Minutes of the Regular Meeting
Denali Borough Planning Commission
Tri-Valley Community Center
July 16, 2013

1) Call to Order

Presiding Officer, Sid MICHAELS, called the planning commission regular meeting to order at 7:28 PM.

2) Roll Call

Planning commission members present were Patricia GRIGGS, Steve JONES, Molly MCKINLEY, Baxter MERCER, and Sid MICHAELS. Ryan JUSCZAK and Mark MENKE were absent.

3) Public Comments

Hannah Ragland of Panguingue Creek Subdivision

Ms. Ragland thanked the commission for work being done on Title 4.

4) Approval of Agenda

Patricia GRIGGS MOVED to approve the agenda, Baxter MERCER seconded. The VOTE to approve the agenda PASSED unanimously.

5) Approval of Minutes

Patricia GRIGGS MOVED to approve the June 18, 2013 Worksession, Public Hearing, and Regular Meeting minutes; Baxter MERCER seconded. The VOTE to approve the June 18, 2013 minutes PASSED unanimously.

6) Correspondence

a) Senator Begich update on the Clear Air Force Power Plant issue

Senator Begich is requesting the Air Force relook at the numbers used to justify closing the power plant. Senator Murkowski is on board with this request.

b) US Dept of Transportation – Riley Creek Bridge Statement of No Adverse Effects on Historic Properties

The correspondence outlined more details about the project and informed that no historic properties would be impacted by it.

c) DNR Healy Valley Coal Exploration Permit Renewal 01-86-795

There was question as to where this project was located.

7) Plats and Conditional Uses

There were no plats or conditional uses before the commission.

8) Reports

Mayor

- The mayor stated it was good to have a quorum and he appreciates the work of the commissioners.
- The mayor is working with Mr. Venechuk, of Interior Surveying, on the Panguingue B boundary survey project and hopes to have a contract signed soon.
- A Slate Creek property owner requested and received a letter of non-objection to upgrade an existing public access easement across borough land. The letter was issued with the stipulation that all state and federal requirements be met.
- The Division of Community and Regional Affairs was notified that the borough evaluated their mapping proposal and declined, at this time, to participate.
- On June 28, 2013, Alaska Gasline Development Corporation (AGDC) submitted a revised third special use permit application for drilling boreholes on borough land. The total number of borehole sites being requested is 28. Two new proposed areas of interest, Clear/Anderson and Stampede/Lignite,

were identified for borehole drilling. The new, distinct areas of interest will each require separate special use permit applications. The revised application cited, but did not include maps of the borehole locations; a request for the maps has been made, but the borough has not received a response. The planning commission's request that the proposed bypass route be altered to avoid Section 11 T 14 R 7 W was forwarded to AGDC. The borough has received no response on this request to date.

- On February 19, 2013, the commission forwarded to the administration a classification nomination request for the two former state grazing permit areas, Mercer and Wallace, off the Stampede Road. The mayor is working with the permit holders. Presently, in code, there is only one rate for leasing land, 7.5% of the appraised value of that land. The mayor suggested that the borough might consider offering other options for leasing borough land for different uses for example a commercial vs. a grazing lease. Mr. Mercer and the mayor walked much of the two lease areas. Mr. Mercer informed the mayor that he is no longer interested in leasing the area he previously was permitted to use. The borough will proceed with classifying that property.
- In referencing Section 4.15.110 Statement of expenses and revenues, the mayor indicated the stipulation that the administrator submit a written report to the assembly detailing the expenditures and revenues generated from land sales appears to have been rolled into the Annual Work Plan. The audit will show revenues from land sales have greatly declined (since the Panguingue Creek Subdivision lots sale).
- In referencing Section 4.10.020 Management Plans, the mayor noted it stipulates "the administrator...shall prepare for each parcel of borough land a written management plan." The mayor interprets this section to mean every piece of land the borough has gained title to and has surveyed. At present this would include Swan Lake and in the near future Panguingue B. The mayor would like the public involved in assisting to create these management plans as well as in the classification process itself.
- The mayor will be working on developing the one and three year Work Plans.
- The Fiscal Year 2014 Budget is proposed to be revised by the assembly via a budget amendment due to the need to follow code regarding the definition of the forward funding number. The Land Management Fund will be affected with a decrease in dollars for the following line items: equipment, repairs and maintenance, land administration, and contingency. Ordinance 13-10, the amended budget, was introduced at the July assembly meeting.

a) Borough Planner

- The final Environmental Impact Statement for the Joint Pacific Alaska Range Complex is available for public review. There are CD and printed copies available.

9) Communication and Appearance Requests

Ms. Nancy Bale, of the Denali Citizens Council (DCC) – The Alaska Citizen's Guide to Natural Gas Permitting
Ms. Bale representing the local advocacy group DCC was present to introduce the citizen's guide. Claire Pywell working for DCC and the National Parks Conservation Association organized and developed the guide. The reason for creating the guide was because there is an existing gas exploration license, in the Denali Borough, owned by Usibelli Coal Mine, Inc. (UCM) that began on January 1, 2011 and extends out to 2021. During the ten year duration of the license, UCM has a $500,000 work commitment, with little to no stipulations attached to how the money might be spent, except 25% must be spent within the first four years or loss of the license could result. The work commitment could be spent on a couple of salaries. UCM must produce a Plan of Operations to be reviewed by the public; the next step would be obtaining permits. The guide outlines the processes and how the public can be involved in those processes as they proceed. When the idea of gas exploration was first introduced to the Denali Borough, the assembly passed Ordinance 05-21, which contained a surface use requirement and allowed for private landowners to deny access to their property. These two clauses were deemed by the borough's attorney to be potentially litigable and they were dropped from the subsequent Ordinance 08-07 (amending Chapter 9.25 Gas Exploration and Development Requirements). Surface use agreements can still be requested, but it may not be possible for a landowner to

deny access to their property. The guide contains a flow chart illustrating borough and municipal powers to influence gas development. There is not a revenue structure for gas development activities unless revenue is attached to some associated activity, such as gravel extraction. The state will collect all royalties for gas extracted at the wellhead. DCC is not opposed to all gas development in the borough, but believes that certain areas should be exempt. DCC is particularly interested in educating the local population on the many issues surrounding this industry. If more guides are needed, please call DCC. Presiding Officer MICHAELS added UCM has been a good neighbor, but they may not be the entity in charge overtime; this is something that should be remembered as discussions of what may happen in the borough.

10) Unfinished Business

a) Discussion Alaska Gas-line Development Corp (AGDC) Borehole Drilling on Denali Borough-owned Land

Alaska Stand Alone Pipeline (ASAP) is a slogan used by AGDC. AGDC is presently operating under the umbrella of the Alaska Housing Finance Corporation (AHFC), which is the state. The borehole permit application check was issued by the AHFC. The question arose as to what entity is the borough actually dealing with when it comes to this issue: ASAP, AGDC, AHFC, Michael Baker Jr., Inc., the state and others? It is difficult to determine who the borough can hold responsible for actions taken under a permit as AGDC declared in their permit that they do not want the borough to hold them responsible should something go awry during the borehole project. Does that mean that a subcontractor will be the ones held responsible? The borough cannot sue the state. Mr. Gorski reviewed the indemnification statement and offered two options to address this issue: 1) request the contractor being used by AGDC include the borough as an additional named insured on their liability policy or prior to commencement of work on the boreholes some clause be devised to indemnify and hold the borough harmless for any claim which may arise.

At the last meeting, representatives from AGDC suggested that AGDC will no longer be under AHFC, but would become a standalone corporation under the state. AGDC is currently transitioning to the new corporate structure and their leadership is presently in flux.

The clerk responded that AGDC has not formally responded to the questions submitted by the planning commission. S 157 has moved out of the senate and is now in the house. There have been no known objections to the highway utility corridor route expressed by congress.

AGDC is presently pursuing 28 boreholes and three helicopter landing pads on borough land. The commission is anxious to know where the proposed boreholes are in relation to the Stampede Road.

At the July assembly meeting, an assemblyperson reported that AGDC was requesting to drill a borehole on their private property. The individual furthered that AGDC failed to provide requested information and expressed a lack of confidence in the organization.

By unanimous consent, this item will be postponed to the next meeting.

b) Draft 1 Chapter 4.01 Definitions (Proposed)

There was no discussion on this item. By unanimous consent, this item was postponed to the next meeting.

c) Draft 3 Chapter 4.05 Real Property Acquisition

There was no discussion on this issue. By unanimous consent, this item was postponed to the next meeting.

d) Draft 9 Chapter 4.10 Management of Borough Real Property

There were two versions (MICHAELS/JONES) of a proposed amendment to Draft 9 Chapter 4.10 Section 4.10.050 Leasing borough land concerning inclusion of a leasing option as a percentage of after sales gross. Steve JONES stated he was willing to use MICHAELS' proposed amendment. Steve JONES motioned to amend Draft 9 Chapter 4.10 Section 4.101.050 to include the MICHAELS amendment; Baxter MERCER seconded. The VOTE to amend Chapter 4.10 as described PASSED unanimously.

By unanimous consent, this item was postponed to the next meeting's worksession, public hearing, and regular meeting agendas.

e) **Draft 8 Chapter 4.15 Disposal of Borough Real Property**
There was no discussion on this item. By unanimous consent, this item was postponed to the next meeting.

f) **Draft 14 Chapter 4.25 Classification of Borough-owned Land**
This item was discussed at length during the worksession. There are two versions of Chapter 4.25 before the commission: Draft 14 and a slightly modified 2010 version. The commission chose to keep both versions on their agenda with the 2010 version being identified as a proposed amendment to Draft 14.

By unanimous consent, this item will appear on next month's worksession, public hearing, and regular meeting agendas.

Draft Resolution Working Example Version 6
There was no discussion on this item. By unanimous consent, this item was postponed to the next meeting.

g) **Letter to the Assembly (re: recommended amendments to Title 4)**
There was no discussion on this item. By unanimous consent, this item was postponed to the next meeting.

h) **Draft 1 Chapter 9.21 Zoning Scenic Corridor (Proposed New Chapter)**
There is a proposed amendment to Section 9.21.030 Geographic Location before the commission. Sid MICHAELS volunteered to attempt editing the amendment.

By unanimous consent, this item was postponed to the next worksession, public hearing, and regular meetings.

i) **Draft 1 Chapter 9.22 Zoning Airport Reserve (Proposed New Chapter)**
There are three versions of an amendment to 9.22.030 Geographic Location. All three versions will be carried over to the next worksession, public hearing, and regular meetings.

By unanimous consent, this item was postponed to the next meeting.

j) **DOT Parks Highway MP 231 Enhancements – Agency Scoping**
Steve JONES submitted the original draft (version 1) of the letter to be sent to the Department of Transportation and Public Facilities (DOT) on the enhancement project. Sid MICHAELS reworked the letter (version 2) to format it to fit on one page. Steve JONES agreed a one page letter was good and emphasized that what was most important was to participate in the public process and remain engaged as the project proceeds.

Steve JONES MOVED to approve version 2 of the letter to be sent to DOT; Baxter MERCER seconded. The VOTE to send the letter PASSED unanimously. The department granted the commission a one month extension to provide comment on this project. The letter will be signed tonight and mailed tomorrow. This action will ensure the borough has standing on the issue.

11) New Business

There was no new business before the commission.

12) Public Comments

Ms. Nancy Bale, of the Denali Citizens Council (DCC) –The Alaska Citizen's Guide to Natural Gas Permitting
Ms. Bale noted that during her presentation on the gas guide she failed to mention the inconsistency of the setbacks between what is in the license and what is in borough code, which provides for a greater setback.

The difference is 500-1500 from a property line (in code) vs. 500-1500 feet from an occupied structure in the license. At some point this issue will have to be resolved.

Hannah Ragland of Panguingue Creek Subdivision

As a board member of DCC, Ms. Ragland stated she worked on the municipal rights section of the guide. She noted that the ordinances created in the Matanuska-Susitna Borough regarding regulating gas development have not been challenged. She indicated that there is a lot of gray area surrounding local control of this industry. The borough has a lot of possibilities in planning for surface vs. subsurface uses.

13) Commissioner Comments

Molly MCKINLEY thanked Ms. Bale for traveling from Anchorage to attend the commission's meeting. She also thanked the planner, Marsha Lambert, for producing requested maps.

Patricia GRIGGS informed the commission that she would be unable to attend the August meeting.

Mayor Walker thanked the planner for the maps, which have been posted on the website. Ms. Lambert indicated she will be updating the maps online as needed.

14) Time and Place of Next Meeting

The next meeting of the Planning Commission will be August 20, 2013 at 6:15 PM in the Tri-Valley Community Center.

15) Adjournment

The Presiding Officer adjourned the July 16, 2013 Regular Meeting at 8:32 PM.

APPROVED: Sidney W. Michaels

Sid MICHAELS, Presiding Officer

ATTEST: Linda L. Paganelli

Linda PAGANELLI, Deputy Clerk

Date Approved: August 20 2013