



FAIRBANKS CITY COUNCIL
REGULAR MEETING MINUTES, JULY 20, 2015
FAIRBANKS CITY COUNCIL CHAMBERS
800 CUSHMAN STREET, FAIRBANKS, ALASKA

The City Council convened at 7:00 p.m. on the above date, following a 5:00 p.m. Work Session for the Fairbanks Emergency Communications Center (FECC) Business Plan and a 6:00 p.m. Work Session on the Fuel Storage Capital Project Plan, to conduct a Regular Meeting of the Fairbanks City Council at the City Council Chambers, 800 Cushman Street, Fairbanks, Alaska, with Mayor John Eberhart presiding and with the following Council Members in attendance:

Council Members Present: Renee Staley, Seat A
 Perry Walley, Seat B
 Bernard Gatewood, Seat C
 Jim Matherly, Seat D
 Jerry Cleworth, Seat E
 David Pruhs, Seat F

Absent: None

Also Present: Warren Cummings, Fire Chief
 Margarita Bell, Grants Administrator
 Paul Ewers, City Attorney
 D. Danyielle Snider, City Clerk
 Amber Courtney, Communication Director
 Jim Williams, Chief of Staff
 Ben Barrio, IT Director
 Angela Foster-Snow, HR Director
 Randall Aragon, Police Chief
 Verg Scott, Public Works Director
 Robert Pristash, City Engineer

INVOCATION

The Invocation was given by City Clerk Danyielle Snider.

FLAG SALUTATION

Mayor Eberhart led the Flag Salutation.

CITIZEN'S COMMENTS

Frank Turney, 329 6th Avenue, Fairbanks – Mr. Turney stated he did not agree that the Mississippi flag should be taken down on the bridge downtown. He stated barbeque and tobacco smoke is more damaging than cannabis smoke and that an ordinance regulating barbeque smoke should be adopted. Mr. Turney stated there is too much hypocrisy involved in the cannabis smoke ordinance.

Victor Buberger, P.O. Box 58192, Fairbanks – Mr. Buberger questioned whether the Mayor and Council Members runs the City or if the unions do. He stated that the officers who were exonerated of the missing narcotics in the police evidence locker should be drug tested. Mr. Buberger expressed his disappointment that the City gives its police officers “free passes” and strongly urged the City to start drug testing police officers. Mr. Buberger stated other City employees get drug tested and that if one employee is tested all employees should be tested.

Hearing no more requests for public comment, **Mayor Eberhart** declared Public Testimony closed.

APPROVAL OF AGENDA AND CONSENT AGENDA

Mr. Matherly, seconded by **Mr. Gatewood**, moved to APPROVE the Agenda and Consent Agenda.

Mayor Eberhart pulled the Regular Council Meeting Minutes of April 6, 2015 at the request of the City Clerk; he stated that she has indicated that the minutes are not ready for approval. **Mayor Eberhart** also requested that the Appointment to the Hotel/Motel Discretionary Fund Committee be pulled from the Consent Agenda.

Mayor Eberhart called for objection and, hearing none, so ORDERED.

City Clerk Snider read the Consent Agenda, as Amended, into the record.

APPROVAL OF PREVIOUS MINUTES

a) Regular Meeting Minutes of April 6, 2015.

Mr. Matherly, seconded by **Mr. Gatewood**, moved to APPROVE the Regular Meeting Minutes of April 6, 2015.

A ROLL CALL VOTE WAS TAKEN TO APPROVE THE REGULAR MEETING MINUTES OF APRIL 6, 2015, AS FOLLOWS;

YEAS: Gatewood
NAYS: Staley, Matherly, Pruhs, Cleworth, Walley
Mayor Eberhart declared the MOTION FAILED.

MAYOR'S COMMENTS AND REPORT

Mayor Eberhart asked Ms. Pearl Watson to come forward; he presented her with a framed Proclamation from the City of Fairbanks recognizing her as the City of Fairbanks Hostess. Ms. Watson stated she has lived in Fairbanks for nearly 70 years and that she enjoys making Fairbanks a special place to visit and live.

Mayor Eberhart spoke to Mr. Buberger's testimony and agreed that all City of Fairbanks employees should be drug tested prior to employment. **Mayor Eberhart** stated that in many

departments there is a post-accident drug test but that the Alaska Supreme Court decided that police officers could not be randomly tested. **Mayor Eberhart** stated that any time people's lives depend on positions they should be drug tested. **Mayor Eberhart** stated that random drug testing has to be agreed upon under a collective bargaining agreement (CBA) with the unions and that so far the unions have refused to agree to it.

Mayor Eberhart asked Police Chief Aragon and Communication Director/PIO Amber Courtney to come forward to report on City of Fairbanks cold cases. Chief Aragon requested Detective Payton Merideth come forward to help make the presentation. Chief Aragon stated the unsolved murders date as far back as 1983; he asked Detective Merideth to outline the unsolved cases. Detective Merideth gave a brief synopsis of the unsolved murders and stated that if there was more staff focusing attention on the cases that more of the murders could be solved. Detective Merideth stated that there are only three detectives on the force that are designated to major crimes and that current crimes get nearly all of the attention. He stated that, unfortunately, cold cases often get pushed to the back burner. Chief Aragon stated he would like to create a cold case squad to focus only on solving the unsolved murders. Chief Aragon stated that he intends to request two cold case investigator positions in the FY2016 budget.

Mr. Cleworth asked Detective Merideth how many of the unsolved murders were handed over to the District Attorney (DA) and then declined. Detective Merideth stated that several cases have been turned over to the DA and were rejected. **Mr. Cleworth** stated that it puzzles him as to why the DA's office rejects cases. Ms. Courtney stated that the City will be posting the unsolved murder information on the City website; she stated that making the information more publically-known may help solve some of the unsolved crimes.

Mayor Eberhart stated the Mayor's Office had been very busy and listed the many events and meetings he has attended since the last Council Meeting. **Mayor Eberhart** stated the Cushman Complete Streets Project has a new scope of work. He stated traffic control is a top priority but that due to unforeseen circumstances, the single northbound lane of Cushman has to be closed down. **Mayor Eberhart** spoke briefly to funding issues at Raven Landing. **Mayor Eberhart** stated 75 personnel have been cut at Ft. Wainwright but that military construction is supposed to be picking up.

UNFINISHED BUSINESS

- a) Ordinance No. 5985 – An Ordinance Amending Fairbanks General Code Section 2-149 to Add an Additional Requirement for Fiscal Notes. Introduced by Council Member Cleworth. SECOND READING AND PUBLIC HEARING.

Mr. Pruhs, seconded by **Mr. Gatewood**, moved to ADOPT Ordinance No. 5985.

Mr. Gatewood, seconded by **Mr. Cleworth**, moved to SUBSTITUTE Ordinance No. 5985, as Amended, for Ordinance No. 5985.

Mayor Eberhart called for Public Testimony and, hearing none, declared Public Testimony closed.

Mr. Cleworth spoke to the reasoning for the proposed changes to the City Code. **Mr. Cleworth** stated a money transfer currently looks like a loss of funds and that the changes put forth in Ordinance No. 5985 will correct that issue.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO SUBSTITUTE ORDINANCE NO. 5985, AS AMENDED, FOR ORDINANCE NO. 5985 AS FOLLOWS:

YEAS: Matherly, Cleworth, Walley, Staley, Gatewood, Pruhs

NAYS: None

Mayor Eberhart declared the MOTION CARRIED.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO ADOPT ORDINANCE NO. 5985, AS AMENDED, AS FOLLOWS:

YEAS: Cleworth, Pruhs, Walley, Staley, Matherly, Gatewood

NAYS: None

Mayor Eberhart declared the MOTION CARRIED and Ordinance No. 5985, as Amended, ADOPTED.

- b) Ordinance No. 5986 – An Ordinance Enacting a Retail Sales Tax on Marijuana and Referring the Ordinance for Ratification on the Next General Election. Introduced by Council Member Pruhs. SECOND READING AND PUBLIC HEARING.

Mr. Matherly, seconded by **Mr. Gatewood**, moved to ADOPT Ordinance No. 5986.

Mr. Gatewood, seconded by **Mr. Walley**, moved to SUBSTITUTE Ordinance No. 5986, as Amended, for Ordinance No. 5986.

Mayor Eberhart called for Public Testimony.

Frank Turney – Mr. Turney stated he hopes that the City voters reject the cannabis tax. He stated that the State of Alaska is already imposing a \$50 tax and that if the City levies an additional tax, cannabis will become too expensive for citizens to purchase legally. Mr. Turney questioned if local banks would take deposits of cannabis cash. Mr. Turney stated that cannabis is the correct name for marijuana and explained why he did not like the word marijuana. Mr. Turney stated he hopes the voters in Fairbanks reject the ballot measure requiring a tax on cannabis that is sold in the City.

Mr. Cleworth thanked Mr. Turney for his testimony and asked him if the only reason he was speaking out against the ballot measure was because the State of Alaska has already imposed an over-the-top tax. Mr. Turney replied that the \$50 state tax is high enough and cannabis should not be further taxed inside the City limits.

Victor Buberger – Mr. Buberger stated he did not agree with the City taxation of marijuana. Mr. Buberger stated he would not purchase marijuana products but that the City should make an effort to lower taxes, not raise them.

James Frederick Burke, 401 7th Avenue, Fairbanks – Mr. Burke agreed with Mr. Turney that the City should not tax the sale of marijuana because he believes it will encourage the illegal sale of the product. Mr. Burke commented that the state is already taxing marijuana at too steep a rate.

Hearing no more requests for public comment, **Mayor Eberhart** declared Public Testimony closed.

Mr. Pruhs stated that the Council is not implementing a tax but that they are leaving it up to the voters. He stated that Ordinance No. 5986 addresses how the tax would be implemented if the voters approve it. **Mr. Pruhs** stated that the marijuana tax verbiage is similar to that of the City's alcohol tax. He stated that Ordinance No. 5986 allows for a 5 – 8% sales tax. **Mr. Pruhs** stated the City needs to find a way to make up for losses it is experiencing in property tax. He explained that the ordinance treats marijuana exactly the same way as the City treats alcohol. **Mr. Pruhs** read an article from the Fairbanks Daily News Miner relating to the State of Washington's marijuana tax revenue; the article stated that marijuana raised \$70 million in revenue. **Mr. Pruhs** again stated that Ordinance No. 5986 does not mandate a sales tax but that it gives the voters the option to have a sales tax.

Mr. Cleworth asked City Attorney Paul Ewers if state law regulates the tax. Mr. Ewers stated there is no law regulating a maximum tax on marijuana. **Mr. Cleworth** asked if the state has solidified their methodology on marijuana taxation. Mr. Ewers replied he has seen no proposed state tax other than the \$50 per ounce fee. **Mr. Cleworth** stated he did not agree with the "as Amended" version of Ordinance No. 5986 but that he agreed with the parent ordinance because it makes the language more clear. **Mr. Cleworth** stated that the Charter explains tax caps and that if a lot of tax monies came in for marijuana that another tax would have to be lowered in order to comply with Code requirements.

Ms. Staley asked Mr. Cleworth for clarification on the tax cap. She asked whether the mill rate for property tax would have to be dropped if the marijuana tax brought in a large amount of revenue and how it could be made more clear in the proposition language. **Mr. Cleworth** stated that it would be difficult to write language about the tax cap into the proposition.

Mr. Pruhs stated he tried to write the language as clearly and succinctly as possible; he stated that the Ordinance clearly proposes a 5% minimum tax and an 8% maximum tax. **Mr. Pruhs** stated that future Councils can raise and lower the tax as they see fit. He stated the ordinance is a tool in the tool box in case it is needed in the future.

Mr. Walley asked Mr. Cleworth if he liked the original ordinance because it did not list a tax rate. **Mr. Cleworth** stated he liked the language in the parent ordinance because it allows the voters the opportunity to change the tax rate.

Mr. Pruhs stated that the City Attorney has confirmed that the Ordinance complies with the City Charter.

Mr. Matherly stated he would entertain wording that would remove the sliding range for tax rates.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO SUBSTITUTE ORDINANCE NO. 5986, AS AMENDED, FOR ORDINANCE NO. 5986 AS FOLLOWS:

YEAS: Pruhs, Gatewood, Staley, Cleworth, Matherly, Walley
NAYS: None
Mayor Eberhart declared the MOTION CARRIED.

Mr. Matherly recommended that there be more clarification in the ballot language for City voters.

Mr. Matherly, seconded by **Mr. Pruhs**, moved to AMEND Ordinance No. 5986 by adding the language, "per the Fairbanks City Charter" after the words "...not to exceed eight percent" in the proposition language on page 10.

Mr. Cleworth expressed confusion with the proposed amendment.

Mr. Walley suggested that the proposition language stay as it is in Ordinance No. 5986, as Amended, except eliminate the words "not to exceed eight percent."

Mr. Matherly, with the concurrence of the Second, WITHDREW his motion to AMEND Ordinance No. 5986, as Amended.

Mr. Cleworth, seconded by **Mr. Pruhs**, moved to AMEND Ordinance No. 5986, as Amended, by changing the proposition language back to the way it was written in the original version of Ordinance No. 5986.

City Attorney Ewers stated that it needs to be clarified that staff will have authorization to make any other changes that need to be made to Ordinance No. 5986, as Amended, (assuming that Mr. Cleworth's motion is approved) in order to be consistent with the original proposition language.

Mr. Cleworth agreed that staff could do whatever housekeeping is necessary to make Ordinance No. 5986, as Amended, consistent with the original proposition language if his motion to amend is approved. No members objected.

NOTE: The proposition language in the original version of Ordinance No. 5986 reads, On July 20, 2015, the Fairbanks City Council passed Ordinance No. 5986, which enacted a five percent sales tax on Marijuana sold within the City of Fairbanks. Fairbanks Charter Section 6.5 provides that any new or additional sales tax levied by the City Council must be approved by the voters in a general election.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO AMEND ORDINANCE NO. 5986, AS AMENDED, BY CHANGING THE PROPOSITION LANGUAGE BACK TO THE WAY IT WAS WRITTEN IN THE ORIGINAL VERSION OF ORDINANCE NO. 5986 AS FOLLOWS:

YEAS: Staley, Matherly, Gatewood, Pruhs, Cleworth, Walley
NAYS: None
Mayor Eberhart declared the MOTION CARRIED.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO ADOPT ORDINANCE NO. 5986, AS AMENDED, AS FOLLOWS:

YEAS: Walley, Matherly, Gatewood, Pruhs, Cleworth, Staley
NAYS: None
Mayor Eberhart declared the MOTION CARRIED and Ordinance No. 5986, as Amended, ADOPTED.

DISCUSSION ITEMS

FMATS Policy Committee – **Mr. Walley** stated that the Committee approved Document No. 8 that establishes FMATS bylaws and operations. He encouraged more community participation in the FMATS meetings and shared that the meeting time has been changed to noon to boost attendance. **Mr. Walley** stated the Committee approved funding for the College Road Phase IV project as well as the South Cushman sidewalk drainage project. **Mr. Walley** reported that there was a lively discussion about the FMATS 2018 budget and the building of an official FMATS Office. **Mr. Walley** stated the Fox Spring Water Well was discussed and that it does not fall under FMATS jurisdiction because it is a maintenance issue. **Mr. Walley** stated the water well costs the State \$50,000 per year and that he is sure there will be testimony at the next Borough Assembly Meeting regarding the well.

Fairbanks Diversity Council (FDC) – **Mayor Eberhart** stated Mr. Ewers gave a presentation at the last FDC meeting about Open Meetings Act. **Mayor Eberhart** stated Chief Aragon gave an update on Community Policing and spoke to the issues of public intoxication and unsolved homicides. **Mayor Eberhart** stated Mary Kreta, Director of Admissions at the University of Fairbanks (UAF) gave a presentation on creating more diversity at the UAF campus.

COMMUNICATIONS TO COUNCIL

- a) Appointment to the Clay Street Cemetery Commission
APPROVED on the CONSENT AGENDA.
- b) Appointment to the Building Code Review & Appeal Commission
APPROVED on the CONSENT AGENDA.
- c) Appointment to the Hotel/Motel Discretionary Fund Committee

Mayor Eberhart stated he was led to believe that Vivian Stiver had termed out of the Hotel/Motel Discretionary Fund Committee. **Mayor Eberhart** stated that after further clarification from the City Clerk, it was determined that Ms. Stiver was still eligible to serve on the Committee. He stated that he would withdraw his nomination of the new member and give Ms. Stiver time to accept or decline her position on the Committee.

Mayor Eberhart, seconded by **Mr. Pruhs**, moved to WITHDRAW the Nomination to the Hotel/Motel Discretionary Fund Committee.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO WITHDRAW THE NOMINATION TO THE HOTEL/MOTEL DISCRETIONARY FUND COMMITTEE, AS FOLLOWS:

YEAS Cleworth, Pruhs, Walley, Staley, Matherly, Gatewood
NAYS None

Mayor Eberhart declared the MOTION CARRIED and the Nomination to the Hotel/Motel Discretionary Fund Committee WITHDRAWN.

d) Re-appointment to the Board of Plumber Examiners.

APPROVED on the CONSENT AGENDA.

e) Clay Street Cemetery Commission Meeting Minutes of June 3, 2015.

ACCEPTED on the CONSENT AGENDA.

f) Chena Riverfront Commission Meeting Minutes of May 13, 2015.

ACCEPTED on the CONSENT AGENDA.

g) Chena Riverfront Commission Meeting Minutes June 10, 2015.

ACCEPTED on the CONSENT AGENDA.

h) Board of Plumber Examiner Meeting Minutes of April 7, 2015.

ACCEPTED on the CONSENT AGENDA.

COUNCIL MEMBERS' COMMENTS

Ms. Staley stated she is happy to be back in Fairbanks after being out of town for so long. **Ms. Staley** stated she was concerned about the 9-1-1 funding and that she was sad to see it put on the back burner. **Ms. Staley** stated she would send out emails to follow up on it and shared her disappointment that it was forgotten.

Mr. Walley expressed his appreciation for Mayor Eberhart's comments on the local military. He stated Anchorage lost 2,600 troops and that if it had happened in Fairbanks the local economy would have been more greatly impacted. **Mr. Walley** spoke to the staff report on the fuel storage tanks and stated that allocating money from Capital would save 15 – 17% in the long term. **Mr. Walley** echoed Ms. Staley's thoughts on 9-1-1 funding.

Mr. Gatewood congratulated Pearl Watson on being selected as the City of Fairbanks Hostess. He stated WEIO concluded and that he was happy that Fairbanks hosted the wonderful event. **Mr. Gatewood** congratulated his co-worker Erica on keeping her title for the 1-foot high kick; he stated she kicked 86 inches.

Mr. Matherly stated he was happy that all Council Members were in attendance and thanked Ms. Staley for attending telephonically when she was out of town. **Mr. Matherly** shared his appreciation for Mr. Pristash and for his willingness to help out on the Cushman Complete Street project; he stated it is never easy to be the receiver of complaints. **Mr. Matherly** stated he has heard several complaints about HC Contractors doing work on Airport Road and encouraged the drivers to slow down and be more cautious. **Mr. Matherly** emphasized the importance of Mr. Cleworth's comments about the tax cap being lowered if marijuana brings in a lot of tax revenue. **Mr. Matherly** shared a recent conversation he had with Polaris Building owner Marc Marlow; he stated that Mr. Marlow claims that the Polaris Building has been placed on a funding list with the National Trust Community Investment Corporation and he is hoping to receive federal funding for revitalization. **Mr. Matherly** congratulated Ms. Watson on her City Hostess award.

Mr. Cleworth asked Mr. Ewers what it would take to do an abatement project on the old dairy. Mr. Ewers stated he could not speak for the Building Official on whether the building is dangerous but that he would make an appointment with him to go over the possibilities. Mr. Ewers stated that the building has been reported as structurally sound and that people are not breaking in or vandalizing it so it has not been deemed abatable. Mr. Ewers stated that a Code amendment could make the building fall under the City's Abatement Code. **Mr. Cleworth** stated he did not understand the Abatement Code as to what qualifies a property for abatement projects. **Mr. Cleworth** spoke to the Polaris Building being a dangerous building as far as vagrants and security but that the City cannot do anything with the building because it is deemed structurally sound. **Mr. Cleworth** stated that when the City turned utility power over to the Borough for the creation of the Interior Gas Utility (IGU) that one of the provisions was that the City would be updated quarterly. **Mr. Cleworth** stated that there has been no update since he joined the Council and requested that IGU provide a report. **Mr. Cleworth** spoke to the importance of the 9-1-1 issue and cost sharing for the Dispatch Center; he stated that there needs to be a change to the language because there needs to be Fairbanks North Star Borough (FNSB) support to move forward. **Mr. Cleworth** thanked Chief Aragon for the information on the local unsolved murders and shared his dissatisfaction with the DA for declining some of the cases. **Mr. Cleworth** stated that the DA turning away cases forces the City to work in vain; he shared his hope that some of the cases would be picked back up and solved. **Mr. Cleworth** spoke to the issue of the tax cap and marijuana revenue; he stated that there is no clear indication as to how much revenue will be generated from the proposed tax.

Mr. Pruhs stated he was happy to report that the Ranch Motel issues have been resolved. He stated that it was wonderful to see Ms. Staley at the Council Meeting. **Mr. Pruhs** spoke to Mayor Eberhart's decision to recognize Ms. Watson as the City Hostess; he shared that when he was a young boy Ms. Watson was his charitable driver and that she drove him to school. **Mr. Pruhs** stated Roy Soyoiija thanked Chief Aragon for finding a solution to the chronic inebriate issue he was having on his property. **Mr. Pruhs** thanked Mr. Cleworth for explaining the tax cap issues concerning marijuana. He stated the next hurdle that the City faces is deciding how many growing, retail and dispensary licenses will be allowed within the City.

Mr. Matherly, seconded by **Mr. Walley**, moved to go into Executive Session for the purpose of discussing Labor Negotiations for the Fairbanks Fire Fighters (FFU).

Mayor Eberhart called for objection and, hearing none, so ORDERED.

Mayor Eberhart called for a five minute recess.

EXECUTIVE SESSION

a) Labor Contract Negotiations

The City Council met in Executive Session to discuss labor negotiations for the FFU. Direction was given to staff and no action was taken.

ADJOURNMENT

Mr. Cleworth stated that Labor Negotiations for the Fairbanks Police Department (FPD) could not be brought up in Executive Session because it was not an agenda item. Mr. Cleworth stated that the FPD rejected the City's offer; he requested an update on the issue. Chief of Staff Jim Williams stated he did not know where the hesitancy was coming from at FPD to reject the offer. Mr. Cleworth asked if the City could speak with Jake Metcalfe and Mr. Williams confirmed he could speak with Mr. Metcalfe about the issue.

Mr. Gatewood, seconded by Mr. Matherly, moved to ADJOURN the meeting.

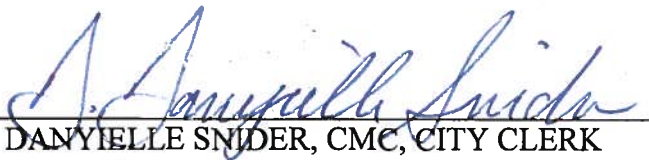
Mayor Eberhart called for objection and, hearing none, so ORDERED.

Mayor Eberhart declared the Meeting adjourned at 9:52 P.M.



JOHN EBERHART, MAYOR

ATTEST:



D. DANYIELLE SNIDER, CMC, CITY CLERK

Transcribed by: EB