

# ASSEMBLY LANDS HOUSING AND ECONOMIC DEVELOPMENT MINUTES

June 26, 2023 at 5:00 PM



## Assembly Chambers/Zoom Webinar

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<https://juneau.zoom.us/j/94215342992> or 1-253-215-8782 Webinar ID: 942 1534 2992

### A. CALL TO ORDER

### B. LAND ACKNOWLEDGEMENT

We would like to acknowledge that the City and Borough of Juneau is on Tlingit land and wish to honor the indigenous people of this land. For more than ten thousand years, Alaska Native people have been and continue to be integral to the well-being of our community. We are grateful to be in this place, a part of this community, and to honor the culture, traditions, and resilience of the Tlingit people. Gunalchéesh!

### C. ROLL CALL

**Members Present:** Chair Alicia Hughes-Skandijs, Wade Bryson, Christine Woll, Wáahlaal Gíidaak

**Liaisons Present:** Mandy Cole, Planning Commission

**Liaisons Absent:** PRAC; D&H liaisons have not been assigned to this committee.

**Staff Present:** Dan Bleidorn, Lands Manager; Roxie Duckworth, Lands & Resources Specialist; Jill Maclean, CDD Director; Rorie Watt, City Manager; Michele Elfers, Deputy Parks and Recreation Director; Sherri Layne, Assistant Municipal Attorney

**Members of the Public Present:** Darrin Crapo, President Juneau Off-Road Association

### D. APPROVAL OF AGENDA – approved, Mr. Bleidorn noted that there was one piece of public comment for Agenda Topic #3, that has been removed, as public comment is collected through the Clerk's Office

### E. APPROVAL OF MINUTES - May 22, 2023 Draft Minutes – approved as presented

#### 1. 05 22 2023 LHED Draft Minutes – approved as presented

### F. AGENDA TOPICS

#### 2. A Resolution Supporting the Manager Entering into an Agreement with Juneau Off-Road Vehicle Association for the 35 Mile ORV Riding Park

Ms. Elfers discussed this topic.

Wáahlaal Gíidaak asked about how this relates to the land use plan for this area, if there is one, to see what the area future plans are as opposed to what's being proposed here. Mr. Bleidorn replied that this is at 35 mile out the road with no long term neighborhood plan or anything like that. It's property that we haven't looked at and this seems like a use that would fit in with all the information we currently have with nothing on the books for plans out there. There are no utilities, it goes against all of our process to try to infill, and its large track out the road. Wáahlaal Gíidaak asked to confirm that there is no land use plan that currently exists with CBJ for this area. Ms. Maclean replied that the Planning Commission has heard this conditional use permit. It has been approved with some conditions and it did meet the comprehensive plan and any of the other plans that may have included this area. It has a full permit from the Planning Commission to move forward.

Mr. Bryson asked if this facility will be year round, so that snowmobile riders can use it in the winter, or whatever other vehicles they have. Ms. Elfers replied that it's not planned to be year round now and didn't know what the future of it would be. It's not really an ideal site for snowmobilers, for a few reasons. One, because it's the elevation is low, it's right at ocean level and just holding enough snow in that area is probably unlikely. We're finding that riders are needing to get up high for snow, and that's been a large part of the conversation with Montana Creek planning. They want to get to Spaulding Meadows because that's where the snow is. I don't see this ever being a successful snowmobiler site. The other problem with it is that the road out this far isn't plowed in the winter. It would be challenging

to get out there and to do maintenance. It doesn't mean it's out of the question, or it couldn't be developed in the future. I just don't know that there's a lot of promise to it.

Chair Hughes-Skandijs wanted to clarify insurance, because this is modeled after the Hank Harmon Rifle Range and noted the line for board insurance for \$2,000. She recalled a previous conversation about this with someone asking a question about city liability and was hoping for a reclarification on that point. Ms. Elfers replied that is something we've spent a lot of time talking about with Law and Risk over the last few months. The way we're setting this up is different than Hank Harmon. Basically, rifle ranges can't be insured, you can't buy an insurance policy for them. There is not an insurance policy specifically for range activities. The board doesn't hold one for range activities and that's a little bit different. We spent quite a bit of time looking around the country at ORV parks that are publicly owned state land. The way we've set this future management up, is that there would not be any user fees charged, and because of that, there's some recreational immunity that could be granted because it's public land and the city. We wouldn't have a special policy for users that are using the site and it would fall under the city's main insurance. The board, however, as a nonprofit, will be doing specific activities on the site, such as contracting someone to pump the portable sanitary units and cleaning up litter. The board would have insurance for their own activities, which is typical for nonprofit boards. That insurance is what you saw on the line item, it's just insuring the board activities for what the board is doing.

**Mr. Bryson moved that the Lands Housing and Economic Development Camp Committee move a resolution supporting the manager entering into an agreement with the Juneau Off-Road Vehicle Association for the 35 mile ORV Riding Park. Motion passed unanimously.**

**3. An Ordinance Amending the Sensitive Areas Requirements of the Land Use Code Related to Landslide and Avalanche Areas**

Ms. Maclean and Mr. Watt discussed this topic.

PC Cole wanted to point out this recommendation wasn't an effort to say we don't know what to do, so we're punting this back, it was actually an affirmative, "don't do anything." The distinction is important because we listened to multiple rounds of public testimony, read the technical memos, and spent a lot of time analyzing what we were looking at and considering this idea of hazard versus risk. Does hazard exist, obviously, but what are the actual risks. Even though you can read and infer some things from Tetra Tech memo, the fact is that to determine the risk site-by-site is prohibitively expensive for the city. If you agree that we can't get a handle on specific risk site-by-site, then what are we doing, we're saying, hazard exists here. We are paying the price to mitigate the hazard without fully understanding the risk of that site. We were looking at the weighing the "you can Do Something," "capital D capital S," that has some great impacts to individuals, including people who have their whole lives wealth tied up in their home, for the sake of mitigating hazard. Or you can imagine that the risk is not at this phase of the of the investigation and is not clear enough for the cost for those individuals. Then we are making the price too high for individuals for a hazard that we can't necessarily nail down. That was the objection of the of the Planning Commission in essence. Rather than say, adopt the maps and not adopt the ordinances, because that was the other option, we did hear from a couple of public members who were quite articulate in explaining that the adoption of the maps for information purposes only, creates the same issue that essentially adopting the regulation would do. One of the ideas was, don't accept the regulation just except the maps, but once the maps are accepted by CBJ, then they hold a different kind of weight than maps that are unaccepted by CBJ. Even though they exist, and they absolutely exist, their adoption by CBJ lends a credence to them that then translates into insurance, mortgage, and other consequences. We fully recognize that this is not the conservative approach, but this is basically handing risk back to the individual landowner and their insurer or mortgage person rather than holding it within

CBJ, and that's after lots of testimony, that's the side we came down on. We listened to everything, and that was our affirmative decision.

Ms. Woll noted that the assembly may also have similar question as she does, and maybe this is a process of surfacing questions that can be presented back to the full assembly. She had a question about PC Cole's recap, she understood her logic as presented, but we already have maps, and we already have regulation, and so did the Commission talk about repealing all maps and all regulation. The owners that are currently in those zones, how are they different from owners who are going to be in hazard zones if these maps were adopted. PC Cole replied that the Planning Commission did talk about that, and this Commissioner said, yes, let's repeal all the maps and not have hazard maps because there are flaws with the 1987 maps. One of the issues about the 1987 maps is that there were some mitigation strategies built into the regulation, and we heard from quite a few homeowners who had spent money to be able to move the hazard lines through geotechnical study, so that their property was no longer in it. That apparently, is not an option anymore, it's too prohibitively expensive and there's no one in town who will do it. The option for doing that seems to have dwindled significantly, and there are probably, I know there are people in this room who can just describe the reason why better than I can, but that was some of what we had considered is that these 1987 maps, there have been accommodations for them. But yes, absolutely, I think there are some of us who would advise repealing the prior maps for the same logic that holds for the 2022 maps.

Mr. Bryson asked what the consequences are of removing all of the hazard maps and handing the risk back to the owners. He thought that was the phrase that he heard, would that be the correct outcome, or would that be what happens if we said, oh, there's no more hazard, we don't have any hazard maps. Ms. Maclean replied that the choice and the responsibility of where you choose to live is with the property owner. The risk may be there in that situation for them to choose if it's right for them or not. I will flag that when it comes to the maps, the proposed Tetra Tech maps, not adopted, based on other events, CBJ is confident that we have to at least make the Tetra Tech maps available publicly. They don't have to be adopted, but they do need to be made available publicly, because we now, as the city, know of a potential risk, we have the responsibility to notify those owners living there that there is a risk. Insurance companies will likely find them, they're aware of the maps already existing, the ones that we have dealt with or heard from property owners. It's not as if we just don't adopt them, they go away, I want to make that very clear, they can't just go away.

Wáahlaal Gíidaak asked that when we're talking about the legal risk for CBJ with these maps and say they never get put anywhere, we don't want to adopt them, what's our risk factor in terms of the City and Borough of Juneau and homeowners in the future, or even currently, coming back to CBJ to seek legal ramifications for a landslide. Mr. Watt replied that we've talked to attorneys Layne and Palmer about this, and one of them did some research and found a court case, in Washington State with a community that had hazard maps and repealed them. They didn't make those hazard maps publicly available and then there was a hazard event, and there was some harm, I don't know if it was personal harm or property harm, and that owner then went to that municipality and said they couldn't have known about this hazard, because that municipality denied them that opportunity. The municipality was found to be in the wrong. Now that we have the maps, we have a threshold duty of making that publicly procured information available, and whether we do any requirements with it or not, that's a different issue. I think this conversation started with, what happens if we repeal the code in the ordinance. This is a fundamental balance between health, safety, and welfare of the community. People living on these properties now, and in the future, balanced against the ownership and development. That's a hard call because those are really two different value systems. We are where we are in our current code and current maps because we had historic mass wasting and avalanche events in these areas. People have

rightfully pointed out that just because they have property in these current mapped areas doesn't mean hazards don't exist in other parts of the borough, we are in mountain country. It's a fair comment and it's a difficult needle to thread. We tried to get there, or I personally tried to get there when I made a recommendation to the assembly in November and December of last year. The Commission received a lot of testimony and ultimately made your recommendation. I think you'll recall that I was critical of some elements of the hazard mapping, but that that didn't stop me from recommending a level of protection, of health, safety, and welfare of our citizens. So me personally, I would look to modernize the code as I recommended in December, but I think this is worth spending quite a bit of time to understand why the Commission got to where they did because I think a lot of outcomes are possible, and it's going to be difficult for the body to coalesce around what is the right philosophy.

Wáahlaal Gíidaak followed up about the maps that are in the packet, that they are already public. But by putting them on our website, not adopting them, not passing the ordinance to coincide them, does that give us a level of protection for the future. Thinking about what might happen, is that protection enough for CBJ. Ms. Layne replied that CBJ doesn't have a duty to make sure that everyone living in a landslide area knows they're living in a landslide area. With respect to liability, there's always going to be some level of liability, you're never going to be able to protect all of your residents. You're never going to be able to have all the right maps or not have all the right maps and there's going to be a level of risk. But CBJ doesn't have a duty to make sure everyone knows exactly the risks of where they're living. With that, said, these maps are out there. Many in the community have seen the new maps, and it's not going to hurt to have the maps out there for people to review, but you don't have to and that's on you. That's a policy decision for the assembly as whether you want to put them up on your website or if you want to make them available someplace else. There is some case law out there, there's the Washington case, it does have a little bit of a different set of facts that are important. A lot of this is a policy call for the assembly to decide how much information you want out there and understand that you're never going to be able to negate all of the risks and completely protect the city.

Chair Hughes-Skandijs asked to clarify that the landslide and avalanche is all together now and for those in a landslide zone, can they not get insurance. Ms. Cole replied that the Planning Commission did touch on that to an extent, but the problem is that when you separate out avalanche and landslide, when you distinguish those landslide spaces, if you were to separate them out, you would have a set of spaces for severe avalanche and severe landside. It is impossible at this point to get insurance for those demarcations of severe landslides; it doesn't exist. With avalanche, there are ways that you can get insurance and it's not perfect. There are definitely homeowners who are struggling, but there are avenues for insurance. If you live in the landslide area. now, I don't know that that's 100% for everyone who lives in the landslide area, but there are certainly people currently living in the landside area with some insurance. The landslide piece has no insurance available, so just remember when you pull them apart, you will adopt the maps, you will be saying anyone in that severe landslide area will be unable to get homeowners insurance, and that was part of it, trying to not dig any deeper into a place where it would put homeowners in that position and recognizing that there are already some homeowners in some precarious positions. So every time you try and put a fix, something else pops up.

Chair Hughes-Skandijs noted that if she were to make a recommendation, that this needs more work before it goes to the Committee of the Whole.

Mr. Bryson agreed with the Chair because he's not sure what to do right now. He has not heard from any members of the public and hasn't gone to any meetings that had public testimony. I didn't know if that was something that we could pull off at a Lands meeting to give the residents of these affected areas a chance to speak to the assembly before we send it to the assembly, and then the next time

would be public testimony, allowing them to have their say early on in the process. As we know, we're going to touch this a lot of times. I think it would be helpful, but I don't know how to get us out of this one either. Ms. Maclean noted a point of information, if it's helpful to the Committee, and she thinks it is beneficial to hear from the public, the zoom recordings of the Planning Commission meetings are available on Municode. You can just go right there and click the link now next to the agendas. That would be another avenue to hear all the public comments, especially if people then aren't able to make your meetings, they've made a meeting or two, and you can hear exactly what they said, and also then here for yourselves the full commission discussion as well.

**Mr. Bryson moved to keep this topic in committee for further discussion. Motion passed unanimously.**

**G. STAFF REPORTS**

- 4. Foreclosures** - Verbal update to notify that we had recently received a Clerk's deed for a property on Sixth Street in downtown Juneau and will begin the foreclosure process and also include a property that we received the Clerk's deed last fall. We will have more information at our next meeting.

**H. STANDING COMMITTEE TOPICS**

- 5. LHED Committee Goals** – no updates
- 6. Telephone Hill Updates** – We had a kickoff meeting hosted by Engineering, CDD, Lands, and the consultants that will be working on the planning and design services. We did a site visit and will bring regular updates forthcoming.

**I. COMMITTEE MEMBER / LIAISON COMMENTS AND QUESTIONS** – no discussion

**J. NEXT MEETING DATE** - July 17, 2023

**K. ADJOURNMENT** – 5:55PM