



FAIRBANKS CITY COUNCIL
REGULAR MEETING MINUTES, DECEMBER 3, 2018
FAIRBANKS CITY COUNCIL CHAMBERS
800 CUSHMAN STREET, FAIRBANKS, ALASKA

The City Council convened at 6:30 p.m. on the above date, following a 5:30 p.m. Work Session on the Emergency Services Patrol, to conduct a Regular Meeting of the Fairbanks City Council at the City Council Chambers, 800 Cushman Street, Fairbanks, Alaska, with Mayor Jim Matherly presiding and with the following Council Members in attendance:

Council Members Present: Shoshana Kun, Seat A
 June Rogers, Seat B
 Valerie Therrien, Seat C
 Kathy Ottersten, Seat D
 Jerry Cleworth, Seat E
 David Pruhs, Seat F

Absent: None

Also Present: Margarita Bell, Controller
 Paul Ewers, City Attorney
 D. Danyielle Snider, City Clerk
 Jeff Jacobson, Public Works Director
 Mike Meeks, Chief of Staff
 Stephanie Johnson, Dispatch Center Manager
 Andrew Ackerman, Environmental Manager
 Carmen Randle, Chief Financial Officer
 Angela Foster-Snow, HR Director
 Eric Jewkes, Police Chief
 Jim Styers, Fire Chief
 Mike Sanders, Housing & Homeless Coordinator

City Clerk Danyielle Snider read the Mission Statement of the City of Fairbanks.

INVOCATION

The Invocation was given by City Clerk Danyielle Snider.

FLAG SALUTATION

Mayor Matherly asked lead the Flag Salutation.

CITIZENS' COMMENTS

Leslie Fails, 285 Rainbow Ridge Road, Fairbanks – Ms. Fails reported that she is the Minister of the Unitarian Church, and the church serves many of the people who would be affected by Ordinance No. 6093. Ms. Fails stated that, as a mother, she hopes the community she is raising her daughter in will accept the ordinance.

Alyssa Quintyne, 1805 Jack Street, Fairbanks – Ms. Quintyne echoed Ms. Fails’ comments and spoke in support of Ordinance No. 6093. Ms. Quintyne stated she is tired of watching her friends living in fear and hopelessness, and she spoke to the need to pass the ordinance. She stated it will be good for the community and for the youth to have an equal rights ordinance.

Georgey Salmon, 828 Crossman Road, Fairbanks – Mr. Salmon stated he is not a City resident, but he has lived in Alaska since 1976. He spoke in favor of the equal rights ordinance and stated that it is a good message to send to children.

Frank Turney, 1434 Lacey Street, B, Fairbanks – Mr. Turney stated that the Boy Scouts will read the Bill of Rights at the December 10 City Council meeting in honor of Bill of Rights Day. Mr. Turney expressed support for Ordinance No. 6093 and hope that the Fairbanks North Star Borough (FNSB) would adopt one as well. He spoke of gender discrimination in the jury pool.

Hayden Nevill, 3659 Jackhammer Road, Fairbanks – Mr. Nevill thanked the Council and the Mayor for their service. He stated he is a transgender man and that he was born a female. He stated he has heard of people losing their jobs or not being promoted because they were transgender. He stated he left a job because he was bullied for being transgender by one of his coworkers. He stated he understands that if the ordinance is passed it may not solve all the problems, but it would be good for Fairbanks leaders to say they will not tolerate discrimination.

Kasey Casort, 870 Pickering Drive, Fairbanks – Ms. Casort stated she is in attendance with a group of students from the University of Alaska Fairbanks (UAF) who are in support of Ordinance No. 6093. She spoke to the importance of making Fairbanks a safe place for everyone, no matter who they are.

MaCherie Dunbar, 2570 Linda Lane, Fairbanks – Ms. Dunbar stated she supports Ordinance No. 6093 and offered ideas on the ordinance. She suggested the ordinance speak more to people with disabilities in the workforce.

Pearson Crosby, 3780 Leasure Street, Fairbanks – Mr. Crosby stated he just heard about the ordinance and that he hopes it passes before his son is born. He stated he wishes everyone would take people for who they are and not label or judge others. He stated he loves Fairbanks because it is a forward-thinking City, and that is what keeps him here. He stated nobody should be discriminated against because of who they are attracted to or how they identify.

Brenae Baker, 1506 Third Avenue, Fairbanks – Ms. Baker stated that Anchorage, Juneau, and Sitka have already passed equal rights legislation, and she spoke in support of Ordinance No. 6093. She reminded Mayor Matherly of the promise he made in September to address sexual violence in Fairbanks.

Lisa Slayton, 2289 Cordes Way, Fairbanks – Ms. Slayton stated she is a former teacher in the FNSB School District and is currently a member of the Fairbanks Diversity Council. She spoke in support of Ordinance No. 6093. She stated that passing the ordinance is a “no brainer” and that everyone deserves to have the same rights.

Hannah Hill, 1506 Third Avenue, Fairbanks – Ms. Hill stated that she was bullied in high school and was denied jobs for looking “butch”. She stated she recently moved into the City and that she would love the Council pass the equal rights ordinance.

Ivan Gyaurski, 523 Second Avenue, Fairbanks – Mr. Gyaurski stated he supports equal rights for everyone.

Jana Peirce, 1820 Lilac Avenue, Fairbanks – Ms. Peirce stated she does not live in the City, but she works in the City. She spoke in support of Ordinance No. 6093.

Rebecca Dunn, 3659 Jackhammer Road, Fairbanks – Ms. Dunn stated she owns a small business and that she is a lesbian married to a transgender man. She stated that because she is so open, she is more susceptible to discrimination. She stated that welcoming everyone equally in Fairbanks is the acceptable thing to do.

Hearing no more requests for public comment, **Mayor Matherly** declared Citizens’ Comments closed.

APPROVAL OF AGENDA AND CONSENT AGENDA

Ms. Ottersten, seconded by **Mr. Pruhs**, moved to APPROVE the Agenda and Consent Agenda.

Ms. Ottersten pulled Ordinance No. 6093 from the Consent Agenda.

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

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

SPECIAL ORDERS

a) The Fairbanks City Council heard interested citizens concerned with the following Liquor License Application for Transfer of Location and Controlling Interest:

Type: Beverage Dispensary, License #4547
DBA: McCoy’s Underground
Applicant: North Star Dining, LLC
636 28th Avenue, Fairbanks
From: No DBA / North Star Dining, LLC
No Premises

Ms. Therrien, seconded by **Ms. Kun**, moved to WAIVE PROTEST on the Liquor License Application for Transfer of Location and Controlling Interest.

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

Police Chief Eric Jewkes stated there is not currently an operating business at McCoy’s but that the bar in the back has been problematic. **Ms. Kun** asked Chief Jewkes if he foresees issues with the

restaurant reopening. Chief Jewkes stated he would be happy to speak to the new owners about the bar in the back of the building.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO WAIVE PROTEST ON THE LIQUOR LICENSE APPLICATION OF TRANSFER OF LOCATION AND CONTROLLING INTEREST AS FOLLOWS:

YEAS: Therrien, Rogers, Pruhs, Ottersten, Kun, Cleworth

NAYS: None

Mayor Matherly declared the MOTION CARRIED.

b) The Fairbanks City Council heard interested citizens concerned with the following Liquor License Application for Transfer of Location and Restaurant Designation Permit:

Type: Beverage Dispensary, License #1912

DBA: The Crepery

Applicant: Bulgar Corp.
523 2nd Avenue, Fairbanks

From: Eastern Treats / Bulgar Corp.
535 2nd Avenue, Suite 106, Fairbanks

Mr. Pruhs, seconded by **Ms. Ottersten**, moved to WAIVE PROTEST on the Liquor License Application for Transfer of Location and Restaurant Designation Permit.

Frank Turney – Mr. Turney stated that if anyone deserves to have a liquor license it is Mr. Gyaurski because he is such a good person.

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

Ms. Rogers asked Mr. Gyaurski if he would speak to the liquor license transfer.

Ivan Gyaurski – Mr. Gyaurski stated he purchased the larger building because he wanted to expand.

Ms. Rogers asked Mr. Gyaurski how he intends to address alcohol problems downtown. Mr. Gyaurski recommended the City bring Officer Elzey back to patrol the downtown area because he was a tremendous asset. Mr. Gyaurski stated the problematic people downtown do not react to the Emergency Services Patrol (ESP), but they do react to a Fairbanks Police Officer.

Ms. Kun asked Mr. Gyaurski if he would be willing to pay a fee for the service of a police officer, and Mr. Gyaurski stated he would.

Ms. Therrien stated she appreciated that there were no problems listed in the police call out report for the location.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO WAIVE PROTEST ON THE LIQUOR LICENSE APPLICATION FOR TRANSFER OF LOCATION AND RESTAURANT DESIGNATION PERMIT AS FOLLOWS:

YEAS: Ottersten, Cleworth, Rogers, Kun, Therrien, Pruhs

NAYS: None

Mayor Matherly declared the MOTION CARRIED.

MAYOR'S COMMENTS AND REPORT

a) Special Reports

Amy Geiger, 101 Dunkel Street, Fairbanks – Ms. Geiger stated she is the Director of Communications for Explore Fairbanks. She spoke about the 2019 Explore Fairbanks Visitors Guide. She thanked the Council for reinvesting tax dollars into destination marketing.

Mayor Matherly stated that his friend Terry Walley had passed away and spoke to his history with the Walley family. **Mayor Matherly** stated that the passage of Ordinance No. 6093 would not happen at this evening's meeting because it is only up for first reading. He stated there was a good work session about the ESP and that he would like to see an officer posted downtown again. **Mayor Matherly** spoke to the importance of the ESP and its need for a funding source.

COUNCIL MEMBERS' COMMENTS

Ms. Ottersten stated she had no comments.

Mr. Cleworth stated he enjoyed working with Bill Walley when he was the Mayor, a Council Member, and a radio personality.

Mr. Pruhs stated he had no comments.

Ms. Therrien stated she had no comments.

Ms. Rogers sent thoughts to the Walley family and shared memories of Bill Walley and the community projects he was involved with.

Ms. Kun thanked Ms. Ottersten and Mr. Pruhs for proposing Ordinance No. 6093 and shared that she wholeheartedly supports it. She stated there is still discrimination that needs to be addressed. She requested that her name be added as a sponsor of the ordinance.

UNFINISHED BUSINESS

a) Ordinance No. 6084 – An Ordinance Amending Fairbanks General Code Chapter 74, Article IV Hotel/Motel Tax to Increase the Tax Rate and the City's Percentage. Introduced by Mayor Matherly. SECOND READING AND PUBLIC HEARING. Advanced from the Regular City Council Meeting of September 24, 2018.

Ms. Kun, seconded by **Ms. Therrien**, moved to POSTPONE Ordinance No. 6084 for 90 days.

Mr. Cleworth asked about the intent of postponing the ordinance. **Ms. Kun** stated it is her impression that the industry that would be taxed has not had an opportunity to be part of the

conversation. She stated everyone should have an opportunity to part of the discussion before moving forward.

Mayor Matherly spoke against postponement; he stated that the City needs a new source of revenue. He stated the proposed increase to City property tax was turned down, and it is the duty of the Council to keep the City safe and clean. He stated that City services need to be funded in order to keep the City running.

Ms. Rogers stated she would not support Ordinance No. 6084.

Ms. Therrien stated she spoke with the industry, and they are in favor of a work session to discuss the proposed increase to the hotel/motel tax.

Ms. Ottersten suggested the ordinance be postponed until after winter is over in order to get a clearer picture of where the City budget is at that time.

Ms. Kun, with the concurrence of the Second, moved to POSTPONE Ordinance No. 6084 until the first Regular Council Meeting in June 2019.

Mayor Matherly stated that the public hearing for Ordinance No. 6084 will be held at the first meeting in June 2019.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO POSTPONE ORDINANCE NO. 6084 TO THE FIRST REGULAR COUNCIL MEETING IN JUNE 2019, AS FOLLOWS:

YEAS: Rogers, Ottersten, Therrien, Kun
NAYS: Pruhs, Cleworth
Mayor Matherly declared the MOTION CARRIED.

NEW BUSINESS

- a) Resolution No. 4854 – A Resolution Stating the City of Fairbanks Legislative and Capital Priorities for 2019. Introduced by Mayor Matherly.

PASSED and APPROVED on the CONSENT AGENDA.

- b) Resolution No. 4855 – A Resolution Amending the City Schedule of Fees and Charges for Services by Increasing Ambulance Services Rates. Introduced by Council Member Ottersten.

PASSED and APPROVED on the CONSENT AGENDA.

- c) Ordinance No. 6090 – An Ordinance Ratifying a Collective Bargaining Agreement Between the City of Fairbanks and the International Brotherhood of Electrical Workers Local 1547. Introduced by Mayor Matherly.

ADVANCED on the CONSENT AGENDA.

- d) Ordinance No. 6091 – An Ordinance Amending the 2018 Operating and Capital Budgets for the Fourth Time. Introduced by Mayor Matherly.

ADVANCED on the CONSENT AGENDA.

- e) Ordinance No. 6092 – An Ordinance Adopting the 2019 Operating and Capital Budgets. Introduced by Mayor Matherly.

ADVANCED on the CONSENT AGENDA.

- f) Ordinance No. 6093 – An Ordinance Amending Fairbanks General Code Chapter 1 by Enacting Sections 1-21 through 1-28 Addressing Equal Rights. Introduced by Council Members Ottersten and Pruhs.

Ms. Therrien, seconded by **Ms. Kun**, moved to ADVANCE Ordinance No. 6093.

Ms. Therrien and **Ms. Kun** requested to be added as co-sponsors of the ordinance.

Ms. Ottersten stated that the ordinance tracks Juneau’s ordinance closely. She explained that the method for dealing with cases under the state’s equal rights amendment is time consuming, expensive, and cannot be done locally. She stated that often times discrimination happens to people who financially struggle or who are not able to leave their community for emotional reasons. She stated the City ordinance addresses those issues in a better way.

Mr. Pruhs stated he teaches real estate law which involves the federal Fair Housing Act (FHA). He stated parts of the FHA language is included in the ordinance as well as language to specifically address gender identity and gender expression. He stated the original FHA law was written in 1968 and needs to be updated. He stated that federal law is a better standard and is more systematic than state law. He encouraged everyone to sponsor the ordinance.

Mr. Cleworth stated he did not spend a lot of time studying the ordinance because it is only the first reading, and he had anticipated the Council would be focusing on the hotel/motel tax ordinance. He asked City Attorney Paul Ewers if the ordinance complies with case law. Attorney Ewers replied that he would need research further to answer Mr. Cleworth’s question.

Ms. Ottersten stated she could answer as an attorney. She stated that the Colorado case was against a state body that was empowered by the state to adjudicate, which was a key issue. She stated the case was decided because the state body showed bias prior to the court case. She stated that violations of Ordinance No. 6093 would be addressed at the Alaska State Court level. She added that remedies in the ordinance are limited and specific; she stated it does not put the City in the position of being the arbiter.

Mr. Ewers stated that a government ruling similar to the one in the Colorado case involving the cake baker and the State Human Rights Commission would not come up under Ordinance No. 6093.

Mr. Cleworth asked whether a religious organization would be protected under the ordinance if it refused to hire someone based on an issue such as same-sex marriage if that issue went against the fundamental beliefs of their religion. Mr. Ewers stated the City would not be making the

determination, and cases would be adjudicated in the court. He stated that organizations such as churches that have specific religious requirements for hiring would not be required to comply; he stated that he believes those cases would be covered by lawful practices.

Mr. Pruhs stated that a substitute ordinance may be drafted. He explained that the federal FHA exempts religious organizations so that they do not have to allow anyone in their housing who is not of their religion. He stated that there are protections for religious organizations. He indicated that the ordinance is a start, and they will meet again with the City Attorney to discuss possible changes.

Mr. Cleworth stated he is fascinated by the Harvard lawsuit involving Asian Americans. He indicated that the best candidate for a job should be the person hired.

Mr. Pruhs spoke to the employment section of the ordinance which mirrors federal law and exempts small businesses that employ less than 15 employees.

Ms. Ottersten pointed out that no matter what the City does, it is superseded by federal law. She stated that and the courts have to follow federal law and that the City can provide greater protections but not lesser.

Mr. Cleworth asked the City Attorney if the City would be able to avoid litigation resulting from the ordinance; Mr. Ewers stated that the ordinance provides for a private right of action, thus bypassing the City and going straight to the court. He spoke to the importance of thinking ahead in order to avoid potential litigation.

Ms. Rogers spoke to the emails received regarding the ordinance, and she requested to be added as a co-sponsor.

Ms. Therrien asked why the ordinance gives only 365 days to file a lawsuit; she stated that most statutes of limitation are two years. **Ms. Ottersten** stated that the ordinance allows for the longest period of time to file in the state; she stated that Juneau's ordinance allows 300 days, and the state allows 180 days. She stated that shorter timelines matter in these types of cases.

Mayor Matherly asked the Clerk to add his name as a co-sponsor of the ordinance.

A ROLL CALL VOTE WAS ON THE MOTION TO ADVANCE ORDINANCE NO. 6093 AS FOLLOWS:

YEAS: Kun, Ottersten, Therrien, Pruhs, Cleworth, Rogers

NAYS: None

Mayor Matherly declared the MOTION CARRIED.

DISCUSSION ITEMS

a) Committee Reports

Hotel/Motel Discretionary Fund Committee – **Ms. Rogers** reported on recent and upcoming meetings for the Hotel/Motel Discretionary Fund Committee. She also reported on recent meetings of the Housing and Homeless Coalition and the Opioid Task Force.

WRITTEN COMMUNICATIONS TO COUNCIL

- a) Hotel/Motel Discretionary Fund Committee Meeting Minutes of August 24, 2018

ACCEPTED on the CONSENT AGENDA.

- b) Appointment to the Board of Plumber Examiners

APPROVED on the CONSENT AGENDA.

COUNCIL MEMBERS' COMMENTS

Ms. Kun gave her condolences to the Walley family and stated Terry Walley was a pillar in the community. She thanked everyone that came together for the tree lightings in Fairbanks and in Anchorage, and she spoke to the aftermath of the recent earthquake near Anchorage. She wished everyone Happy Holidays and stated that it is the second night of Hanukkah.

Ms. Rogers stated she was glad that her elderly mother was safe during the earthquake in Anchorage and spoke to the importance of building regulations for public safety purposes. She commended the Anchorage community for coming together following the earthquake. She addressed challenges regarding funding for the community services patrol (CSP), and she spoke to the importance of everyone being willing to help their community address challenges.

Ms. Therrien apologized for missing the work session. In regard to the problem with Public Works employees getting stuck by needles while collecting garbage, she asked Mr. Ewers whether the Council could introduce an ordinance to increase the fine each time the same resident has a recurring violation regarding sharps. She stated that she hopes the employee who was recently stuck by a needle is okay. **Ms. Therrien** offered her condolences to the Walley family and commended the Anchorage community for holding it together during the earthquake.

Mr. Pruhs stated that he missed Mr. Buberger at the meeting. He acknowledged Mike Desmond for his many years of service on the City's Board of Plumber Examiners, and he commended the Mayor for his appointment to fill the upcoming vacancy on that Board. He thanked Ms. Ottersten and Mr. Ewers for all the work they put into Ordinance No. 6093, and he stated it was a pleasure working with them in such a professional capacity.

Mr. Cleworth asked the Clerk whether the reading of the Bill of Rights is scheduled for the next Council meeting; Ms. Snider replied affirmatively.

Ms. Ottersten stated she is grateful for how well Anchorage rode out the earthquake and the aftershocks. She stated that it is a good reminder to everyone to be prepared in case of an emergency. She stated when she spent the day on a City garbage truck, the driver was pointing out particular residences that have disposed of sharps improperly. She stated she was appalled by the way some people dispose of their garbage, and she stated that the enforcement of the City Code needs to increase. **Ms. Ottersten** asked Public Works Director Jeff Jacobson if his crew has offered better solutions for personal protective equipment (PPE). Mr. Jacobson stated he has implemented increased PPE, but they do decrease mobility and flexibility of workers. He stated that employees

are offered a full range of PPE, and they can choose which items they wear. **Ms. Ottersten** asked whether staff has identified any missing PPE items; Mr. Jacobson replied that to the best of his knowledge none has been identified.

CITY CLERK'S REPORT

City Clerk Snider reminded the Council that there would be no Finance Committee meeting the following morning.

Mr. Pruhs, seconded by **Ms. Ottersten**, moved to ENTER Executive Session for the purpose of discussing PSEA Labor Negotiations and the Roberts v. City of Fairbanks AMLJIA Coverage Appeal.

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

Mayor Matherly called for a brief recess.

EXECUTIVE SESSION

- a) PSEA Labor Negotiations
- b) Roberts V. City of Fairbanks, AMLJIA Coverage Appeal

The City Council met in Executive Session to discuss PSEA Labor Negotiations and Roberts v. City of Fairbanks AMLJIA Coverage Appeal. Direction was given to the negotiating team and to legal counsel, and no action was taken.

ADJOURNMENT

Ms. Kun, seconded by **Ms. Therrien**, moved to ADJOURN the meeting.

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

Mayor Matherly declared the meeting adjourned at 9:09 p.m.



JIM MATHERLY, MAYOR

ATTEST:



D. DANYELLE SNIDER, CMC, CITY CLERK

Transcribed by: EB