



FAIRBANKS CITY COUNCIL  
REGULAR MEETING MINUTES, FEBRUARY 25, 2019  
FAIRBANKS CITY COUNCIL CHAMBERS  
800 CUSHMAN STREET, FAIRBANKS, ALASKA

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The City Council convened at 6:30 p.m. on the above date, following a 5:30 p.m. Work Session for a public hearing on Ordinance No. 6093, as Amended, 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  
    Kathryn Ottersten, Seat D  
    Jerry Cleworth, Seat E  
    David Pruhs, Seat F

Absent:                                None

Also Present:                        Paul Ewers, City Attorney  
    D. Danyielle Snider, City Clerk  
    Jeff Jacobson, Public Works Director  
    Mike Meeks, Chief of Staff  
    Angela Foster-Snow, HR Director  
    Eric Jewkes, Police Chief  
    Jim Styers, Fire Chief  
    Teal Soden, Communication Director  
    Matt Soden, FPD Lieutenant  
    Dan Welborn, Deputy Police Chief

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 everyone to join him for the Flag Salutation.

**CITIZENS' COMMENTS**

Frank Tomaszewski, 135 Wilderness Drive, Fairbanks – Mr. Tomaszewski stated he has four sons and a daughter. He shared that everyone deserves to be treated with kindness, but he spoke in opposition to Ordinance No. 6093. He stated he is concerned with public accommodations when it comes to bathroom use.

Joshua Decker, Fairbanks – Mr. Decker stated he is the Executive Director of the American Civil Liberties Union (ACLU) of Alaska and spoke in favor of the ordinance passing without amendments. He stated gay and transgender people should not be discriminated against because of who they love. He stated the ordinance will not curtail freedom of religion, and the ACLU would not support something that would prohibit one's right to worship and pray the way they choose. He spoke to the history of his organization fighting all people's freedoms.

Annie Dougherty, 2216 Penrose Lane, Fairbanks – Ms. Dougherty spoke against Ordinance No. 6093 and stated it discriminates against the majority of people in Fairbanks. She stated the ordinance is being pushed by a radical activist party in order to pass sexual orientation and gender identity legislation, and she referred to it as bully politics. She stated the ordinance is not a human rights law; it gives privileges to certain people. She spoke to the reasons why she does not support the ordinance.

Claire Granger, 837 Amanita Road, Fairbanks – Ms. Granger stated she is a senior at Lathrop High School, and she came to speak in support of Ordinance No. 6093. She stated laws do not protect the LGBTQ community, and the ordinance needs to pass so everyone can enjoy liberties.

Rev. Tandi Rogers, 523 N.J. Street, Tacoma, Washington – Rev. Rogers stated she is in town from Tacoma, Washington. She stated that when her city passed its equal rights legislation, a wave of collaboration and creativity occurred in her community. She stated the ordinance passed in her community in the early 2000s, and it improved the quality of life for everyone.

Luke Szklarz, 2145-C Polar Wind Court, Eielson Air Force Base – Mr. Szklarz stated he moved to Alaska from Texas and that he planned to raise his family in Fairbanks. He stated, however, that the language in the ordinance gives him pause. He stated the ordinance discriminates against religious people, and he shared that he spoke to several ladies who will start to shop online if they have to share public restrooms with unsafe people.

Amy Faye Proctor, 2572 Carrie Lynn Drive, Fairbanks – Ms. Proctor stated she has lived in Fairbanks for 14 years and that there is no reason for the ordinance. She stated Phoenix and Sacramento have passed similar ordinances, and there has been no change other than separation in those communities.

Emily Marie Fleagle, 3413 White Spruce Drive, North Pole – Ms. Fleagle asked the Council not to pass the ordinance; she stated she does not want to share a restroom with a man. She stated she was concerned that a man using the same restroom may take advantage of her vulnerability.

Elizabeth Holm, 2454 San Augustin Drive, North Pole – Ms. Holm stated the ordinance discriminates against people because it forces businesses to hire people based on gender identity. She stated there is not a problem with transgender discrimination in the community, and if someone feels discriminated against they should call 9-1-1 like everyone else. Ms. Holm cried and stated she had to tell her daughter that the Fairbanks City Council is going to allow men in the bathroom. She stated the Council is removing her right as a mother to protect her child from harm. She stated the Council is proposing allowing perverts to use a young girl's bathroom.

Caleb Szklarz, 1506 Davison Street, North Pole – Mr. Szklarz stated he is not comfortable publicly speaking, but the issue is so important that he needs to speak. He relayed a story of a young girl being assaulted in the restroom as a result of a school’s transgender bathroom policy. He asked the Council to vote no on Ordinance No. 6093 because it is dangerous for women and children. Ms. Szklarz stated he has spoken to women who said they will start shopping online instead of in local stores if the Council passes the ordinance. He stated he has spoken to many fathers who are afraid to let their daughters enter a restroom for fear of a predator assaulting them in the bathroom. He stated the ordinance discriminates against Christians, and freedom of religion is a Constitutional right.

Grace Matthews, 561 Auburn Drive, Fairbanks – Ms. Matthews stated she was born in Fairbanks, and she will graduate from the University of Alaska Fairbanks (UAF) in the spring. She stated she worries about telling her landlord about the sex of her partner and stated the legislation is needed. She stated she has experienced discrimination, and it is the Council’s job to protect people that have no protections. She asked the Council to pass Ordinance No. 6093.

Shirley Lee, 457 Cindy Drive, Fairbanks – Ms. Lee voiced her support for the passage of Ordinance No. 6093. She stated as an Alaska Native woman, as a quasi-elder, and as an advocate for marginalized people, the ordinance is necessary. She stated that as late as the 1960s she saw signs in businesses around town that said, “No Natives Allowed”. Ms. Lee asked everyone to remember those signs when they attend the Fairbanks Native Association (FNA) potlatch. She stated that FNA was formed to allow Native people to be who they are without repercussions and that equal protection laws with exceptions do not allow for equal protections.

Rose O’Hara-Jolley, 1932 Kittiwake Drive, Fairbanks – Ms. O’Hara-Jolley spoke in support of Ordinance No. 6093. She stated she has shared with the public over the period of time the ordinance has been debated, and that real hate and discrimination has been placed upon her. She spoke to all the people who have sat in the chair to speak in support of the ordinance and to the few people who testified against it. She asked the Council to pass the ordinance.

Ryan Gray, 3155 Moominvalley Court, Fairbanks – Mr. Gray thanked the Council for the opportunity to speak at the meeting and asked them not to vote for the ordinance. He stated he wants to stay in Fairbanks, but is troubled by the values being placed upon him by the ordinance. He stated the Bible talks about Adam and Eve, a male and a female created by God. He stated no matter what a person perceives, they are scientifically either a man or a woman. He asked the Council to vote no on the ordinance.

Chris Carr, 2545-B Maria Street, Fairbanks – Ms. Carr asked the Council to vote yes on Ordinance No. 6093. She spoke of the murder of Matthew Shepard who was beaten and left tied to a fence to die because he was gay. She stated she did not come out until she moved to Fairbanks; she stated she is lucky because she has a great landlord and she works at UAF. Ms. Carr stated she would not lose her job or be kicked out of her home because of who she loves, and she thanked those who were brave enough to put themselves at risk by coming to testify and out themselves. She stated she wants Fairbanks to be a City where people feel safe and where kids know that they can grow up and love who they love. She asked the Council to pass the ordinance.

Dana Lewis, 401 Lathrop Street, Fairbanks – Ms. Lewis stated she is a bisexual Black woman but that she is not sure of her gender. She stated she has known people who were rejected by their parents when they came out, and she is glad to have a good family. She stated she should not have to tolerate discrimination. She stated she is accepting of others' religious freedom, but their freedom has to stop when they shun others for being who they are. She stated she has family members who were not allowed to use restrooms because of the color of their skin.

Florie Wilcoxson, 3140 College Road, Fairbanks – Ms. Wilcoxson asked the Council to use careful consideration as they move forward. She stated the ordinance opens the door for people who have bad plans for women and children. She stated there have been incidents of rape in restrooms in other cities because of this type of legislation and that the City of Fairbanks does not want that to happen. She stated actions come from inside of people, and the ordinance will not force people to be nice.

Eleanor Adasiak, 519 Bonifield Street, Fairbanks – Ms. Adasiak stated she is a sophomore at Lathrop High School and that she is afraid to speak because she is gay. She stated she understands the discrimination of the LGBTQ community. She stated it is not responsible to reduce the issue down to a matter of faith because nobody deserves to be discriminated against.

Kara Carlson, 782 7th Avenue, Fairbanks – Ms. Carlson stated she wants to live in a community where everyone is equally respected. She stated she has dedicated her life to sexual assault prevention and intervention and that Alaska has two times the national average for sexual assaults. She quoted statistics about sexual assaults within the LGBTQ community. She explained that sexual violence has been going on for a long time, and it is not a result of shared restrooms. Ms. Carlson stated there is already a problem with sexual violence in the community, and that issue should be discussed instead of concerns regarding restrooms. She asked what would happen if people simply loved their neighbor and left judgement up to a higher power.

Becky Anderson, 3752 Mariposa Lane, Fairbanks – Ms. Anderson stated she is a Christian who loves God. She stated she is a compassionate human being, and she has supported the ordinance since it was spoken about at the December 10 meeting. She stated she is tired of hearing people claim that they are Christians while being so hateful. She stated the ordinance is not an assault on Christianity; rather, it gives everyone equal protection.

**Mayor Matherly** declared Citizens' Comments closed as the time was 7:30 p.m.

### **APPROVAL OF AGENDA AND CONSENT AGENDA**

**Ms. Therrien**, seconded by **Ms. Kun**, moved to APPROVE the Agenda and Consent Agenda.

Chief of Staff Mike Meeks recommended that FFU Labor Negotiations be pulled from Executive Session. **Mayor Matherly** requested that the item be pulled from the agenda, and no Council Members objected.

**Mayor Matherly** called for objection to APPROVING the Agenda, as Amended, and, hearing none, so ORDERED.

City Clerk Snider read the Consent Agenda into the record.

**APPROVAL OF PREVIOUS MINUTES**

- a) Regular Meeting Minutes of September 24, 2018

APPROVED on the CONSENT AGENDA

**SPECIAL ORDERS**

- a) The Fairbanks City Council heard interested citizens concerned with the following Liquor License Applications for Renewal:

Lic. #	DBA	License Type	Licensee	Premises Address
4763	Bobby's Downtown	Beverage Dispensary	Delta Epsilon, Inc.	609 2nd Avenue
5262	Aha Oriental Kitchen	Restaurant/ Eating Place	Moonstone, LLC	996 Blair Road
2258	Regency Hotel	Beverage Dispensary – Tourism	Pacific Rim Associates I, Inc.	95 10th Avenue
4314	Gallo's Mexican Restaurant	Beverage Dispensary	Northern Lights Business, Inc.	60 College Road
3336	Soapy Smith's Pioneer Restaurant	Restaurant/ Eating Place	Nicholas V. Stepovich	543 2nd Avenue
5585	Jazz Bistro on 4th	Restaurant/ Eating Place	Bluenote Create, Inc.	527 4th Avenue, Suite B

**Mr. Pruhs**, seconded by **Ms. Therrien**, moved to WAIVE PROTEST on the Liquor License Applications for Renewal.

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

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO WAIVE PROTEST ON THE LIQUOR LICENSE APPLICATIONS FOR RENEWAL AS FOLLOWS:

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

NAYS: None

**Mayor Matherly** declared the MOTION CARRIED.

**MAYOR'S COMMENTS AND REPORT**

**Mayor Matherly** stated that he had an intense week working in Juneau the week prior, and he warned the Council of future cuts to State revenue sharing. He recognized Jack Coghill for being such an asset to the State of Alaska, and he offered condolences to his family.

## COUNCIL MEMBERS' COMMENTS

**Mx. Ottersten** requested a brief recess. **Mayor Matherly** stated there will be a recess following Council Members' Comments.

**Mr. Cleworth** thanked everyone for coming out, for waiting hours to testify, and for having such passion about the topic. He stated he has been around for a few years, and he has never seen anything like it. He added that the Council is trying to do their best.

**Mr. Pruhs** stated he had no comments.

**Ms. Therrien** stated she had no comments.

**Ms. Rogers** thanked everyone for coming out have their voices heard, and she shared that it was encouraging to have so many people show interest in the community. She stated she appreciates everyone's opinions and how much research people have been doing on the ordinance.

**Ms. Kun** thanked everyone for coming out to testify and commented on the bravery of those who have actually come out at the meetings. She thanked everyone who provided statistics about issues and stated that they are heard. She expressed hope that everyone can move forward.

**Mayor Matherly** called for a ten-minute recess. The meeting reconvened after a brief recess.

## UNFINISHED BUSINESS

- a) Ordinance No. 6093, as Amended – An Ordinance Amending FGC Chapter 1 by Adding Sections 1-21 through 1-28 Addressing Equal Rights. Introduced by Council Members Ottersten, Kun, Therrien, Rogers, and Mayor Matherly. POSTPONED from the Regular Meeting of December 10, 2018; a public hearing was held at that time.

*The motion to ADOPT Ordinance No. 6093, as Amended, made by Ms. Kun and seconded by Mx. Ottersten, was on the floor from the Regular Meeting of December 10, 2018.*

**Ms. Therrien**, seconded by **Mr. Cleworth**, moved to AMEND Ordinance No. 6093, as Amended, by incorporating ministerial amendments 1 through 11 from the list of suggested amendments.

The ministerial amendments were as follows:

1. Section 1-22(a)(2). Strike "of any applicant or member" at the end of the sentence.
2. Section 1-22(a)(5). Change "the student's race, color . . ." to "their race, color . . ."
3. Section 1-22(b). Change the 4th word in the 1st sentence from "chapter" to "section".
4. Section 1-25(a), 1st sentence. Strike "this chapter" and replace with "Sec. 1-22 or Sec. 1-23".
5. Section 1-25(c). Strike "and this Section".
6. Section 1-25(d), 2nd sentence. Replace "this chapter" with "Sec. 1-23".
7. Section 1-25(e). Replace "this chapter" with "Sec. 1-22".

8. Section 1-25(g). Replace “this chapter” with “Sec. 1-23 or Sec. 1-24”.
9. Section 1-26(1). Replace “this chapter” with “Sec. 1-22, Sec. 1-23, or Sec. 1-24”.
10. Section 1-26(2). Replace “this chapter” with “Sec. 1-22, Sec. 1-23, or Sec. 1-24”.
11. Section 1-28. Replace “this chapter” with “Sections 1-21 through 1-27”.

**Ms. Kun** pointed out that amendments 1 through 11 are housekeeping items.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO AMEND ORDINANCE NO. 6093, AS AMENDED, BY INCORPORATING MINISTERIAL AMENDMENTS 1 THROUGH 11 FROM THE LIST OF SUGGESTED AMENDMENTS AS FOLLOWS:

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

NAYS: None

**Mayor Matherly** declared the MOTION CARRIED.

**Mx. Ottersten**, seconded by **Ms. Therrien**, moved to AMEND Ordinance No. 6093, as Amended, by striking the definition of “Familial status” in Section 1-28 and amending the list of bases for unlawful discrimination in the 1st whereas clause and in the two instances in Section 1-21 to read, “...race, color, age, religion, sex, marital status, changes in marital status, pregnancy, parenthood, disability, sexual orientation, gender identity, gender expression, ethnicity, or national origin...”.

**Mr. Cleworth** stated the amendment is consistent with state and federal law.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO AMEND ORDINANCE NO. 6093, AS AMENDED, BY STRIKING THE DEFINITION OF “FAMILIAL STATUS” IN SECTION 1-28 AND AMENDING THE LIST OF BASES FOR UNLAWFUL DISCRIMINATION IN THE 1ST WHEREAS CLAUSE AND IN THE TWO INSTANCES IN SECTION 1-21 TO READ, “...RACE, COLOR, AGE, RELIGION, SEX, MARITAL STATUS, CHANGES IN MARITAL STATUS, PREGNANCY, PARENTHOOD, DISABILITY, SEXUAL ORIENTATION, GENDER IDENTITY, GENDER EXPRESSION, ETHNICITY, OR NATIONAL ORIGIN...” AS FOLLOWS:

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

NAYS: None

**Mayor Matherly** declared the MOTION CARRIED.

**Mx. Ottersten**, seconded by **Ms. Kun**, moved to AMEND Ordinance No. 6093, as Amended, by striking subsection (c) from Section 1-23.

**Mx. Ottersten** stated the State of Alaska did not incorporate two of the five exemptions from the Fair Housing Act, and they should not be incorporated in the ordinance.

**Mr. Pruhs** stated it is federally covered; **Mx. Ottersten** stated the “Ms. Murphy” exception was not accepted by the State of Alaska and should not be covered by the City of Fairbanks. **Mr. Pruhs** stated LGBTQ people are protected under federal law, and the Council did not need to make changes to the ordinance. **Mx. Ottersten** explained the need for LGBTQ protections.

**Mr. Cleworth** requested that the Council address amendments in order moving forward.

**Ms. Kun** stated that gender identity and gender expression needs to be protected under the ordinance.

**Mr. Cleworth** spoke against the amendment.

**Mr. Pruhs** stated the federal government states that there are no protected classes in one's home and that anyone can live with whomever they choose.

**Mx. Ottersten** encouraged the Council to change the language so that it would apply to a three-family dwelling or larger.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO AMEND ORDINANCE NO. 6093, AS AMENDED, BY STRIKING SUBSECTION (c) FROM SECTION 1-23 AS FOLLOWS:

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

**Mr. Cleworth** seconded by **Mr. Pruhs**, moved to AMEND Ordinance No. 6093, as Amended, by adding the sentence, "Employers may establish dress code policies that are consistently used for all employees." immediately prior to the religious exemption in Section 1-22(b).

**Mr. Cleworth** spoke in favor of employers being able to establish dress code policies. He stated that the word "may" does not require them to establish a dress code policy.

**Mx. Ottersten** asked Mr. Cleworth if an employer could fire someone who is in transition for a gender reassignment. **Mr. Cleworth** stated the ordinance is only addressing policy and that it does not change current federal protections.

**Mx. Ottersten** stated they are concerned about going backwards; they indicated that people have a right to dress the way they choose.

**Ms. Therrien** asked City Attorney Paul Ewers if the proposed language would allow an employer to fire an employee going through gender reassignment procedures. Mr. Ewers that there is a case pending review by the U.S. Supreme Court to address that issue. **Ms. Therrien** stated she shared Mx. Ottersten's concern about someone losing their job while transitioning.

**Ms. Kun** asked a hypothetical question about the liability the City takes on by stating that businesses may establish a dress code. She stated it is not the Council's job to tell businesses that they may have a dress code. Mr. Ewers advised that the term "may" is only advisory.

**Ms. Rogers** asked what changed Mx. Ottersten's mind about the language. **Mx. Ottersten** shared that people should be able to dress the way they want without fear of losing their job.



**Mayor Matherly** stated small business owners and landlords need to educate themselves on rules for operating a business.

**Mr. Cleworth** stated most businesses have policies, and if the language can help avoid one lawsuit, it is a good thing.

**Mr. Pruhs** stated there is theory and reality; he stated, in theory, anyone can be sued for anything and that he does not believe this issue is going to cause any problems.

**Ms. Rogers** stated given further discussion that she feels it is unnecessary to add the language because it is a business owner's responsibility to learn the rules. She stated she would vote in favor of the motion, but she finds it unnecessary to school business owners.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO AMEND ORDINANCE NO. 6093, AS AMENDED, BY ADDING THE SENTENCE, "EMPLOYERS MAY ESTABLISH DRESS CODE POLICIES THAT ARE CONSISTENTLY USED FOR ALL EMPLOYEES." IMMEDIATELY PRIOR TO THE RELIGIOUS EXEMPTION IN SECTION 1-22(b) AS FOLLOWS:

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

**Mr. Cleworth**, seconded by **Mr. Pruhs**, moved to AMEND Ordinance No. 6093, as Amended, by striking the religious exemption in Section 1-22(b) and adding new subsection (c) to read, "This section shall not apply to a religious corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities."

**Ms. Kun** spoke to the wordiness of the amendment, and she spoke in opposition to it.

**Mr. Pruhs** stated he supports the amendment, and it is in alignment with federal law.

**Ms. Therrien** stated she prefers the language in suggested amendment number four on the list.

**Mx. Ottersten** stated that as decisions come down from the Supreme Court, the ordinance will have outdated language; they spoke against the amendment for the sake of simplicity.

**Mayor Matherly** stated that what could happen down the road at the federal level has not happened yet. He implored the Council to agree on some type of religious exemption.

**Ms. Rogers** asked Mr. Ewers to speak to the amendment language. Mr. Ewers stated the language in suggested amendment number four states the obvious, that state and federal constitutional protections shall not be abridged. In regard to suggested amendment number five, Mr. Ewers stated that the language has been through a number of court cases and has been

analyzed by a number of fact patterns. He stated that court decisions give guidance as to what the language covers and does not cover.

**Mr. Pruhs** encouraged the Council to approve the proposed amendment.

**Ms. Therrien** stated that amendment number four includes religious protections for individuals, whereas amendment number five speaks only to religious corporations, associations, educational institutions, or societies. She stated she believes amendment four is broader, and that is why she supports it.

**Mr. Cleworth** stated it is hard to anticipate all the laws that may change based on court decisions. He stated amendment number five is definitive and needs to be included.

**Ms. Kun** stated she would like to see a list of definitions added to the ordinance; she specifically questioned the definition of religious corporations, associations, educational institutions, or societies.

**Mx. Ottersten** asked Mr. Ewers if he could find the definitions of the terms as defined in federal law. Mr. Ewers indicated he could do the research. **Mx. Ottersten** stated they are comfortable with the proposed amendment as long as federal law definitions are referenced in the ordinance.

**Ms. Therrien** asked if the Council would entertain amending the amendment to include both suggested amendments, numbers four and five.

**Mr. Cleworth**, with the concurrence of the Second, moved to AMEND the motion to amend by adding to the end of the section that “Nothing in this section shall abridge any state or federal constitutional protections for freedom of religion.” There was no objection.

**Mr. Cleworth** stated the ordinance could be amended to add reference to federal law definitions.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO AMEND ORDINANCE NO. 6093, AS AMENDED, BY STRIKING THE RELIGIOUS EXEMPTION IN SECTION 1-22(b) AND ADDING NEW SUBSECTION (c) TO READ, “THIS SECTION SHALL NOT APPLY TO A RELIGIOUS CORPORATION, ASSOCIATION, EDUCATIONAL INSTITUTION, OR SOCIETY WITH RESPECT TO THE EMPLOYMENT OF INDIVIDUALS OF A PARTICULAR RELIGION TO PERFORM WORK CONNECTED WITH THE CARRYING ON BY SUCH CORPORATION, ASSOCIATION, EDUCATIONAL INSTITUTION, OR SOCIETY OF ITS ACTIVITIES. NOTHING IN THIS SECTION SHALL ABRIDGE ANY STATE OR FEDERAL CONSTITUTIONAL PROTECTIONS FOR FREEDOM OF RELIGION.” AS FOLLOWS:

YEAS: Therrien, Rogers, Pruhs, Ottersten, Cleworth

NAYS: Kun

**Mayor Matherly** declared the MOTION CARRIED.

**Mr. Cleworth**, seconded by **Mr. Pruhs**, moved to AMEND Ordinance No. 6093, as Amended, by adding new subsection (d) to Section 1-24 to read, “Disputes arising from this section must be

resolved with tolerance, without undue disrespect to sincere religious beliefs, and without subjecting persons of certain race, color, age, etc. to indignities when they seek goods or services on the open market.”

**Mr. Cleworth** stated the language is almost identical to Justice Kennedy’s statement in the Colorado case involving the cake baker. **Mr. Cleworth** stated that with tolerance, some problems may be avoided.

**Ms. Therrien** questioned what public accommodation includes. **Mx. Ottersten** stated public accommodation includes any business the public is welcome to patronize. **Ms. Therrien** stated that, in the spirit of compromise, she did not have a problem with the proposed amendment.

**Mx. Ottersten** stated they are not comfortable with the word “must” in the proposed amendment; they suggested the word “must” be changed to “should”. **Ms. Rogers** agreed.

**Mr. Cleworth**, with the concurrence of the Second, moved to AMEND the motion to amend by changing the word “must” to “should”. There was no objection.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO AMEND ORDINANCE NO. 6093, AS AMENDED, BY ADDING NEW SUBSECTION (d) TO SECTION 1-24 TO READ, “DISPUTES ARISING FROM THIS SECTION SHOULD BE RESOLVED WITH TOLERANCE, WITHOUT UNDUE DISRESPECT TO SINCERE RELIGIOUS BELIEFS, AND WITHOUT SUBJECTING PERSONS OF CERTAIN RACE, COLOR, AGE, ETC. TO INDIGNITIES WHEN THEY SEEK GOODS OR SERVICES ON THE OPEN MARKET.” AS FOLLOWS:

YEAS: Ottersten, Cleworth, Rogers, Kun, Therrien, Pruhs  
NAYS: None  
**Mayor Matherly** declared the MOTION CARRIED.

**Ms. Therrien** seconded by **Mx. Ottersten**, moved to AMEND Ordinance No. 6093, as Amended, Section 1-25(d) by replacing the words “this chapter” with “Sec. 1-23” in the first sentence; by replacing in both instances where it appears the phrase “a religious organization, association, or society” with the phrase, “a religious organization”; by replacing “a nonprofit institution or organization” with “a nonprofit institution”; and by changing “a person” to “persons”.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO AMEND ORDINANCE NO. 6093, AS AMENDED, SECTION 1-25(d) BY REPLACING THE WORDS “THIS CHAPTER” WITH “SEC. 1-23” IN THE FIRST SENTENCE; BY REPLACING IN BOTH INSTANCES WHERE IT APPEARS THE PHRASE “A RELIGIOUS ORGANIZATION, ASSOCIATION, OR SOCIETY” WITH THE PHRASE, “A RELIGIOUS ORGANIZATION”; BY REPLACING “A NONPROFIT INSTITUTION OR ORGANIZATION” WITH “A NONPROFIT INSTITUTION”; AND BY CHANGING “A PERSON” TO “PERSONS” AS FOLLOWS:

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

**Mayor Matherly** declared the MOTION CARRIED.

**Mayor Matherly** asked the Council if they wished to act upon suggested amendments nine and ten. No members requested action on amendments nine and ten.

**Ms. Therrien**, seconded by **Ms. Kun**, moved to AMEND Ordinance No. 6093, as Amended, Section 1-27(a) by changing the number “365” to “300”.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO AMEND ORDINANCE NO. 6093, AS AMENDED, SECTION 1-27(a) BY CHANGING THE NUMBER “365” TO “300” AS FOLLOWS:

YEAS: Kun, Ottersten, Pruhs, Cleworth, Rogers

NAYS: Therrien

**Mayor Matherly** declared the MOTION CARRIED.

**Mr. Cleworth**, seconded by **Mr. Pruhs**, moved to AMEND Ordinance No. 6093, as Amended, Section 1-27(a) by adding to the end of the sentence, “...if recourse is not available through the EEOC or the State of Alaska Human Rights Commission.”

**Ms. Therrien** stated that the State of Alaska Human Rights Commission (AHRC) does not protect LGBTQ individuals, so she would not be voting in favor of the amendment.

**Mr. Cleworth** stated he was perplexed as to why the only recourse provided for was to go to the courts and stated he believes there are other remedies available. He stated he called the Equal Employment Opportunity Commission (EEOC) the other day, and he was on hold for 110 minutes. He stated he spoke to a person named Alex who relayed that the EEOC takes cases for LGBTQ individuals, although Alex would not verify the information in writing or provide him with a superior’s phone number. **Mr. Cleworth** read EEOC’s statement which states that they deal with cases of employment discrimination including those based on gender identity or sexual orientation. **Mr. Cleworth** stated the AHRC also provides recourse for LGBTQ individuals, and he encouraged people to use the agencies as a resource rather than going to court.

**Ms. Kun** stated the fact that Mr. Cleworth was on hold for 110 minutes with the EEOC proves that they are not protecting those who need protection; she added that if someone has been traumatized they should not have to wait on hold. She stated she is concerned with the EEOC’s ever-changing regulation language, and it is possible the EEOC will not be around forever.

**Mx. Ottersten** stated they have a problem requiring people to use resources that are 350 – 3000 miles away from Fairbanks; they stated that is not an option for all people, and that process can take years. They stated that the option to file a case locally is preferable. **Mx. Ottersten** stated that requiring people to take their cases to the EEOC is contrary to the intent of the ordinance.

**Mr. Pruhs** stated that one of the fears of people who oppose the ordinance is that lawsuits can easily be filed. He stated the amendment just gives people an avenue for arbitration by the EEOC if they are discriminated against. He stated the amendment alleviates fears of litigation.

**Mr. Cleworth** asked Mr. Ewers whether a person could still file a lawsuit at any time if the amendment is adopted; Mr. Ewers replied affirmatively. **Mr. Cleworth** stated the ordinance gives other options before going directly to a lawsuit. He stated it is a free country, and anyone can file a lawsuit at any time.

**Ms. Therrien** stated she could not support the amendment because if a motion for an expedited case went to the court, it would not take a long time to have a hearing. She stated she believes the EEOC and AHRC timeline would be a lot longer.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO AMEND ORDINANCE NO. 6093, AS AMENDED, SECTION 1-27(a) BY ADDING TO THE END OF THE SENTENCE, "...IF RECOURSE IS NOT AVAILABLE THROUGH THE EEOC OR THE STATE OF ALASKA HUMAN RIGHTS COMMISSION." AS FOLLOWS:

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

**Ms. Rogers** requested to change her vote on a previous amendment regarding dress code.

**Mayor Matherly** called for a brief recess and indicated that the Clerk and Attorney would look into proper procedure for Ms. Rogers' request.. The meeting reconvened after a brief recess.

**Ms. Therrien**, seconded by **Mx. Ottersten**, moved to AMEND Ordinance No. 6093, as Amended, Section 1-28, by striking the definition of "Employer" and rewriting the definition to read, "*Employer* includes any person who employs 4 or more persons for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, exclusive of that employer's parents, spouse, or children, but does not include a club that is exclusively social, or a fraternal, charitable, educational, or religious association or corporation, if the club, association, or corporation is not organized for private profit."

**Mr. Pruhs**, seconded by **Mr. Cleworth**, moved to AMEND the motion to amend by changing the number 4 to 15.

**Mr. Pruhs** stated the Council agreed to the language in December and wondered what changed. He stated he would like the number to be 15, and that will determine whether he supports the ordinance.

**Mx. Ottersten** stated the number is a compromise.

**Ms. Kun** stated there is a public safety concern. She asked Mr. Pruhs why the number 15 is a deal breaker for him. **Mr. Pruhs** stated it is about consistency with the federal standard. He stated he does not understand why the Council is going out of the bounds of what they agreed to previously.

**Mx. Ottersten** stated since the first reading on December 10, many letters, emails and phone calls have come from people, some who have lost their jobs because of their lifestyle. **Mx.**

**Ottersten** stated working one-on-one with a person is different than having several employees, and that is the basis for the number. They stated when they ran their business they had all sorts of people working for them and they emphasized hiring the best person for the job. They stated some employers have admitted that they already violate state law and do not follow proper hiring practices.

**Ms. Rogers** stated she believes in personal responsibility and stated that she would be in favor of lowering the number to one. In response to Mr. Pruhs' earlier question, she stated that the Council was given a lot more insight since the December 10 meeting, and that is what had changed. She stated that just because the federal standard has been used throughout the ordinance does not mean it has to be used with in this particular amendment. She indicated that "a little bit wrong" is not okay.

**Mx. Ottersten** stated they are in favor of a lower number, but the number 4 came about in an effort to compromise and to be in line with Juneau's ordinance.

**Mr. Cleworth** stated that even the Fairbanks Diversity Council did not vote unanimously on lowering the number. He stated that he struggles with the number issue, but he likes the consistency in following the federal law standard.

**Mr. Therrien** stated the whole point of the ordinance was to not discriminate. She stated that she understands the argument that the number should be 1; she stated she believes 15 is too many. She expressed support for 4 as a compromise. **Ms. Therrien** stated she hopes small businesses would not be impacted too much if the Council agrees to the number 4.

**Mayor Matherly** read aloud the amendment on the floor and asked for further discussion.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO AMEND THE MOTION TO AMEND BY CHANGING THE NUMBER 4 TO 15 AS FOLLOWS:

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

**Ms. Kun** stated that some folks she has spoken with believe some Council Members will not support the ordinance regardless of compromises made. She spoke in support of changing the number to 1 and stated that a little bit of discrimination is not okay.

**Ms. Kun**, seconded by **Ms. Rogers**, moved to AMEND the motion to amend by changing the number 4 to 1.

**Mr. Pruhs** stated there is a difference between not supporting something and calling for a veto. He stated the Council is now entering into that territory.

**Mx. Ottersten** stated it has been 30 years since transitioning, and it has been 30 years of people being uncomfortable with it. They stated that there is a lot of strife in the country, and it comes

back to a safety issue. They stated that they do not want to see anyone hurt. They agreed that a little discrimination is not okay, but they are willing to compromise with the number four.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO AMEND THE MOTION TO AMEND BY CHANGING THE NUMBER 4 TO 1 AS FOLLOWS:

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

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO AMEND ORDINANCE NO. 6093, AS AMENDED, SECTION 1-28, BY STRIKING THE DEFINITION OF "EMPLOYER" AND REWRITING THE DEFINITION TO READ, "*EMPLOYER* INCLUDES ANY PERSON WHO EMPLOYS 4 OR MORE PERSONS FOR EACH WORKING DAY IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT OR PRECEDING CALENDAR YEAR, EXCLUSIVE OF THAT EMPLOYER'S PARENTS, SPOUSE, OR CHILDREN, BUT DOES NOT INCLUDE A CLUB THAT IS EXCLUSIVELY SOCIAL, OR A FRATERNAL, CHARITABLE, EDUCATIONAL, OR RELIGIOUS ASSOCIATION OR CORPORATION, IF THE CLUB, ASSOCIATION, OR CORPORATION IS NOT ORGANIZED FOR PRIVATE PROFIT." AS FOLLOWS:

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

**Mayor Matherly** stated that amendments 16 and 17 do not need to be addressed. He asked whether the Council would like to address amendment 18. No members requested action on amendment 18.

**Mayor Matherly** asked Mr. Ewers whether a determination had been made as to procedure regarding Ms. Rogers' request to change her vote on a previous amendment. Mr. Ewers stated that Ms. Rogers may move to reconsider the amendment since she voted in the affirmative on that original motion; he stated four affirmative votes of the Council are required to allow reconsideration.

**Ms. Rogers**, seconded by **Ms. Kun**, moved to RECONSIDER the motion to amend Ordinance No. 6093, as Amended, by adding the sentence, "Employers may establish dress code policies that are consistently used for all employees." immediately prior to the religious exemption in Section 1-22(b).

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO RECONSIDER THE MOTION TO AMEND ORDINANCE NO. 6093, AS AMENDED, BY ADDING THE SENTENCE, "EMPLOYERS MAY ESTABLISH DRESS CODE POLICIES THAT ARE CONSISTENTLY USED FOR ALL EMPLOYEES." IMMEDIATELY PRIOR TO THE RELIGIOUS EXEMPTION IN SECTION 1-22(b) AS FOLLOWS:

YEAS: Rogers, Kun, Ottersten, Therrien

NAYS: Cleworth, Pruhs  
**Mayor Matherly** declared the MOTION CARRIED.

**Mr. Cleworth** stated he does not understand why this particular issue is controversial. He stated the language would only advise employers to have good practices and policies which may help them avoid litigation.

**Ms. Therrien** stated the amendment is not necessary and could allow an employee to lose their job if they go through a gender transition.

**Mr. Cleworth** argued that the amendment does not really change anything. He stated that the amendment is an effort to prevent litigation by advising business owners to have a policy.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO AMEND ORDINANCE NO. 6093, AS AMENDED, BY ADDING THE SENTENCE, "EMPLOYERS MAY ESTABLISH DRESS CODE POLICIES THAT ARE CONSISTENTLY USED FOR ALL EMPLOYEES." IMMEDIATELY PRIOR TO THE RELIGIOUS EXEMPTION IN SECTION 1-22(b) AS FOLLOWS:

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

**Mr. Cleworth** stated that Mr. Ewers had been looking into definition language for a religious corporation, association, educational institution, or society. Mr. Ewers stated that he had drafted some language, and he read it aloud.

**Mr. Cleworth**, seconded by **Ms. Therrien**, moved to AMEND Ordinance No. 6093, as Amended, by inserting into the next to the last paragraph of Section 1-28 a new paragraph to read, "As used in Section 1-22(b), the terms *religious corporation, association, educational institution, or society* shall have the same meaning as under applicable federal law.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO AMEND ORDINANCE NO. 6093, AS AMENDED, BY INSERTING INTO THE NEXT TO THE LAST PARAGRAPH OF SECTION 1-28 A NEW PARAGRAPH TO READ, "AS USED IN SECTION 1-22(b), THE TERMS *RELIGIOUS CORPORATION, ASSOCIATION, EDUCATIONAL INSTITUTION, OR SOCIETY* SHALL HAVE THE SAME MEANING AS UNDER APPLICABLE FEDERAL LAW AS FOLLOWS:

YEAS: Therrien, Rogers, Pruhs, Ottersten, Kun, Cleworth  
NAYS: None  
**Mayor Matherly** declared the MOTION CARRIED.

**Ms. Therrien** thanked everyone who attended, testified, and sent emails to the Council in regard to Ordinance No. 6093. She stated she hopes the Mayor will not veto if it is adopted.



**Ms. Kun** thanked everyone who came out to have their voices heard and thanked the City Clerk for keeping everything straight.

**Mr. Cleworth** expressed concern with litigation. He stated he does not like it that people may move directly to a lawsuit.

**Mx. Ottersten** said they are proud of the Council and thanked members for the hard work they put into the ordinance.

**Ms. Rogers** thanked everyone in the community for participating in the process. She spoke to Fairbanks being a family, and she spoke to moving forward in a compassionate way.

**Ms. Therrien**, in response to Mr. Cleworth's concerns about litigation, stated she does not believe attorneys want to end up in court. She stated she believes legal disputes may be resolved by way of settlements.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO ADOPT ORDINANCE NO. 6093, AS AMENDED, AS FOLLOWS:

YEAS: Ottersten, Rogers, Kun, Therrien

NAYS: Cleworth, Pruhs

**Mayor Matherly** declared the MOTION CARRIED and Ordinance No. 6093, as Amended, ADOPTED.

**Mayor Matherly** called for a brief recess and reminded everyone that the doors to City Hall are locked. The meeting reconvened after a brief recess.

- b) Ordinance No. 6094 – An Ordinance Approving the FAST Planning Inter-Governmental Operating Agreement. Introduced by Mayor Matherly and Council Member Cleworth. POSTPONED from the Regular Meeting of February 11, 2019; a public hearing was held at that time.

*A motion to ADOPT Ordinance No. 6094, made by Mr. Cleworth and seconded by Mx. Ottersten, was on the floor from the Regular Meeting of February 11, 2019.*

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO ADOPT ORDINANCE NO. 6094 AS FOLLOWS:

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

NAYS: None

**Mayor Matherly** declared the MOTION CARRIED and Ordinance No. 6094 ADOPTED.

- c) Ordinance No. 6095 – An Ordinance Authorizing the Lease of Real Property and Easement to SprintCom, Inc. for Siting of Communications Service Equipment Within the Weeks Field Cell Tower Lease Site. Introduced by Mayor Matherly. SECOND READING AND PUBLIC HEARING.

**Ms. Therrien**, seconded by **Mx. Ottersten**, moved to ADOPT Ordinance No. 6095.

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

City Attorney Paul Ewers stated this is something that former City Property Manager Pat Smith had been working on, and it is a tiny plot of land they plan to collocate on the existing cell tower. He explained that it is a lease within a lease.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO ADOPT ORDINANCE NO. 6095 AS FOLLOWS:

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

NAYS: None

**Mayor Matherly** declared the MOTION CARRIED and Ordinance No. 6095 ADOPTED.

### **NEW BUSINESS**

- a) Resolution No. 4866 – A Resolution Urging the FMATS Policy Board to Approve Certain Amendments to the FAST Planning Intergovernmental Operating Agreement. Introduced by Council Member Cleworth

PASSED and APPROVED on the CONSENT AGENDA.

- b) Ordinance No. 6096 – An Ordinance to Amend Fairbanks General Code Sections 2-87 and 2-115 Regarding Council Member Absences and Telephonic Participation at Meetings. Introduced by Council Member Cleworth.

ADVANCED on the CONSENT AGENDA.

### **DISCUSSION ITEMS**

- a) Committee Reports

Fairbanks Diversity Council (FDC) – **Ms. Rogers** stated the FDC met recently and discussed review of the Diversity Action Plan (DAP).

Legislative Committee – **Ms. Therrien** stated that members of the Legislative Committee met separately with Yuri Morgan, and he briefed members on what was happening in Juneau. **Mayor Matherly** commented that Yuri is well-respected, and he does a lot of hard work for the City of Fairbanks.

### **WRITTEN COMMUNICATIONS TO COUNCIL**

- a) Clay Street Cemetery Commission Meeting Minutes of January 2, 2019

ACCEPTED on the CONSENT AGENDA.

b) Fairbanks Diversity Council Meeting Minutes of January 8, 2019

ACCEPTED on the CONSENT AGENDA.

### COUNCIL MEMBERS' COMMENTS

**Ms. Therrien** stated she and Ms. Rogers recently had the opportunity to go inside the 100' x 100' tank at Fairbanks Natural Gas (FNG). She said goodbye to Jack Coghill and stated he was a wonderful person.

**Ms. Rogers** spoke kindly of Jack Coghill who was a great leader with a tremendous amount of perspective on a wide variety of topics. She stated it has been a wonderful meeting.

**Ms. Kun** recited the Native land acknowledgement and stated that she would like it to be read at Council meetings. She welcomed the Festival of Native Arts as Black History Month closes out.

**Mx. Ottersten** stated they attended a seminar at the Morris Thompson Cultural and Visitors Center, and it was one of the best they have attended. They stated they are grateful to be present.

**Mr. Cleworth** stated the Fairbanks Police Department (FPD) was involved in a shooting recently. He stated he was happy the suspect was apprehended, and it is unfortunate that the suspect was shot in the process. **Mr. Cleworth** commended Public Works for their work in snow removal and commented on the issues they have encountered with equipment; he stated that the City is looking into new snow blowers. He requested an update on Fire Department call data, and he asked that the item be added to the next Finance Committee agenda.

**Mr. Pruhs** stated he had a fun Friday at the Republican meeting; he stated he meant the words he said at that meeting. He stated he was filling in at the last moment for the Mayor at the event, and the Mayor was the intended target. **Mr. Pruhs** stated there was a person recording, and he cautioned the Mayor to be careful.

### CITY ATTORNEY'S REPORT

City Attorney Ewers stated he came in to the office on Sunday and saw Housing & Homeless Coordinator Mike Sanders working. He commended Mr. Sanders for his hard work. **Mayor Matherly** and **Ms. Rogers** also commended Mr. Sanders for the work he is doing.

**Ms. Kun**, seconded by **Mx. Ottersten**, moved to ENTER Executive Session for the purpose of discussing PSEA Labor Negotiations.

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

**EXECUTIVE SESSION**

a) PSEA Labor Negotiations

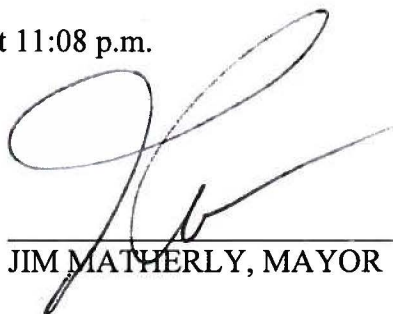
The City Council met in Executive Session to discuss PSEA Labor Negotiations. Direction was given to the negotiating team, and no action was taken.

**ADJOURNMENT**

Mr. Pruhs, seconded by Ms. Kun, moved to ADJOURN the meeting.

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

Mayor Matherly declared the meeting adjourned at 11:08 p.m.



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JIM MATHERLY, MAYOR

ATTEST:



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D. DANVIELLE SNIDER, CMC, CITY CLERK

Transcribed by: EB