



FAIRBANKS CITY COUNCIL
REGULAR MEETING MINUTES, FEBRUARY 23, 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 Work Session with Festival Fairbanks regarding the Golden Heart Plaza dock grant, to conduct a Regular Meeting of the Fairbanks City Council at the City Council Chambers, 800 Cushman Street, Fairbanks, Alaska, with Mayor pro tem Jerry Cleworth 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
 David Pruhs, Seat F

Absent: Mayor John Eberhart (excused)

Also Present: Ernie Misewicz, Assistant Fire Chief
 Paul Ewers, City Attorney
 D. Danyielle Snider, Deputy City Clerk
 Michael J. Schmetzer, City Engineer
 Randall Aragon, Police Chief
 J.B. Brainerd, Deputy City Attorney
 Amber Courtney, Communications Director/PIO

INVOCATION

The Invocation was given by Deputy City Clerk Danyielle Snider.

FLAG SALUTATION

Mayor pro tem Cleworth led the Flag Salutation.

APPROVAL OF AGENDA AND CONSENT AGENDA

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

Mayor pro tem Cleworth called for objection and, hearing none, so ORDERED.

Deputy City Clerk Snider read the Consent Agenda into the record.

CITIZEN'S COMMENTS

Frank Turney, 329 6th Avenue, Fairbanks – Mr. Turney spoke to the history of cannabis and to how the term “marijuana” is a racist word. He read aloud quotes from Leonardo da Vinci: “The noblest pleasure is the joy of understanding” and “Any fool can know. The point is to understand.”

Robert Shields, 145 Marten Drive, Fairbanks – Mr. Shields stated that he is the Executive Director of a local non-profit organization called the Alliance for Reason and Knowledge (ARK). He spoke to the Polaris Hotel stating that it is an icon in Fairbanks history and that Fairbanks should do everything possible to ensure that it is also a part of Fairbanks’ future. Mr. Shields stated that ARK was created to help Alaska be resilient no matter what happens elsewhere. He indicated that his organization is very interested in the potential of the Polaris Building. He spoke about the various projects and activities ARK is involved with and expressed his belief that a vertical farm in the Polaris Building would be globally-popular and would help Fairbanks to grow. Mr. Shields requested a Work Session with the City Council to discuss his ideas further. He introduced one of his colleagues, Melanie Lindholm.

Melanie Lindholm, 923 Bennett Road, Fairbanks – Ms. Lindholm stated that she has lived in Alaska for about 10 years and plans to stay indefinitely. She stated that she recently published her Master’s Thesis on food, health and the community well-being of Alaska. She stated that unfortunately, Alaska has some social ills such as domestic violence, suicide, child abuse and sexual assault that need to be addressed. She stated that all of these larger issues can be traced back to food, health and community well-being in some way. Ms. Lindholm stated that if Interior Alaska can demonstrate food security, it could result in great things happening throughout the state and in rural communities. She stated that she would like to explore potential opportunities with the City of Fairbanks in a Work Session.

Mr. Gatewood asked how the owner of the Polaris Building might fit into the plan.

Mr. Shields stated that he has had several conversations with Marc Marlow, owner of the Polaris Building. He indicated that, at one time, they had a purchase agreement for \$880,000, but that Mr. Marlow’s asking price is higher than the building’s value. He stated that while investors can see the benefits of vertical farming, they are not willing to invest. He commented that ARK would like to work with the City to come up with a plan since the City will likely have to deal with the property eventually.

Mr. Pruhs asked Mr. Shields and Ms. Lindholm to write their contact information in the Public Testimony Register, including their email addresses.

Mr. Cleworth asked Mr. Shields what the plans are for the Lola Tilly Commons he mentioned earlier.

Mr. Shields stated that the building is currently being renovated into office space. He stated that the Office of Sustainability is located in the upper part of the building and has donated two small, vertical towers to ARK for vertical farming. He commented that the space is small but will serve as a demonstration of vertical farming.

Helen Renfrew, 1915 Central Avenue, Fairbanks – Ms. Renfrew stated that she represents Explore Fairbanks. She briefed the Council on the recent activities of Explore Fairbanks teams. She stated that February and March are two of the peak demand months for meetings and events in Fairbanks. She spoke to the excitement of the upcoming Iditarod start that will take place in Fairbanks and thanked all those who volunteered their time to Explore Fairbanks in 2014. Ms. Renfrew recognized the 2014 Meeting Ambassadors of the Year and Sports Ambassadors of the Year. She stated that the Meetings and Conventions Department is already working to plan for 32 meetings in 2015 and spoke to other significant events that will take place in Fairbanks in 2016. She encouraged everyone to get involved.

Ms. Staley asked how direct flights to Fairbanks are looking for the summer.

Ms. Renfrew stated that flights are not her wheelhouse, but stated that Delta will be scheduling flights to Fairbanks from the summer months through December.

Victor Buberger, PO Box 58192, Fairbanks – Mr. Buberger thanked Police Chief Aragon for his goals to improve the City of Fairbanks. He stated that the most freedom-endangering phrase on earth ends with "...unless you have something to hide." He spoke against the loss of privacy in society. He expressed hope that Chief Aragon's efforts would put a stop to some of the crime in the City of Fairbanks. Mr. Buberger suggested that instead of giving the police a pay raise, the City lower property taxes for local residents. He stated that he heard that the average speed on 23rd Avenue is 51 mph, but commented that he has been in the area quite a bit and does not believe that. He spoke to the deterioration of the South Side of Fairbanks and spoke in support of road and sidewalk upgrades in that area.

Hearing no more requests for public comment, **Mayor pro tem Cleworth** declared Public Testimony closed.

APPROVAL OF PREVIOUS MINUTES

- a) Regular Meeting Minutes of November 24, 2014.

APPROVED on the CONSENT AGENDA.

SPECIAL ORDERS

- a) The Fairbanks City Council, sitting as a Committee of the Whole, heard interested citizens concerned with the following Appeal of Denied Application for New Chauffeur License:

Appellant: Gabriel T Howard

Mayor pro tem Cleworth called for the Appellant to come forward, but the Appellant was not present.

Mr. Pruhs moved to UPHOLD the Chauffeur Denial. Hearing no second, **Mr. Pruhs** withdrew his motion.

By taking no action, the Council upheld the Clerk's Denial of the Chauffeur License.

MAYOR'S COMMENTS AND REPORT

Mayor pro tem Cleworth stated that he will wait until Council Members' Comments to make his comments.

UNFINISHED BUSINESS

- a) Ordinance No. 5964 – An Ordinance Amending Fairbanks General Code Chapter 46 Offenses by Adding a New Section to Prohibit the Consumption of Marijuana in a Public Place. Introduced by Council Member Pruhs. SECOND READING AND PUBLIC HEARING.

Mr. Gatewood, seconded by **Mr. Walley**, moved to ADOPT Ordinance No. 5964.

Mayor pro tem Cleworth called for Public Testimony.

Frank Berardi, 801 Pelican Way, Fairbanks – Mr. Berardi stated that he is the Chairman of the Board for the Coalition for Responsible Cannabis Legislation. On behalf of the Coalition, he spoke in support of Ordinance No. 5964, stating that it seems to be one of the least restrictive ordinances relating to cannabis throughout the state.

Frank Turney – Mr. Turney spoke against the taxation of cannabis indicating that it will force people to go to the Black Market to obtain the drug.

David Throop, PO Box 82033, Fairbanks – Mr. Throop stated that he is not a resident of the City of Fairbanks but appreciates the opportunity to express his opinion. He urged the Council to join the City of North Pole and the Fairbanks North Star Borough (FNSB) to form a set of definitions that deal with the marijuana issue. He expressed his belief that the legislators made a big mistake by leaving it up to local governments to come up with definitions for terms to use for enforcement of the marijuana legislation. He stated that he hopes that legislators choose to measure marijuana by its major ingredient, tetrahydrocannabinol (THC), similarly to the way alcohol is measured. Mr. Throop stated that both alcohol and marijuana affect the personality of individuals but are consumed, measured and dispensed very differently. He commented that because of its interpretive nature, everyone violates the law at one time or another. Mr. Throop expressed hope that local governments would join together to form identical definitions concerning legal marijuana.

Victor Buberger – Mr. Buberger spoke to his familiarity with marijuana. He commented that he does not believe that marijuana should be measured similarly to alcohol. He stated that it seems yesterday people were being locked up for marijuana-related offenses, and today people are trying to figure out how to make money by taxing marijuana sales.

Hearing no more requests for public comment, **Mayor pro tem Cleworth** declared Public Testimony closed.

Mr. Pruhs commented that the ordinance before them is the easy one and indicated that the business side of regulating marijuana will be more difficult. He stated that Ordinance No. 5964 gives direction to City police officers on how to deal with cases where marijuana is being consumed in a public place. He commented that he tried to write the ordinance with the intent of the initiative in mind.

Ms. Staley asked where the \$100 fine originated.

Mr. Pruhs stated that the number came from the initiative.

City Attorney Ewers explained that the maximum fine according to state law is \$100.

Mr. Matherly stated that many of the phone calls and emails he has received have been in regard to consumption on private property. He asked Mr. Pruhs and others to speak to his ideas for an ordinance regarding consumption on private property.

Mr. Pruhs spoke to property owner rights. He stated that one of the biggest challenges will be in trying to address the commercial side of the marijuana issue. He stated that the State of Alaska intends to deal with public marijuana consumption similarly to how open containers of alcohol are dealt with. He stated that he understands that the state's definition of "public" is very similar to what he has written.

Mr. Gatewood thanked Mr. Pruhs for introducing the ordinance. He stated that from a personal standpoint he is not in favor of the marijuana movement but indicated that he can support the ordinance because the people have spoken.

Mayor pro tem Cleworth asked the City Attorney if he agrees that the proper place to address the nuisance issues with marijuana is in the disturbing the peace ordinance.

City Attorney Ewers replied affirmatively.

Mayor pro tem Cleworth echoed some of Mr. Gatewood's comments and stated that when the people have spoken, it is the obligation of local officials to make processes as smooth as possible. He stated that he was personally opposed to the initiative and commented that it is sad that people have to use alcohol or drugs in order to get through a day. He expressed appreciation to Mr. Pruhs for taking the lead on the marijuana issue.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO ADOPT ORDINANCE NO. 5964 AS FOLLOWS:

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

NAYS: None

Mayor pro tem Cleworth declared the MOTION CARRIED and Ordinance No. 5964 ADOPTED.

NEW BUSINESS

- a) Resolution No. 4659 – A Resolution Awarding a Contract to Exclusive Paving, Inc. for the West Barnette Street Resurfacing & Drainage Improvements Project FB-15-03 in the Amount of \$396,999.08. Introduced by Mayor Eberhart.

PASSED and APPROVED on the CONSENT AGENDA.

- b) Ordinance No. 5965– An Ordinance Amending Fairbanks General Code Section 2-118.1 to Add an Additional Public Member to the Council Finance Committee. Introduced by Council Members Matherly and Cleworth.

ADVANCED on the CONSENT AGENDA.

DISCUSSION ITEMS

- a) Committee Reports

FMATS Policy Committee – **Mr. Walley** stated that the Committee met on February 18 and approved funding for the various street upgrades for 2015. He stated that the Policy Committee also approved funding sources for the Cushman Complete Streets project with an estimated cost of over \$8 million. **Mr. Walley** shared that the Committee also approved a letter addressed to Borough Mayor Luke Hopkins requesting a comprehensive plan update. He explained that according to Alaska Statute, the Borough Assembly is supposed to periodically review the plan and update it as necessary. He commented that it has been over 23 years since the entire road plan has been updated. **Mr. Walley** stated that the Policy Committee approved an increase to the South Cushman Resurfacing, Sidewalk and Drainage Improvements project. He stated that he was pleased to have Council Member Cleworth fill in at the last Committee meeting for Mayor Eberhart and expressed appreciation for the push for Borough involvement on the Committee to help the Cushman project move forward quickly.

Ms. Staley asked if the Borough indicated in any way that they may begin working on the comprehensive plan.

Mr. Walley stated that he does not know if the Borough responded to the letter sent by the Committee.

Mayor pro tem Cleworth spoke to the Memorandum of Understanding (MOU) the State of Alaska, FNSB and the Cities of North Pole and Fairbanks signed many years ago to turn some of the road construction power over so that local governments might have some say in what happens with local road construction. He explained that the City was often frustrated that the state would construct roads then turn the maintenance over to the City in perpetuity. **Mayor pro tem Cleworth** stated that the City approved a resolution several years back stating that the City would no longer take over maintenance of state-owned roads. He explained that when FMATS was formed it changed everything and now projects are discussed by the state and local governments at FMATS meetings. He stated that now the City is questioning the need to go to

the Borough for their blessing on the 2015 Cushman Street project because there is not a question of right-of-way or zoning issues. **Mayor pro tem Cleworth** stated that the only item left for the Borough to look at would be the comprehensive plan, Vision Fairbanks. He indicated that the plan calls for Cushman to be a two-way street, something that is already being violated. He stressed the importance of Cushman Street project completion in the summer of 2015 and added that it would cause a big problem if the Borough wanted to change the plan. He expressed hope that the MOU might be updated to streamline processes and prevent project delays.

b) Appointment of City Clerk Pro Tempore

Mayor pro tem Cleworth stated that there are two things to consider: 1) the City Code states that the Council *may* appoint a City Clerk Pro Tempore, and 2) the position has been offered in-house only up to this point. **Mayor pro tem Cleworth** stated that if the Council wants to look at only the internal applicant(s), interviewing could be done at the next Regular City Council Meeting and a pro tempore appointment would not need to be made. He indicated that the Council would also need to determine salary if a job offer is made. He spoke briefly to the payroll issues involved with a union employee moving into a non-union position.

Mr. Walley asked how the process would go if the Council chose to look only at in-house applicants.

Mayor pro tem Cleworth stated that the last time the City Clerk position was vacant, the Council chose to consider applicants community-wide. He stated that he remembers interviewing candidates for the position but indicated that his memory is a little hazy on whether the interviews were done in a Regular Meeting or in an Executive Session. **Mayor pro tem Cleworth** asked Attorney Ewers how the interviews should be conducted.

City Attorney Ewers explained that when he was hired, there was an interview process and an Executive Session to discuss the salary range and the terms of the offer. He stated that the City Clerk interview(s) could take place in an Executive Session unless the applicant(s) wished to be interviewed during an open session.

Mr. Walley asked how many in-house applications had been received.

Mayor pro tem Cleworth confirmed that there was only one internal applicant.

Mr. Pruhs stated that he believes the in-house candidate should be interviewed first and only open it up community-wide if the Council feels that the in-house candidate is not qualified. He stated that he believes in hiring qualified applicants from within.

Mr. Gatewood stated that he has been involved in a number of application processes where there was a pre-selected candidate. He stated that if he was another applicant in that situation, he would still want the opportunity to apply for the position. **Mr. Gatewood** stated that if it was already established that the position would be advertised internally only, he believes that process should be followed no matter how few or how many internal applicants applied.

Mr. Matherly stated that there is already someone filling in for the City Clerk position. He expressed confusion as to why the formality of appointing a Clerk pro tempore is on the agenda.

City Attorney Ewers stated that City Code reads that the Council “*may* appoint a clerk pro tempore...”

Mr. Walley, seconded by **Mr. Pruhs**, moved to INTERVIEW the in-house applicant for the City Clerk position at the next Regular Meeting of the City Council.

Mayor pro tem Cleworth stated that he would like to know what the Code says about interviewing in open session versus private session.

The Council instructed City Attorney Ewers to look into how the City Code addresses the issue before the next Regular Meeting.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO INTERVIEW THE IN-HOUSE APPLICANT FOR THE CITY CLERK POSITION AT THE NEXT REGULAR CITY COUNCIL MEETING AS FOLLOWS:

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

NAYS: None

Mayor pro tem Cleworth declared the MOTION CARRIED.

Mayor pro tem Cleworth stated that the City Clerk interview will be on the next meeting agenda in proper form, whether it be during open session or Executive Session.

COMMUNICATIONS TO COUNCIL

- a) Chena Riverfront Commission Meeting Minutes of December 10, 2014
- b) Appointment to the Fact Finding Commission

COUNCIL MEMBERS' COMMENTS

Mr. Matherly spoke in reference to the earlier testimony on the Polaris Building and the idea for a vertical garden. He stated that he does not want to waste time attending a meeting to discuss a building the City does not even own. He stated that he recently spoke with Marc Marlow, owner of the Polaris Building, and reported that Mr. Marlow is still optimistic about the renovation of the structure. He stated that he does not feel that the City should have a work session to discuss the future use of a structure that is owned by another party. **Mr. Matherly** shared that there is a meeting on February 24 at the Carlson Center to discuss potential changes at Fort Wainwright and encouraged everyone to attend. He stated that he is pleased that the Council took some action on the marijuana issue and added that there will likely be a lot of feedback from the public on the topic. **Mr. Matherly** reminded everyone to drive carefully.

Ms. Staley stated that the Fairbanks Community Listening Session at the Carlson Center will take place at 5:30 p.m. on February 24. She commented that the idea of having a vertical garden

in the Polaris Building is interesting and stated that she does not have much faith that Mr. Marlow will be able to succeed in the renovation of the structure.

Mr. Walley expressed appreciation to Mr. Shields for coming down to speak about the idea of a vertical garden. He commented that the Council held a work session on the issue a couple years ago. **Mr. Walley** cautioned everyone to drive safely.

Mr. Gatewood stated that he does not remember having a work session to discuss a vertical garden in the Polaris Building. He stated that he would not be opposed to attending a meeting where the issue is discussed, but indicated that he believes it would be inappropriate for the City Council to hold a work session to discuss the topic. He commented that regardless of Mr. Marlow's intentions, he is still the owner of the Polaris Building. **Mr. Gatewood** stated that as it stands right now, Mr. Marlow will either develop the property or the City will eventually take action in regard to the condemnation of the structure. He applauded Mr. Pruhs for introducing Ordinance No. 5964 and spoke to the opportunity for public input on the issue. He encouraged the public to get involved in the local legislative process.

Mr. Pruhs agreed with Mr. Matherly's comments in regard to the Polaris Building. He stated that it may be the Council's prerogative at some point to act on the issue. He expressed appreciation to everyone for their support on the marijuana ordinance and for the ability of the City Council to discuss issues. He thanked City Attorney Ewers for his guidance and help in drafting the ordinance.

Mr. Cleworth spoke to records in the basement of City Hall. He requested that Deputy Clerk Snider look into the issue to see if there are still records in the old classrooms and whether the records are to be relocated to another facility. **Mr. Cleworth** spoke to the recently-failed resolution by the City Council on the Staffing for Adequate Fire & Emergency Response (SAFER) grant. He stated that he read some blog comments that seemed to indicate that some people do not understand that the grant would not allow for any attrition. He clarified the terms of the SAFER grant, stating that it will not allow the City to use the grant-funded positions to fill future vacancies. **Mr. Cleworth** asked Ms. Staley for a report on the Public Safety Commission and how often the Commission has been meeting.

Ms. Staley stated that statistics from the Fire, Police and Public Works Departments are provided at each meeting. She stated that the Commission has been meeting at least every other month due to some added special sessions to discuss certain issues such as the Geraghty Street Apartments fire. She stated that the Commission has recently discussed issues such as the decline in citations issued by the Police Department and the Prospector Outfitters fire. **Ms. Staley** added that the Commission has also been working on a letter of support for the student resource officers (SRO's).

Mr. Cleworth commented that there are not as many vacant parking spots in the downtown parking garage as their used to be. He stated that he serves with Ms. Staley on the Golden Heart Parking Services (GHPS) Board and commented that the new director of the organization is doing a great job. **Mr. Cleworth** expressed disapproval of the Department of Transportation's (DOT) use of salt brine on Airport Way. He stated that he prefers the City's method of using

gravel on the roadways. He stated that he believes the real work on the marijuana issue is yet to come, especially in regard to zoning issues.

CITY ATTORNEY'S REPORT

City Attorney Ewers advised that the Council should give formal authorization for the Clerk to correct the typo in Special Orders, Item (a) to read that the appeal was for a denial, not a revocation, of a City Chauffeur License.

Mr. Matherly, seconded by **Mr. Gatewood**, moved to CORRECT Special Orders, Item (a) to read that the appeal was for a denial, not a revocation, of a City Chauffeur License.

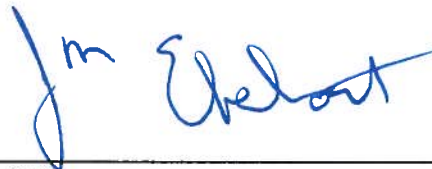
Mayor pro tem Cleworth called for objection and, hearing none, so ORDERED.

ADJOURNMENT

Mr. Matherly, seconded by **Ms. Staley**, moved to ADJOURN the meeting.

Mayor pro tem Cleworth called for objection and, hearing none, so ORDERED.

Mayor pro tem Cleworth declared the Meeting adjourned at 8:35 P.M.



JOHN EBERHART, MAYOR

ATTEST:



D. DANYIELLE SNIDER, CMC, CITY CLERK

Transcribed by: DS