

MUNICIPAL ADVISORY GAS PROJECT REVIEW BOARD

December 12, 2014
2:00 p.m.

Taken via Telephone

MUNICIPAL ADVISORY GAS PROJECT REVIEW BOARD:

(Via telephone)

Deputy Commissioner Jerry Burnett, Department of Revenue, Chair
Mayor Clay Walker
Mayor Larry DeVilbiss
Mayor Luke Hopkins
Mayor Charlotte Brower
Acting Commissioner Fred Parady, Department of Commerce, Community and Economic Development
Deputy Commissioner Robert Swenson, Department of Natural Resources
Shalon Harrington, Designee
Liz LeDuc, Designee

Others participating:
(Via telephone)

Stephanie Alexander, Department of Revenue
Rob Elkins, Department of Administration and Finance, North Slope Borough
Merrick Peirce, Fairbanks, Alaska

PROCEEDINGS

CHAIR BURNETT states that he is the Deputy Commissioner at Department of Revenue and the Commissioner's designee for the Municipal Advisory Gas Project Review Board. He asks Ms. Alexander to call the roll.

MS. ALEXANDER calls the roll and states that there are seven members present, and five members not present. She states that there is a quorum to conduct business.

CHAIR BURNETT states that, unless there is objection, he would like to approve the adoption of the agenda.

MAYOR HOPKINS makes a motion to approve the agenda.

MAYOR WALKER seconds.

MAYOR HOPKINS raises an objection. He states concern that the transparency for the public is not really here. He asks if there was a discussion or will be a discussion about a draft or a proposed final document that will be edited today. He states that a number of individuals contacted him because they heard that the Municipal Advisory Group was going to be taking action today, and they have not seen the document.

CHAIR BURNETT states that anyone who wants can get a copy of any of the documents discussed at the meeting. He continues that the proposed final document will be posted after the edits are incorporated into it. He adds that they will be posted on the Department of Revenue's website.

MAYOR HOPKINS proposes an amendment to the agenda that after public comment a vote be taken to approve a proposed MAG report with agreed edits for public view or for public comment.

MAYOR DeVILBISS asks for the purpose of this motion.

MAYOR HOPKINS replies that the purpose would be that it is a proposed final document that can have public comment once the public sees the edits. He continues that it is the final document and if there is a vote, this is the final document, there is no more editing. He adds that the document has not been publicly released except to the Advisory Board.

CHAIR BURNETT explains that it is an interim report, and public comment prior to it becoming a public document is not necessary. He adds that is something for the board to discuss.

MS. HARRINGTON asks if the draft version of the report is posted to the website right now, which would then allow folks to review it.

MS. ALEXANDER replies that it is not posted. She states that the Department of Law stated that anyone can request any of these documents, so it is available to the public, if they want it. She continues that it is not online at the moment.

MAYOR DeVILBISS seconds the motion.

A discussion ensues.

CHAIR BURNETT asks Ms. Alexander to call the vote.

Mayor DeVilbiss, no; Deputy Commissioner Swenson, aye; Robert Bartholomew; Acting Commissioner Parady, aye; Mayor Brower; Mayor Hopkins, yes; Mayor Joule; Liz LeDuc, yes; Deputy Commissioner Burnett, yes; Shalon Harrington, yes; Robert Venables; Mayor Walker, yes. Seven yeas and one nay.

The motion is approved.

CHAIR BURNETT states that the action will be voted on as a proposed report with public comment and will be adopted at another meeting. He moves on to the next item, the discussion

of suggested draft report edits. He states that there were three written comments received for edits: One from Fairbanks; one from Kenai, Mayor Navarre; and one from public member, Bob Bartholomew. He begins with Bob Bartholomew's two comments, which he summarizes.

MAYOR HOPKINS suggests that since the Fairbanks edits have this same type of comment calling out the Alaska LNG project and not the gas project, to move on to the Fairbanks comments.

CHAIR BURNETT asks Mayor Hopkins to speak to those comments.

MAYOR HOPKINS states that the initial edit is in the title, Interim Report; on page 2 underlined is *"Due to the change in administration and substantial turnover in board membership, this report is submitted as an interim document. A final version will be approved and submitted in early 2015."*

He continues that it would be appropriate to offer the Governor and his team a chance to weigh in on this report after they look at it. He moves on to "The MAGP board supports" in the middle of page 2. The edit is *"long-term, stable supplies of lower-cost energy"* rather than the end of that sentence. On page 3, going into the overarching principles that shape government take methodology. On No. 1, added is: *"to receive impact payments based on actual impacts to the communities they serve and ongoing property tax revenues based upon the full and true value of the gas project."* He explains the reasoning for the change. Moving to item 5, the work gas project was changed to *"Alaska LNG project."*

MS. LeDUC states that she will have comments on 1, 6, 8, 9, and 10; all in the same general concern about whether there has been enough discussion on the proposed changes to include them in the report.

MAYOR HOPKINS moves on to item 6, stating that this item is being expanded and are referencing that the alternative property tax methodology comes from the existing property tax methodology. He continues that item 7 is *"Alaska LNG project"* again. Item 8 is going to basically discuss the fundamental concepts of revenue sources and inserted is that the *"impact payments be shared among all communities statewide impacted by the project."* He states that all three different sections are being called out where the original proposed document just speaks about revenues from the gas project should be shared by all communities across Alaska, not just communities expected to have ongoing projects. Item 9 states *"Actual impacts on communities and the State."* He states that paid is a stronger word and it should read *"Commensurate to the length of the pipeline or the value of taxable property within a community's boundaries. Instead, impact payments should be based on the actual community impacts."* He goes on to Options for Fiscal Terms; Item 1 and 2 just call out the project specifically. The new No. 4, which is an appropriation: *"If PILT payments are to be paid in lieu of property taxes during the operation of a gas pipeline, payments should be made directly to municipalities and not subject to legislative appropriation."* He states that the next one is Throughput-Based Calculation and it is based on *"the full and true value."* Then in parentheses, *"(which could potentially be based on the original cost of construction adjusted upward for inflation and downward for depreciation.)"* He moves down to Other Recommendations and the bottom of page 4, item A, calling out the specific project and then going to B *"PILT/Impact Payment Team,"* and calling out the aspect of it. He makes the suggestion in this report that the recommendations to the MAGP board have a

destination, and it is for consideration of the full board. Item C *“Conditions of Adopting PILT.”* *“The term of the PILT should be carefully considered and perhaps limited to the initial term of the gas contracts.”* Item D is self-explanatory and says, *“The Alaska LNG project.”* Item F under *“Contractual Limitation of scope.”* *“A municipality should never be coerced into ceding its taxing authority or into agreeing to the assessment of taxable property on any basis other than on the full and true value.”* He moves on to Impact Statements on page 6 and the first one under Assessing Impact Payments is just *“Alaska LNG.”* Under Appropriation, *“If impact payments are to be paid in lieu of property taxes during construction of the Alaska LNG project, payments should be made directly to municipalities and not subject to legislative appropriation.”* He continues that under Tiers, the project is specifically called out. Under Local Hire: *“Whenever possible, the State of Alaska and the Alaska LNG project should maximize local hire to ensure the employability of the local workforce.”* This just specifies the language. Access to Energy, *“The Alaska LNG project and the State of Alaska should consult with the MAGP board on the location of off-take points and other facilities that would provide communities with access to energy.”* He states that those are the requested edits that he had put before the board, and he would be glad to discuss any of them.

MS. LeDUC directs her comments generally just to the Overarching Principles section and notes that she is here on behalf of Mayor Navarre and she has discussed this with him. She states that, generally, the Kenai Peninsula Borough’s concerns with the proposed changes from Fairbanks are that they are a bit more specific than what the group has had the opportunity to discuss fully. She continues that it was felt that the principles proposed in the original draft were generally sufficient to put forth the general concerns of the municipalities and the issues that they would like to focus on as this moves forward. She adds that another concern with the proposals is that these focus very much on impacts. The understanding, in part, was that not enough is known about impacts at this point. She states that the focus of this report was more on the taxation structure, which seems to be getting ahead of ourselves with the level of detail described. She continues that, in general, the Kenai Peninsula Borough, in terms of paragraph 1 on page 3 referring to actual impacts, and 8 and 9, has some level of discomfort getting into so much detail about the impacts and the impact payments. She adds that beyond that the Borough is fairly comfortable with the other suggestions.

CHAIR BURNETT thanks Ms. LeDuc and asks for any other members.

MAYOR WALKER states that the Denali Borough agrees with a lot of what Ms. LeDuc just expressed, concerns with Fairbanks’ edits being too specific regarding impacts and limiting impacts. He continues that it also goes back to language that has not really been discussed in looking at alternative taxation framework. He adds that this is a document with a lot of property tax and a lot of full and true value verbiage that is new to us.

MAYOR DeVILBISS asks if the intent of substituting Alaska LNG project with gas projects is to expand the original definition.

MAYOR HOPKINS replies that the presentation that we had that related to PILT agreements and impact payments have started out with the issues of LNG in the global market and then the focus was on the Alaska LNG project. He goes through his reply in greater detail, giving his reasoning for the edits.

CHAIR BURNETT asks for any further discussion.

MAYOR BROWER states that she is mayor for the North Slope and asks for the following amendment on No. 2: *“The gas projects could be taxed under AS 29.45.”* She continues that they would like to keep it as is and take all the language that is associated with that.

MR. ELKINS clarifies that the intent of that is that currently it appears that the asset would be taxable under 29.45, and the impacted municipalities would be allowed to enter into a PILT agreement.

MAYOR BROWER states that it is on page 3, Options for Fiscal Terms under 2, *“The gas project could be taxed under AS 29.45.”* He continues that all the rest of the language should be taken out before there is the authority to do that under 29.45.

CHAIR BURNETT states that is an edit to the original one.

MS. LeDUC states that is addressed in the KPB edits.

MAYOR BROWER states that the North Slope Borough would maintain its authority through AS 29.45, and there are some municipalities that are going to state the same.

MAYOR HOPKINS responds to a comment made by Ms. LeDuc on the issue of the impact payments, stating that they have not yet been determined and wanted to ensure that in this report to the Governor and the Legislature there are actual impacts and it is called out that this is how they need to be addressed. He continues that the municipalities will develop their impacts rather than some group coming through. He states that the language in No. 1 separate that out from property tax revenues. He moves on to No. 6, which deals with the revenues and then explains No. 8. He explains that this content was inserted to ensure that the separation from impacts and revenues from PILT are clarified.

CHAIR BURNETT asks for any further discussion.

MAYOR WALKER reiterates that a number of the proposed edits are pretty radical departures from what has been worked on and asks how they will be voted on.

A short discussion ensues on the procedure.

CHAIR BURNETT asks if there are any objections to the edits that Fairbanks North Star Borough has proposed for the Preamble. He moves on to page 3, which is the section on Overarching Principles and asks for any objections.

MS. LeDUC states that she does not object to the addition of “and the State,” but does object to the rest of the proposed amendment.

CHAIR BURNETT states that he will treat this as a motion on 1, unless someone has a suggested edit, and that being treated as amendment No. 2 to the original document. He asks Ms. Alexander to call the vote.

Deputy Commissioner Swenson, no; Robert Bartholomew; Mayor Brower, yes; Mayor DeVilbiss, asks for a point of clarification.

CHAIR BURNETT states that his intent was to vote on the language, “*Municipal governments and the State must be able to receive.*”

Mayor DeVilbiss, no; Mayor Hopkins, yes; Mayor Joule; Liz LeDuc, no; Deputy Commissioner Burnett, no; Robert Venables; Mayor Walker, no; Acting Commissioner Parady, yes. MS. ALEXANDER states that is three yeas and six nays.

CHAIR BURNETT states that the Fairbanks language will not stay in this. He continues that there will be an opportunity to review this language again in a final product. He moves on to the global edits, changing “*gas project*” to “*Alaska LNG project,*” which is done throughout the document. He asks for any objection to change it to “*the Alaska LNG project*” throughout the document to make it clear that is what the board has looked at throughout their time. He moves on to the next change that was proposed in No. 6: “*Revenues received by municipalities and the State through any alternative property tax methodology.*” He continues that it goes specific to the 20 mills, changing from “*over the initial term of the project through any alternative methodology would be equal to or greater than those that would be received under AS 29.45.*” There being no objection, that will be incorporated into the document. He moves on to section No. 8, which is: “*impact payments should be shared among all communities statewide impacted by the Alaska LNG project. Property tax revenues should be shared among communities statewide through the State’s share of the property tax revenues, and property tax revenues should be shared among communities with taxable property in an equitable manner.*”

A discussion ensues.

CHAIR BURNETT asks for any objections to the changes in No. 8. He asks Stephanie to call the vote.

Deputy Commissioner Swenson, no; Robert Bartholomew; Mayor Brower, yes; Mayor DeVilbiss, no; Mayor Hopkins, yes; Mayor Joule; Liz LeDuc, no; Deputy Commissioner Burnett, no; Shalon Harrington, no; Robert Venables; Mayor Walker, no; Acting Commissioner Parady, no. MS. ALEXANDER states that is two yeas and seven nays.

CHAIR BURNETT moves to No. 9, and states that the proposed language is: “*Actual impacts on communities and the State incurred during the construction and operation of the Alaska LNG project should be paid by the gas project. The Municipal Advisory Gas Project Board recognizes that the actual impacts are not commensurate to the length of the pipeline or the value of taxable property within a community’s boundaries. Instead, impact payments should be based on the actual community impacts.*”

A discussion ensues.

CHAIR BURNETT asks Stephanie to call the vote.

Deputy Commissioner Swenson, abstains; Robert Bartholomew; Mayor Brower, yes; Mayor DeVilbiss, no; Mayor Hopkins, yes; Mayor Joule; Liz LeDuc, yes; Deputy Commissioner Burnett, yes; Shalon Harrington, yes; Robert Venables; Mayor Walker, no; Acting Commissioner Parady, yes. MS. ALEXANDER states that is six yeas and two nays.

CHAIR BURNETT states that amendment passes and will be included. He moves on to page 4, which has two suggested changes in the Options for Fiscal Terms. The first one, section 4, says: “If PILT payments are to be paid in lieu of property taxes during operation of a gas project, payment should be made directly to municipalities and not subject to legislative appropriation.” The second one, which is a clarification of the Throughput-Based Calculation: “The method would take the full and true value, which could potentially be based on the original cost of construction adjusted upward for inflation and downward for depreciation” and removes “and installed cost formula.” He asks if anyone has objections to taking the whole section as a separate amendment. He asks if there are any objections to either of the suggested edits. If not, they will be considered included in the document. He moves on to the other recommendations, which are a number of small specific edits. He asks if there are any objections to any specific ones.

MAYOR WALKER states that in F, Contractual Limitation of Scope, the Denali Borough would disagree with this amendment.

A discussion ensues.

CHAIR BURNETT asks Stephanie to call the vote.

Deputy Commissioner Swenson, abstain; Robert Bartholomew; Mayor Brower, yes; Mayor DeVilbiss, no; Mayor Hopkins, yes; Mayor Joule; Liz LeDuc, yes; Deputy Commissioner Burnett, yes; Shalon Harrington, yes; Robert Venables; Mayor Walker, no; Acting Commissioner Parady, yes. MS. ALEXANDER states that is six yeas and two nays.

CHAIR BURNETT states that the next edits are in the Impact Statements section on page 6 of the edits. He asks for any objection to the proposed edits in that area. Hearing none, they will be incorporated into the document. He moves on to the proposed edits from the Kenai Borough, which are Mayor Navarre’s edits.

MS. LeDUC states that the proposed changes up to the last paragraph of the Preamble can probably be disregarded except for a few stylistic changes in terms of capitalizing the word State, adding “local” communities.

CHAIR BURNETT states that, if it is okay with the rest of the committee, to go through and try to conform stylistically prior to it going back out to you and being published.

MS. LeDUC moves to the paragraph stating “one of the major issues,” struck out because it was immediately redundant with the starting paragraph in the next section.

CHAIR BURNETT asks if there are any objections to striking that sentence as suggested. That is at the bottom of page 1 and the top of page 2. Hearing no objection, he moves along.

MS. LeDUC moves on to Options for Fiscal Terms, paragraph 2, "*The gas project could be taxed under AS 29.45.*" She states that the proposal is to take that paragraph and add it to paragraph 3.

A discussion ensues.

CHAIR BURNETT states that "*The State and municipalities could agree to a PILT contract through negotiations.*" Then bring the paragraph past that, so then it describes how that happens. He asks for any objection to doing that. There being none, he states that will be incorporated into the document.

A short discussion ensues.

CHAIR BURNETT asks if there is a proposal to put specific language into this document at this time.

ACTING COMMISSIONER PARADY states that he wanted to explore Mayor Hopkins' thought about item 4 fitting that bill.

MAYOR HOPKINS explains it more fully. He then asks Rob Elkins to speak on No. 4, Throughput-Based Calculation.

MR. ELKINS states that, as a rule, the North Slope Borough is opposed to a basic throughput methodology and thinks that all municipalities should be too. He states that the real cost new less depreciation actually takes into account super-adequacy, volume versus capacity. He explains this more fully.

CHAIR BURNETT states that the Kenai Peninsula Borough has not proposed any additional changes to the Throughput-Based Calculation, and it will be left as approved. He asks if there is any objection to accepting this as proposed.

A discussion ensues.

CHAIR BURNETT asks if there would be an objection to leaving in the language with a notation that the appraisal methods will be further discussed and defined for the final report, or some language to that effect.

MS. LeDUC goes through some additional edits and adds that the proposal is that the team should include those government members representing communities that are directly impacted. She continues that the key was ensuring that all those communities that would be ceding taxing authority would be included on this team.

CHAIR BURNETT, after discussion, states that the section about recommendations to the Legislature be taken out. Hearing no objection to those changes, he moves on to pages 5 and 6 under FERC Pre-File Process.

MS. LeDUC offers a little additional specification about how the MAGP board should participate in the FERC process under the paragraph starting, *“the second federal agency.”*

CHAIR BURNETT asks for any comments or objections to those edits submitted by Kenai.

MR. SWENSON clarifies that FERC is the lead federal agency for the preparation of the single environmental impact statement.

CHAIR BURNETT asks if the change to *“is the lead federal agency for the preparation,”* would be objectionable to Kenai.

MS. LeDUC replies that is fine.

CHAIR BURNETT asks for any objections to inserting the words *“is the lead federal agency”* instead of *“coordinated.”* Hearing no objection, he states those are the final edits. He asks for any other additional concerns, comments, or objections.

MAYOR DeVILBISS talks about a final tweak sent in this morning.

CHAIR BURNETT asks if there are any objections to making that stylistic change and making it clear that there is no agreement on specifics, but do agree on the methodology, or on the principles.

MAYOR HOPKINS states that public comment is next.

CHAIR BURNETT asks if there is any member of the public that would like to comment on this.

MR. PEIRCE states that he is Merrick Peirce out of Fairbanks, Alaska, and thanks all for their service; and adds that these are very important issues that are being talked about today. He thanks Mayor Hopkins and the board for the action taken today with regard to making sure that this is set up as an interim evaluation or report so that important input from members of the public can be received. He continues that once the other stakeholders are brought into this process, there will be more benefit with more input. He thanks all.

CHAIR BURNETT thanks Mr. Pierce, and asks for any other public comment. There being none, he moves to a motion to moving forward on this.

MAYOR HOPKINS *makes a motion to approve a proposed final annual report.*

MS. HARRINGTON *seconds.*

Deputy Commissioner Swenson, yes; Robert Bartholomew; Rob Elkins, yes; Mayor DeVilbiss, yes; Mayor Hopkins, yes; Mayor Joule; Liz LeDuc, yes; Deputy Commissioner Burnett, yes;

Shalon Harrington, yes; Robert Venables; Mayor Walker, yes; Acting Commissioner Parady, yes. MS. ALEXANDER states that is nine yeas and zero nays.

CHAIR BURNETT thanks all the members of the board and Stephanie, and his appreciation for the time and commitment to this process. He states that the report will be put together and back out to all and on the web as soon as possible, and by the close of business on Monday.

MAYOR HOPKINS thanks Deputy Commissioner Burnett for pulling this together and doing an incredible job.

CHAIR BURNETT acknowledges Stephanie and all the work she does in the background. He asks for any other comments. There being none, he adjourns the meeting.

(Meeting adjourned at 4:13 p.m.)