

MUNICIPALITY OF ANCHORAGE

ANCHORAGE ASSEMBLY

Minutes for Special Meeting of October 12, 1998

1. CALL TO ORDER:

The meeting was convened at 12:00 p.m. by Chair Fay Von Gemmingen in the Mayor's Conference Room, Room 830 at City Hall, 632 W. 6th Avenue, Anchorage, Alaska.

2. ROLL CALL:

Present: Bob Bell, Cheryl Clementson, Fay Von Gemmingen, Dan Kendall, Kevin Meyer, Joe Murdy, Melinda Taylor, George Wuerch, Charles Wohlforth.

Absent: Pat Abney (excused), Ted Carlson (excused).

3. NEW PUBLIC HEARINGS:

- A. Ordinance No. AO 98-167, an ordinance amending Anchorage Municipal Code Chapter 25.50 to **amend the terms, conditions and procedures for granting municipal tide and submerged lands right-of-way, improvement, easement and use permits**, Legal Department.
- B. Ordinance No. AO 98-168, an ordinance **approving a right-of-way permit and agreement for the construction, operation and maintenance of a jet fuel transmission pipeline** and related facilities on and across municipal owned, managed and controlled lands including tide and submerged lands, Legal Department.
- C. Ordinance No. AO 98-169, an ordinance **reserving funds received by the Municipality pursuant to the compensatory mitigation proposals respecting the jet fuel transmission pipeline project** over and across Knik Arm Tide, submerged and other lands (Knik Arm 126, State I.D. No. AK9707-01AA), Legal Department. public hearing 10-12-98.

4. To conduct such other business and take such other action relating to or concerning the above ordinances and the right-of-way Permit and Agreement for the construction, operation and maintenance of a jet fuel transmission pipeline and related facilities as may be reasonably necessary and appropriate to effectuate the purpose, intent, goals and provisions of said ordinance, Permit and Agreement.

Mr. Wuerch moved, to combine the public hearings on
seconded by Ms. Clementson, AO 98-167, AO 98-168 and AO 98-169.
and it passed without objection,

Chair Von Gemmingen opened the hearing. She asked for a brief introduction of the project before the public spoke.

In response to Chair Von Gemmingen, Jeff Huey, employed with Conam Construction Company, gave a brief introduction of the pipeline project. Conam was hired by Anchorage Fueling and Service Company (AFSC) to design and construct a replacement pipeline for the existing jet fuel pipelines. AFSC is a consortium of airlines which owns and maintains the facilities that supply the airport with jet fuel, including a tank farm at the Port of Anchorage, a new tank farm at the Anchorage International Airport, and a pipeline that connects them.

The company looked for alternatives on how to get fuel to the airport, and it was determined that a pipeline replacing the old pipeline was the best way. A portion of the tidelands was picked as the best route for the pipeline in considering public health, safety and environmental risk.

In response to Mr. Bell, Mr. Huey explained if there was a leak, the soil should confine a leak from traveling laterally or sideways from the pipeline. Even though the mud is very thick and saturated, it should force the leak to the surface. Whereas the upland route downtown is mostly in gravel, and a leak there would migrate downward until it reached the water table.

In response to Mr. Wuerch, Mr. Huey explained the one-time payment to the Municipality as a reserve for future environmental projects (the fish ladder at West Chester Lagoon). He described the potential construction and operational impacts which were examined by a third-party environmental consultant. Even though the construction impacts will be temporary, operational impacts will be necessary, resulting in a voluntary, compensatory mitigation package to decrease the potential impacts. Mr. Huey gave a brief history on the fish ladder and why the working group picked the ladder as their project.

In response to Ms. Clementson, Municipal Attorney Mary Hughes explained the monthly \$5,000.00 access fee. The Municipality will also receive a yearly permit fee.

In response to Ms. Clementson, Heritage Land Bank Director Larry Houle explained a rough-estimated, yearly permit fee.

Chair Von Gemmingen opened the public hearing and asked if anyone wished to speak.

JULIUS ROCKWELL, representing the Anchorage Waterways Council, referred to Ordinance No. 167, first paragraph, line 20. He recommended to add "or to minimize environmental impacts" after the word "shown". Mr. Rockwell explained this would give the grantor a little more flexibility to spare during an environmental disaster.

SOREN WUERTH, a runner on the coastal trail since it was built, was concerned about the proposed development on the coastal trail. He read a letter to the Assemblymembers and showed a photograph of the surveyor's four-wheel vehicles that were on the tidal flats. He felt that was a violation of wetlands permit regulations because they have gone outside of their easement. He urged the Assembly to take a second look before granting a permit to a company that is avoiding environmental laws and is neglecting to respond to the Alaska Public Utilities Commission's rules.

In response to Mr. Bell, Mr. Wuerth believed that the current pipeline can be refurbished; he is concerned about environmental impacts during an earthquake.

In response to Mr. Murdy, Mr. Wuerth explained how he knows what company is responsible for the tracks in the photograph.

CATHY GLEASON explained that she was part of an interested group for about one and a half years. She agreed with Mr. Wuerth's comments. Ms. Gleason was concerned that not all of the fine points of the permit had been worked out. Specifically, a fair-market rental-value appraisal on the land, upon which the right-away-permit fee is based. She commented that she did not agree with the Assembly asking the public to support this permit without knowing what the definite fee will be. Ms. Gleason explained that at more than one public meeting she repeatedly asked if access to the coastal trail will be needed to respond to a spill and was repeatedly told no. She was quite surprised to learn now that the company will need access.

Ms. Gleason suggested a special fund be created for the monthly fee for the maintenance, management and potential land acquisition for the coastal trail in future areas that may be built.

DON MCKENZIE, born in Anchorage, remembered when the coastal trail was still a moose run. He commented that even though the newspaper reported the company as saying that the moose and birds had left for the season, he can vouch they are still there. He was concerned about how the pipeline will disturb the birds that live there all year long. Mr. McKenzie urged the Assembly to consider this matter seems to be happening very quickly without most of Anchorage even being aware of it.

Chair Von Gemmingen asked if anyone else wished to speak. There was no one, and she closed the public hearing.

Ms. Clementson moved,	to adopt AO 98-167.
seconded by Mr. Wuerch,	

In response to Mr. Kendall, Mr. Huey explained the route chosen by referring to a map provided.

In response to Mr. Kendall, Mr. Huey explained the plans for the existing pipeline. The plan is to decommission per regulations in one year. Currently the existing pipeline has a state-of-the-art leak detection system that will shut down the pipeline once every 24 hours. Mr. Huey gave details of that system.

He stated that he cannot comment on the history of the pipeline and previous leaks. Mr. Huey explained the many components of the Spill Response Plan. The new pipeline will have a state-of-the-art leak detection system that will operate all of the time. It will trigger an alarm, immediately shut down the pipeline, if it senses any leak, and prompt an investigation. The response time will be an hour or less. The plan has been approved and worked on by the Department of Environmental Conservation.

In response to Mr. Kendall, Mr. Huey explained if there was an actual leak at Chester Creek, spill response materials are stockpiled at both tank farms and at both the port and the airport, which are controlled and managed by Signature Flight Support. If additional response is required, a spill response contractor will be called. He said watercraft is located at the spill response contractor's premises on 2nd Avenue.

In response to Mr. Kendall, Mr. Huey explained that in a broken ice situation most of the response would be land based. He commented that he did not work on the spill plan personally. Mr. Huey explained the status of the Corps of Engineers' permit as being completed, and it should be issued the following morning. Although there was some concern about the language written for the compensatory mitigation, he anticipated the permit would be granted tomorrow morning. Mr. Huey said he was not sure what APUC's involvement is with the pipeline. He explained that APUC should not be involved because the pipeline is privately owned by a private company; it is not a public utility. Mr. Huey stated it is not a common-carrier pipeline.

Mr. Wuerch moved,	to amend AO 98-167 at line 20 after the word "shown"
seconded by Ms. Clementson,	and before the period to insert the words "or to minimize
and it passed without	the environmental impacts."
objection,	

In response to Mr. Meyer, Mr. Huey explained the analysis of two geotechnical studies done on the proposed route to test earthquake impacts.

In response to Mr. Meyer, Maureen McCray, with the Division of Governmental Coordination, coordinated the review of this project for consistency with the Alaska Coastal Management Program. She prepared a 13-page analysis of the effects of the relationship between the pipeline and the enforceable policies of the Coastal Management Program. The analysis indicated

the mudflats route would not be a negative impact with respect to an earthquake of the 1964 magnitude. Ms. McCray also indicated there was a lot of public testimony. She reported on a chronology that she prepared regarding public notice meetings on this subject.

In response to Mr. Wuerch, Ms. McCray confirmed that the \$350,000.00 Compensatory Mitigation fund was derived in the Coastal Zone Management Compliance Review as a voluntary compensatory package. It was included as part of the project description. She also said it is an enforceable requirement of the agreement.

In response to Chair Von Gemmingen, Ms. McCray said the \$350,000.00 was divided up between the Fish Ladder (\$300,000.00) and the Sand Lake Bogg (\$50,000.00).

In response to Mr. Murdy, Mr. Huey explained that his company intends to do its best to treat the rest of the environmental area very safely by doing exactly what is required and to adhere to all of the stipulations required in the permits. Mr. Huey said that he will be responsible for subcontractors in treating the environment in a safe manner, and he will investigate the surveyors' use of the four-wheelers.

In response to Chair Von Gemmingen, Mr. Huey's associate explained how jet fuel was transported this summer.

In response to Ms. Taylor, Mr. Huey explained what impact a postponement would have on the project. The company hopes that October 12 through the end of October will be the best time to take advantage of tidal cycles, reduced wildlife during that time and fall weather.

Question was called on the motion to adopt AO 98-167 as amended, and it passed:

AYES: Bell, Wuerch, Taylor, Wohlforth, Von Gemmingen, Clementson, Meyer, Kendall, Murdy.
NAYS: None.

Mr. Bell moved, to adopt AO 98-168.
seconded by Mr. Murdy,

Mr. Wohlforth commented he will not be supporting this permit, and he explained his reasons. His biggest concern was on how the risk analysis was performed. Mr. Wohlforth said there should be railroading rights and tankerage at the airport to allow rail cars to off-load at the airport. He also voiced his concern about the dangers of an oil spill during the winter on the mudflats.

Mr. Bell was more concerned about an in-land oil spill because of the permeable soils there. He said this pipeline would provide more jet fuel to the airport. Mr. Bell commented that with the airport's continued growth, companies are going to eventually end up trucking fuel to the airport, which he believes to be a bigger risk than running a pipeline. He felt that it is important to show Assembly support for the growth of the airport.

Mr. Wuerch commented on the expressed concern about not knowing the appraised value. He referred to the State and Federal laws where public lands are required to be managed at fair-market value. He felt that it is reasonable to rely on the established appraised value as the basis for the use of public lands, even though the appraised value is unknown today. He reminded the members that economics is the proper forum to establish the fair-market value. However, politics is the issue when dealing with compensatory mitigation, which is a fairly new concept. Mr. Wuerch encouraged a favorable vote.

Question was called on the motion to adopt AO 98-168, and it passed:

AYES: Bell, Wuerch, Taylor, Von Gemmingen, Clementson, Meyer, Kendall, Murdy.
NAYS: Wohlforth.

Ms. Clementson moved, to adopt AO 98-169.
seconded by Mr. Murdy,

In response to Mr. Bell, Deputy Municipal Attorney Greene explained how the \$350,000.00 will be used for the fish ladder after it is put into the Heritage Land Bank. The special revenue fund is a mechanism for receiving moneys and a means to reserve funds for the two mitigation projects.

In response to Ms. Clementson, Mr. Greene explained why a specific amount of money was not mentioned in the ordinance and in what documents the numbers would be specified.

Question was called on the motion to adopt AO 98-169, and it passed:

AYES: Bell, Wuerch, Taylor, Wohlforth, Von Gemmingen, Clementson, Meyer, Kendall, Murdy.
NAYS: None.

Mr. Wuerch moved, to reconsider AO 98-167.
seconded by Mr. Bell,
and it failed with Ms. Clementson
voting yes,

Mr. Wohlforth moved, to reconsider AO 98-168.
seconded by Mr. Murdy,
and it failed with Ms. Ms. Clementson
and Mr. Wohlforth voting yes,

Mr. Wuerch moved, to reconsider AO 98-169.
seconded by Mr. Murdy,
and it failed with Ms. Clementson
voting yes,

5. ADJOURNMENT:

The meeting adjourned at 1:10 p.m.

Chair

ATTEST:

Municipal Clerk

Date Minutes Approved: January 26, 1999

VMC/ry

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