



THE CITY OF WHITTIER

Gateway to Western Prince William Sound

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**PLANNING COMMISSION
REGULAR MEETING
WEDNESDAY, JUNE 3, 2015
Homeowner's Lounge, BTI Bldg.**

MINUTES

1. CALL TO ORDER

Charlene Arneson called the meeting to order at 6:01 pm.

2. ROLL CALL

Commission members present and establishing a quorum:

Charlene Arneson	Seat A	Present
Terry Bender	Seat B	Present
Ed Hedges	Seat C	Present
Jean Swingle	Seat D	Present
Dyanna Pratt	Seat E	Absent

ADMINISTRATION PRESENT

Mark Lynch, City Manager

Jennifer Rogers, Deputy City Clerk

PUBLIC PRESENT

Lester Lunceford Andrew Donovan Paul Farnsworth

3. MOTION: Terry Bender made a motion to excuse Dyanna Pratt from tonight's meeting.

SECOND: Jean Swingle

VOTE: Motion passed unanimously

DISCUSSION: None

4. APPROVAL OF REGULAR MEETING AGENDA

MOTION: Ed Hedges made a motion to approve the June 3, 2015 Regular Meeting Agenda as is.

SECOND: Terry Bender

VOTE: Motion passed unanimously

DISCUSSION: None

5. APPROVAL OF MINUTES

MOTION: Ed Hedges made a motion to approve the Regular Meeting Minutes of May 6, 2015 as is.

SECOND: Terry Bender

VOTE: Motion passed unanimously

DISCUSSION: None

6. ADMINISTRATIVE REPORTS

City Manager, Mark Lynch, stated that he didn't have anything specific to report on but welcomed any questions. Terry Bender asked Mark if the plaque was removed from the monument. Mark replied that it was removed and is stored in the public works building.

7. NEW BUSINESS:

A. Review/Grant Conditional Use Permit for the Recreational Use at the Head of the Bay

Mark Lynch stated that the land is currently zoned industrial; it allows conditional under industrial for recreation camping and the City would like to do that for organization to the process. People are currently using the area and we would like to better organize it as a better camping area. The area pertains to the parking lot and the grass belt around the parking lot. The entire area is being requested for use as recreational, which is what it's used for already.

People hike and camp there. The City would like to develop the area around the parking lot and around it. The Parks & Recreation Committee, primarily Shawni Phillips, would like to add some tent platforms and other things as time goes on. Terry Bender asked if there will be a charge. Mark replied that a fee structure will be developed.

Charlene Arneson stated, "I'm assuming that there are people here in the audience who would like to talk to the situation."

Andrew Donovan stood and introduced himself as a representative of the Alaska Railroad Real Estate Department. He said, "I appreciate the opportunity to come and comment on the proposed recreational use permit that the City is requesting. I just want to go on the record stating that the ARC and the City entered into a ground lease and management agreement for parcels 4 & 5 November 13, 1998.

Section 2.2 of the Master Lease provides that it will terminate as of any portion of Parcels 4 & 5 for which no binding sub-lease or beltment agreement consistent with the terms of this lease have been executed within 14 years. Section 2.2 provides that where the Master Lease terminates as of any portion of lease premises shall revert to ARC and the City shall have no further management authority. No sublease or development agreement has ever been executed, with respect to Parcels 4 & 5; therefore, the Master Lease terminated as to Parcels 4 & 5 November 12, 2012 and it reverted back to

the Alaska Railroad. Because ARC has not received or approved an application by the City for a permit or request of use, ARC objects to the grant of the request for conditional use recreational use permit.”

Charlene said, “So what does that mean?” Mark Lynch said, “May I?” Charlene replied, “Yes, you may.”

Mark Lynch said, “I didn’t bring a copy of the Master Lease. I didn’t know we were going to be here to discuss that tonight. First of all, I’ll point out that the City has never received a formal notification of any default in the master lease, or given a right to cure, under the law. Second of all, in section 7.1, I believe it is; I’m working from memory, allows recreational use as an acceptable use under the master lease for being in compliance with the master lease.

That property up there has been used for recreational purposes for a very long time. The City sent a letter to the railroad within the last few months and filed our annual report, as we’re required to do under the master lease. We documented each and every case on each parcel that is within the master lease and how the City has in fact, met its requirements under the master lease to keep the lease valid. So, we have provided all that information to the railroad, and not yet have we received anything from the railroad formally stating that we are in violation of the master lease. So, like I said, I didn’t bring a copy tonight, I didn’t know we’d be discussing it because it’s the City’s position that we’re in fully compliance with the master lease.

Charlene said, “So that to me, tells me that we’re still on track then to be able to do this?” Mark replied, “It’s the City’s opinion that we’re fully in compliance with the master lease. That’s all I can say at this point and the railroad has been put on notice to that affect and didn’t respond saying that it wasn’t at the time we sent the annual report in, which I believe was in January or February.”

Charlene then said, “So this is an issue that doesn’t really relate to Planning and Zoning; the argument between the two. The only thing we can do is take it at face value for what you’re saying.” Mark said, “Ya, like I said, I didn’t bring a copy of the master lease, didn’t know we’d be discussing it tonight, but there are definitely provisions in the master lease that allows the City to operate to be in compliance with the master lease. Green space is one of the acceptable uses, and it’s very obviously green space.”

Charlene said, “Is there any other comments that would like to be done before I go to the commission? Ok, so are there any questions or any thoughts that you would like to express?”

Terry Bender asked, “Well, if we vote on this now there is nothing to do with our decision, it’s ok for us to make it?”

Charlene replied, “Yes, it is. It is strictly then between the City and the railroad. We’re not judges here.” Terry Bender added, “I just didn’t know if we should table this.” Charlene said, “No, this has got to go through one way or another.

Charlene asked Jean Swingle if she had any questions.

Directing her attention to Andy Donovan, Jean Swingle said, “Yes, I’m not clear why you object to it? The fourteen years I’ve been here, people have been camping down there. The City has kept the parking lot in really nice shape. It’s not being used for anything; I think it would be a nice asset to the community.” Andy Donovan replied, “I understand that, but I’m not sure that it’s been

communicated to the Planning Commission the discussions that are currently occurring that this would be a substantial change to those discussions. Hopefully we can work through those and then proceed with any plans.”

Charlene said, “So you really don’t have an issue with the conditional use for recreation up there?” Mr. Donovan replied, “The change from industrial would be substantial.” Charlene stated, “It’s not changing the zoning, we’re only doing a conditional use for that part. And, you can always come back and have it taken back again if the situation turns.”

Mr. Donovan said, “So that would require another step is what I’m hearing.” Terry Bender replied, “Only if you wanted to take it away after something you didn’t like happen.” Charlene said, “We’ve done that before. We’ve given out land line eradication then put it back again.”

Mr. Donovan replied, “We believe we understand that, which is why we’re here to express our objection.” Charlene added, “So you just want to be on the record? Ok. That sounds good.”

Mr. Donovan said, “It will require further proceedings, if I understand it.” Charlene asked, “What other proceedings?” Mr. Donovan replied, “Like you’re proposing tonight. To revert back to the existing zoning.” Terry Bender asked, “Wouldn’t it go to the council?” Charlene said, “No, it will not. Not unless they object to our decision, then they can take it to the city council.”

Mark Lynch added, “I guess I would add that a conditional use doesn’t alter the existing zoning in any way, it just simply says that it’s ok to do an additional use there. It doesn’t change the existing zoning in any way.” Charlene agreed with Mark.

Charlene asked if there were any other comments.

Andy Donovan said, “I just want to reiterate our position.”
Charlene said, “Ok. Sounds good.”

MOTION: Terry Bender made a motion to approve the conditional use permit as written in the application.

SECOND: Jean Swingle

Charlene Arneson Y Terry Bender Y Ed Hedges Y Jean Swingle Y Dyanna Pratt O

DISCUSSION: None

VOTE: Motion passed 4-0

8. NON-ACTION BUSINESS

A. Tank Farm

Nothing to report.

B. Land Trades with Alaska Railroad

Nothing to report

C. Hazard Mitigation Plan

Nothing to report

D. Smitty's Cove Park

Charlene Arneson reported that this is the only area in the city that is zoned open space and went on to say that nothing is allowed there.

E. Whittier Historic Railroad Plaza

Mark Lynch reported that Ted Spencer arranged a meeting with the Army Corps of Engineers two weeks ago. They Army Corps of Engineers offered to move and reconstruct the monument. The City can use the grant money for improvements around the monument.

F. Tideland Zoning

Mark Lynch reported that Unalaska zoned their tidelands. He suggested that the commission members review their tidelands and it can be discussed at the next meeting. Charlene Arneson directed Deputy Clerk, Jennifer Rogers to provide copies of the Unalaska tideland code to the Planning Commission members.

G. CVP Fund Projects

Nothing to report

H. Shotgun Cove Land

An RFP went out and it should be awarded during the July City Council meeting. Work should begin shortly after. Mark explained that the city council decided instead of using the remaining money to blast the mountainside and make a wide road, but still not get to our own land, we would leave the pioneer road for now and get build across the second Salmon Run up to where our land starts. When Mark returns to Juneau next year, he'll be able to report that we're at our own land. It will cost \$80,000 to build the crossing. The two will eventually be connected as we get more funds.

It will also free up some funds that we can start using towards the next phase towards Trinity Point. The RFP went out for the construction of the bridge and crossing across the second Salmon Run. According to the engineers, they believe this project can be finished before winter.

Charlene asked Mark to inform Tim Charnon of the Forest Services because they've been trying to restore the creek up there. Mark replied that he should know about it because all the permits were issued. He added that one of the things that took this phase so long was getting all the permits in place.

I. Street Addresses

Nothing to report

9. CORRESPONDENCE

None

10. PUBLIC COMMENT

None

11. COMMISSION COMMENTS

None

12. NEXT MEETING AGENDA ITEMS

13. NEXT MEETING ATTENDANCE PLANS: July 1, 2015

MOTION: Ed Hedges made a motion to adjourn the meeting.

SECOND: Terry Bender

VOTE: Unanimous

14. ADJOURNMENT: Charlene Arneson adjourned the meeting at 6:45 pm.

ATTEST:



Jennifer Rogers
Deputy City Clerk



Charlene Arneson
Commission Chairperson