the day care center. There is a group working together to form a non-profit group so that they will be ready to receive the building for day care.

Annmarie Boniakowski, Healy, spoke to the day care issue. The previous board had to give away the building because they could not get grants to keep the building open. She encouraged the borough to help.

Neal Laugman, Healy, feels that there has been a contract violation on the sale of the day care building. The assembly never agreed to take

the building. The attorney of the previous board never got a signed copy and the borough never received a signed contract. He encouraged Ms. Merrell to produce the signed contract.

Rebecca Skrivanek, Healy, there is a signed petition that supports the borough to do something about the building.

Jo Ramos, Healy, this is a time to be creative. Let's save this building. She requested that the borough not lift the Lis Pendens.

Clara Saxe, Healy, she is involved with child care as a volunteer. If the borough took over the building, it would be benefiting the needs of at least 50 families. The staff is willing to stay on and help. This building is ready. Do not let the building go. Do not want the Lis Pendens lifted. Does not want it sold for profit or for residential purposes.

Linda Chatfield, used day care where she lived prior to living here. It is very important to have a safe place for children.

Elizabeth Hoogy, out of town, concurred with the previous speakers.

Jaclyn Wilhour, Healy, the borough needs to look deeper into the issue of the sale of the day care to Shelly Merrell. There were documents that were recorded by the previous board with the state that are falsified. Her name is on those documents without her knowledge.

Linda Norris, Healy, supports a non-profit group to continue day care in the current building.

Rick Weibel, Healy, was employed by the City of Anderson Day Care many years ago. He supports having the borough step up and do something productive soon.

Cindy Maclachlan, Healy, thanked Shelly Merrell and her staff for everything that she has done for the kids in the last two years.

Josh Wilhour, Healy, feels that Shelly ran the day care well. The sale to Shelly by the previous board was incompetent. He asked the borough to do what it can.

AGENDA

WALKER MOVED to approve the agenda. HOCKIN seconded.

MERCER MOVED to amend by adding day care to the agenda under Communications and Appearances. WINKLMANN seconded.
The VOTE to approve the agenda as amended was unanimous.

MINUTES

1.) February 13, 2008 Public Hearing and Assembly Regular meeting.

WALKER MOVED to approve. MERCER seconded. The VOTE was unanimous.

BREAK

The presiding officer called a break at 7:45 PM.
The meeting was called back to order at 8:01 PM.

REPORTS

1.) January 2008 Financial Reports.

EVANS MOVED to receive the financial reports. HOLMES seconded The VOTE was unanimous.

2.) Update on Homeland Security, EMPG and LEPC.

The emergency director gave a written report.

3.) Land Planner and Solid Waste Report

The planning director gave a written report.

4.) Mayor's Report

Mayor Talerico gave a report of his activities.

- The DOT&PF STIP list is available online.
- The new bank opened today in Healy
- The mayor will be going to Anchorage to meet with the State of Alaska, DNR, to discuss the borough's Municipal Entitlement Lands
- The legislative appropriation for the school district for the next fiscal year has created a funding loss.
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5.) School Report

Geoffery Buerger, Principal of the Anderson School.

- Completed the process for accreditation.
- The school is currently working on emergency planning with Rusty Lasell, Denali Borough Emergency Planning Director.

Doctor Kim Langton, Denali Borough School Superintendent.

- There was a task force working on ideas to put forward some ideas on the $100.00 per student increase. The outcome in the legislator was a give and take where the schools lost funding.
- Introduced Nancy Hollis as the Denali Borough School District Treasurer.
- The school district received an increase for transporting students to school for next year from the legislature. The next bus contract, which is coming up next year, will probably have an increase due to fuel costs.
- New legislation on held harmless which does not hold school's harmless on enrollment figures.
- There is a 10 percent increase for heating and a 5 percent increase for electricity in the school budget.
- Encouraged the assembly to contact the legislature on school funding.
- The school district is looking into staff cuts in the schools.
- Disclosed that Irene Langton, wife, works at the preschool. The program has been marvelous and appreciates the Merrell's for their hard work.
- The district will be working with parents on the standards model.

Elwood Lynn, Denali National Park and Preserve (DNP), presented a plaque to the Denali Borough School District. The DNP nominated Denali Borough School District for being a good partner for the park service. This was a competitive bid process between all of the parks in Alaska. The nomination identified a list of projects that the park service and the school district students worked together on including Murie Science and Learning Center, the Eielson Project, building trades project, ranger safety program to name a few. We blew all of the other parks out of the water with our nomination. This project is in its tenth year.

Kim Langton accepted the plaque and thanked Kris Capps for all of her help with the projects.

6.) Landfill Issues and Recycling Committee.

A.) Mayor David Talerico's veto on the seat appointment of David Braun on the Landfill Issues and Recycling Committee.

Mayor Talerico vetoed the assembly affirmative vote at the last regular meeting to place David Braun on the Landfill Issues and Recycling Committee based on Denali Borough Code 5.35.090.

B.) Seat appointments:

The assembly accepted the resignation of Kay Durham from the Landfill Committee.

Mayor Talerico appointed Kevin Hamel

WINKLMANN MOVED to confirm. KOHLSDORF seconded.

The roll call VOTE was unanimous.

Mayor Talerico appointed Lilly Capell

WALKER MOVED to confirm. EVANS seconded.

The roll call VOTE was unanimous.

7.) Matching Grant Committee alternate seat appointment.

WALKER volunteered for the seat as the alternate committee member.

8.) Assembly Advisory Committee report

Julia Potter, Assembly Advisory Committee, read the presented written committee report.

9.) Assembly Comments.

MERCER expressed concerned about the borough revenue sharing and matching grants that are still sitting in the financial report. He encourages the grant recipients to complete their projects prior to June 30, 2008. He also noted that the non-profits need to have their by-laws in place to accept grant money from the borough.

WALKER is concerned about the planning commission and not having a quorum.

EVANS spoke to Healy Hockey and their competitions state wide.

HOLMES thanked the park service for recognizing the students of the borough.

COMMUNICATION 1.) Day Care
APPEARANCES

Mayor Talerico spoke to this issue.

- The borough does not have a copy of the signed contract between the Kid's Stop Board and Shelley Merrell.
- The borough cannot walk unto private land and remove someone.
- The borough need's a plan to continue.
- There are some financial impacts to people who work here in the summer that need child care.
- The mayor has received comments from constituents who feel that the borough should not get involved in day care.
- If the current provider leaves, who is going to take her place to provide the service of day care and pre-school.

MERCER also spoke with constituents that are against the borough taking over day care. They feel someone else should take it over.

HOCKIN doesn't want to see it disappear. The current owner deserves to get out what was put into it. The borough could possibly help by purchasing the building and then leasing it out for day care. The borough needs to do something to move this forward.

WINKLMANN, WALKER and EVANS concurred with HOCKIN.

HOLMES feels that this is a dilemma because she wonders if it's right that the borough own a day care but on the other hand it's all about the children of the borough.

KOHLSDORF asked about the unsigned sales contract. He would like to know which copy of the contract was signed.

BULARD handed the gavel to KOHLSDORF.

BULARD feels that the borough needs a day care/pre-school. We need some kind of negotiations without attorneys involved. If the borough were to receive the building and lease it for child care, the new board would have to follow all state and federal laws.

Mayor Talerico suggested a sub-committee made up of assembly members be formed to negotiate on the building. He suggested three assembly members.

WINKLMANN, MERCER and WALER volunteered to be on the negotiation committee.

Kim Langton, Denali Borough School District Superintendent, stated that the school is willing to help with temporary housing of the day care. He encouraged the borough to go into negotiations for the building.

The mayor encouraged that the borough assembly move forward with negotiations.

WINKLMANN MOVED that the assembly initiate a negotiation committee of three assembly members to meet with the Merrell's to remedy this situation with the understanding that there are constraints laid on the committee and that anything that comes out of these negotiations would be non-binding until the committee meets with the assembly as a whole. This committee shall be an advisory committee only. HOCKIN seconded. The roll call VOTE was unanimous.

MERCER MOVED to set an Assembly Special Meeting for March 21, 2008 at the Tri-Valley Community Center at 6:30PM.

BREAK

The Presiding Officer called a meeting break at 9:52PM.
The meeting was reconvened at 10:00PM.

ORDINANCES TO BE INTRODUCED:

1.) **ORDINANCE 08-05, Version A:** An ordinance setting the Denali Borough Solid Waste Tipping Fees.

EVANS MOVED to introduce. WINKLMANN seconded.

Mayor Talerico explained the ordinance.

The VOTE was unanimous.

EVANS MOVED to postpone. WALKER seconded. The VOTE was unanimous.

2.) **ORDINANCE 08-06, Version A:** An ordinance amending the Denali Borough Code of Ordinances, Chapter 2.35 titled Travel Allowances.

EVANS MOVED to introduce. KOHLSDORF seconded.

KOHLSDORF explained the reason he supports this ordinance is because of the increase of gas prices.

The roll call VOTE was unanimous.

MERCER MOVED to postpone to the next meeting. WINKLMANN seconded. The VOTE was unanimous.

3.) **ORDINANCE 08-12, Version A:** An ordinance amending the Denali Borough Code of Ordinances to create Chapter 3.50 titled Enhanced 911 Services.

MERCER MOVED to introduce. EVANS seconded. The roll call VOTE was unanimous.

EVANS MOVED to postpone to the next meeting. WINKLMANN seconded. The VOTE was unanimous.

## ORDINANCES THAT ARE PENDING:

1.) **ORDINANCE 07-22, Version D:** an ordinance authorizing the sale of certain parcels of municipal entitlement land (MLE).

WALKER MOVED to amend by inserting under Section 5, *"within twenty (20) days of the sale."* Also again "*within twenty (20) days of the sale.*" The interest rate for this sale will be, "*Wall Street Journal Prime Plus 2%.*" Payments will be made "*quarterly.*" Under Section 3 to insert the auction date as "*June 14, 2008.*" EVANS seconded. The VOTE was unanimous.

EVANS MOVED to adopt. MERCER seconded. The roll call VOTE was unanimous.

2.) **ORDINANCE 07-23, Version B:** An ordinance amending the Denali Borough Code of Ordinances, Chapter 3.05 titled Budget Generally.

MERCER MOVED to adopt. HOLMES seconded.

Mayor Talerico explained that the changes in this ordinance would bring the Denali Borough Code in line with the Denali Borough Charter.

The roll call VOTE was 7-1 with WINKLMANN opposed. The Motion passes.

3.) **ORDINANCE 07-24, Version A:** An ordinance to amend Chapter 6.15 of the Denali Borough Code of Ordinances, titled Solid Waste.

MERCER MOVED to amend by substitution Version B for Version A. WALKER seconded.

Mayor Talerico explained that this ordinance would bring the Denali Borough Code in line with the Solid Waste Permit and the Operations Plan that was approved by the State of Alaska, Department of Environmental Conservation. He encouraged that everyone read the Solid Waste Permit and Operations Plan that was given to the assembly. The VOTE to amend was unanimous.

EVANS MOVED to postpone to the next meeting. WINKLMANN seconded.

EVANS explained that there was a significant change to this ordinance so it should go to one more meeting. The VOTE was unanimous.

4.) **ORDINANCE 07-25, Version A:** An ordinance amending the Denali Borough Code of Ordinances, Title 5, Chapter 5.20 titled Boards of Review and Adjustments.

MERCER MOVED to adopt. EVANS seconded. The roll call VOTE was unanimous.

5.) **ORDINANCE 08-02, Version A:** An ordinance amending the Denali Borough Code of Ordinances Chapter 1.15.030 titled Ordinance Procedures.

WALKER MOVED to postpone to the next meeting. EVANS seconded.

WINKLMANN suggested a legal opinion on the definition of enacted and proposed. WINKLMANN feels that a proposed ordinance is after introduction but before adopted or enacted.

The Borough Clerk explained that proposed ordinance means prior to introduction and enacted is when it is adopted.

WINKLMANN would like to see all language jibe within the Borough Charter and Code. He feels the language in ambiguous.

The VOTE to postpone to the next meeting was unanimous.

6.) **ORDINANCE 08-03, Version A:** An ordinance appropriating up to $100,000 from the Capital Projects Fund.

EVANS would like see the borough receive a grant for this project.

Mayor Talerico explained that usually grants require some borough match.

WINKLMANN asked about a request for proposal prior to passing an ordinance for appropriation.

The mayor explained that he is uncomfortable putting out an RFP without an appropriation to pay for it.

MERCER MOVED to adopt. KOHLSDORF seconded.

MERCER explained that all discussion on this project has been public and therefore anyone can come in and look at the minutes.

KOHLSDORF feels that we must get going because the landfill is filling up quickly. We can't close the landfill. That is not an option. He supports passing this ordinance.

The roll call VOTE was unanimous.

7.) **ORDINANCE 08-04, Version A:** an ordinance appropriating $400,000 from the Permanent Investment Funds to balance out the Denali Borough Landfill Closure Fund.

MERCER MOVED to adopt and EVANS seconded. MERCER explained that this will be going to the ballot for the public to decide and therefore does not have to go to four meetings.

WINKLMANN would like it to be carried to the next meeting. HOLMES and WALKER agreed.

MERCER MOVED to postpone to the next meeting. WINKLMANN seconded. The VOTE was 7-1 with EVANS opposed.

8.) **ORDINANCE 08-07, Version A:** an ordinance amending the Denali Borough Code, Chapter 9.25 titled, Gas Exploration and Development Regulations.

MERCER MOVED to substitute Version B for Version A. Motion fails for lack of a seconded.

EVANS spoke to the set backs within the State of Alaska statutes.

KOHLSDORF MOVED to delete everything in A 1 and add the word "None." MERCER seconded.

KOHLSDORF feels that the ordinance is illegal. He feels that the state would not allow drilling within subdivisions.

MERCER feels that adding subdivisions to the ordinance would make people of the borough feel secure, although we may end up going to court to defend our decision. He wants to see some limitations.

EVANS asked Mitch Usibelli, Usibelli Coal Mine and Usibelli Energy, about the probability of wells in the subdivisions.

Usibelli stated that this is an application for a gas exploration license. Usibelli spoke to the area west of the river, specifically Panguingue Creek area. Usibelli encouraged everyone to read the Preliminary Best Interest Finding (PBIF) on page 7-5 which covers subdivisions. There are already protections within the document for subdivisions.

The state of Alaska owns the subsurface minerals within the state. Mitch Usibelli encouraged the borough to contact the state. He would like a working relationship between all parties. Look at the document and see what restrictions the state of Alaska has put upon itself.

The VOTE to amend was 3-5 with MERCER, WINKLMANN, BULARD, WALKER and HOLMES opposed. Motion fails.

EVANS MOVED to postpone to the next meeting. HOLMES seconded. The VOTE was unanimous.

MERCER requested the clerk to add Version B to the meeting packet for next month.

9.) **ORDINANCE 08-08, Version A:** an ordinance amending the Denali Borough Code, Chapter 4.15, titled Disposal of Borough Property.

KOHLSDORF MOVED to postpone to the next meeting. WALKER seconded. The VOTE was unanimous.

10.) **ORDINANCE 08-09, Version A:** an ordinance amending the Denali Borough Code, chapter 4.25, titled Classification of Borough-Owned Lands.

WALKER MOVED to postpone to the next meeting. KOHLSDORF seconded. The VOTE was unanimous.

Mayor Talerico stated that these ordinances will need to be passed at the next meeting in order to have the June property sales.

11.) **ORDINANCE 08-10, Version A:** an ordinance amending the Denali Borough Code, Chapter 4.05, titled Disposal of Borough Real Property.

MERCER MOVED to postpone to the next meeting. WINKLMANN seconded. The VOTE was unanimous.

RESOLUTIONS

1.) **RESOLUTION 08-02:** A resolution in support of maintaining the Military Assistance to Safety and Traffic (MAST) service in Interior Alaska.

EVANS MOVED to adopt. HOLMES seconded. The roll call VOTE was unanimous.

OTHER BUSINESS

1.) Liquor Licenses:

Lic #: 4592
Type: Beverage Dispensary - Tour
Name: Denali Princess Wilderness Lodge Rapids
Location: 238.5 Parks Hwy

Lic #: 3660
Type: Beverage Dispensary - Tour
Name: Summit Restaurant & Lounge
Location: 238.5 Parks Hwy

Lic #: 2633
Type: Beverage Dispensary - Tour
Name: Cruisers Restaurant/Denali Princess Lodge
Location: 238.5 Parks Hwy

**Owner (all above): Alaska Hotel Properties LLC**

Lic #: 242
Type: Package Store
Name: Clear Sky Lodge
Location: 280 Parks Hwy

Lic #: 242
Type: Beverage Dispensary
Name: Clear Sky Lodge
Location: 280 Parks Hwy
Owner: Rabideau's Clear Sky Lodge Inc.
Type: Restaurant Eating Place Public Convenience
License: Black Bear Coffeehouse – Lic#3754
Location: Mile Post 238.5 Parks Hwy
Owner: S Elizabeth Barrett
Agent: S Elizabeth Barrett

Type: Golf Course
License: Black Diamond – Lic#4028
Location: 1 Mile Otto Lake Rd, Mile 247 George Parks Hwy

Owner: Black Diamond Resort Co
Agent: Marilyn Usibelli

EVANS MOVED to approve. WINKLMANN seconded. The VOTE was unanimous.

2.) Public comments.

Elwood Lynn, Assistant Superintendent Denali National Park and Preserve, thanked the assembly for their continued success of the Winterfest. He has heard good feedback across the borough.

Pat Winklmann, Healy, thanked the assembly for their care and concern for the kids of our community. She has a signed document from citizens showing their support for retaining the existing building.

ASSEMBLY COMMENTS

Robert Kohlsdorf, will be in the borough office tomorrow about 4:00 to decide if he should stay on the assembly. He is against filing the APOC form because it invades his privacy.

HOLMES thanked everyone for coming and asked KOHLSDORF to stay.

EVANS asked KOHLSDORF to stay. He feels that something should be done because it is an invasion of privacy.

WALKER asked questions about Ordinance 05-21. Why can't the state continue its best interest findings with the ordinance on the books. KOHLSDORF answered by stating that the state of Alaska will proceed with the ordinance on the books. Mr. Charlie Boddy, Usibelli Coal Mine, feels the state will not issue a permit with a cloud. So the state will come to the borough to finish the process so that they can issue the permit.

WINKLMANN thanked everyone for coming. He thanked Mr. Usibelli for his eloquent answers.

HOCKIN agrees with KOHLSDORF but asked him to stick it out.

MERCER spoke about the assembly becoming the planning commission. He also asked KOHLSDORF to stay.

Mayor Talerico explained that we no longer have a planning commission so that the assembly will need to become the planning

commission. The planning commission meetings are the 4th Thursday of the month.

HOCKIN asked to be excused from the next meeting because he will be out of state.

NEXT MEETING 1.) The next regular meeting will be held at the Tri-Valley Community Center on April 09, 2008. Assembly work session 6:00PM, public hearing 6:45PM, and regular meeting to follow.

ADJOURN. The presiding officer declared the regular meeting adjourned at 11:30 PM.

APPROVED: _____
Armeda Bulard, Presiding Officer

ATTEST: _____
Gail Pieknik, Borough Clerk

Date Approved: APRIL 9, 2008