



FAIRBANKS CITY COUNCIL
REGULAR MEETING MINUTES, DECEMBER 8, 2014
FAIRBANKS CITY COUNCIL CHAMBERS
800 CUSHMAN STREET, FAIRBANKS, ALASKA

The City Council convened at 7:00 p.m. on the above date, to conduct a Regular Meeting of the Fairbanks City Council at the City Council Chambers, 800 Cushman Street, Fairbanks, Alaska, with Mayor John Eberhart presiding and with the following Council Members in attendance:

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

Absent: None

Also Present: Warren Cummings, Fire Chief
 Paul Ewers, City Attorney
 Janey Hovenden, City Clerk
 Ben Barrio, IT Director
 Barbara Sunday, Director HR/Risk Management/Purchasing
 Randall Aragon, Police Chief
 Tanya Clooten, Deputy City Clerk I

INVOCATION

The Invocation was given by City Clerk Janey Hovenden.

FLAG SALUTATION

Mayor Eberhart led the Flag Salutation.

APPROVAL OF AGENDA AND CONSENT AGENDA

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

Ms. Staley pulled Item 13(a), Memorandum Regarding City's 457(b) Plan, from the Consent Agenda.

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

City Clerk Hovenden read the Consent Agenda, as amended, into the record.

CITIZEN'S COMMENTS

Jeff Jacobson, 391 Finell Drive, North Pole – Mr. Jacobson stated that he is the Chief of Staff for the Fairbanks North Star Borough. He spoke in support of Ordinance No. 5960 as it was originally introduced by Mayor Eberhart and added that the Borough does not support the proposed substitute of the ordinance. He explained that the Borough administration approached the City about a possible Code change after the University Women's Association (UWA) brought the issue to their attention last year. Mr. Jacobson stated that the UWA needed an alternate location for their craft bazaar and that the Borough agreed to let them use the Pioneer Park Civic Center. He stated that the UWA was unaware of the City's \$500 Multi-vendor Permit requirement at the time which gave them a disadvantage in providing the maximum number of student scholarships. He spoke in favor of an exemption to the requirement for non-profits and municipalities. Mr. Jacobson stated that the Borough administration urges the Council to adopt Ordinance No. 5960 as introduced.

Frank Turney, 329 6th Avenue, Fairbanks – Mr. Turney stated that he is pleased to see that the Council will uphold the tradition of reading aloud the Bill of Rights in a public forum. He stated that it is the responsibility of U.S. citizens to be vigilant in holding up the U.S. Constitution and Bill of Rights. He spoke about George Mason and his role in the ratification of the Bill of Rights. He read aloud a quote which illustrates Mason's concerns about the Constitution prior to the Ten Amendments, "I would sooner chop off my right hand than put it to the Constitution as it now stands." He stated that George Mason is known as the "Forgotten Founding Father." Mr. Turney stated that former Council Member Bob Boko started the tradition of the City Council's reading of the Bill of Rights in 2001 or 2002. He stated that he has brought a cake to share with everyone in celebration of the Ten Amendments.

Dominic Lozano, 2890 North Point Court, Fairbanks – Mr. Lozano stated that he is the President of the Fairbanks Firefighters Union (FFU). He spoke to the City's 457(b) Plan and stated that he supported the idea of going with a single City-sponsored provider. He spoke to the selection process for a new provider and to some of the employees' concerns along the way. Mr. Lozano stated that he is concerned with what happened to the original Request for Proposals (RFP) and the transparency of the process in reaching an agreement with the selected provider. He stated that some employees currently participating in a 457 Plan are concerned with the transfer fees that may apply to moving to the new provider. He questioned whether the five bidders submitted proposals with a consistent understanding of the RFP documents. Mr. Lozano stressed the issue of transparency and suggested that the City might consider reissuing the RFP.

Victor Buberger, PO Box 58192, Fairbanks – Mr. Buberger spoke to the need for public restrooms and signage in Fairbanks. He stated that the Council should give something to the citizens of the community instead of giving more to union employees. He spoke to the new Club SinRock and stated that he would like to see more of those types of establishments and less potholes in Fairbanks. He wished everyone a Merry Christmas and a Happy New Year.

Mr. Pruhs asked Mr. Buberger if the Borough Transit Station and the Morris Thompson Center have public restrooms.

Mr. Buberger replied affirmatively. He added that the restroom by the river is open seasonally.

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

READING OF THE BILL OF RIGHTS

Mayor Eberhart asked the Council to take turns reading each of the Ten Amendments aloud.

The Mayor and Council read each Amendment aloud in turn.

MAYOR'S COMMENTS AND REPORT

Mayor Eberhart thanked Mr. Turney for providing a cake to celebrate the anniversary of the ratification of the Bill of Rights. He asked the Council to pose for a photograph with Mr. Turney and invited everyone to have some cake.

Mayor Eberhart stated that the meeting with Interior Delegates will take place at 9:30 a.m. at the Legislative Information Office (LIO) on December 9, 2014. He invited Council Members to attend the meeting. He commended Chief of Staff Jim Williams and the AFL-CIO bargaining team for their work in making labor negotiations go smoothly. **Mayor Eberhart** stated that he recently received an email from Deputy Clerk Danyielle Snider speaking to the make-up of the Fact Finding Commission and to how little the Commission has been tasked since its creation. He asked the Council for direction on possibly making term adjustments for the members or repealing the ordinance altogether. **Mayor Eberhart** referenced the November report for the Community Service Patrol (CSP) prepared by David van den Berg. He shared that the patrol continues to receive a high number of calls for service and stated that there was a recent meeting to discuss CSP funding for 2015. **Mayor Eberhart** listed the numerous events, meetings and activities of the Mayor's Office since the last Regular City Council Meeting. He shared that a number of high school students will be attending a Career Exploration Forum at City Hall on December 9. He announced that the Fairbanks Diversity Council will be meeting on the evening of December 9 to start strategic planning with Chief of Staff Jim Williams. He wished everyone a Happy Holiday Season.

UNFINISHED BUSINESS

- a) Ordinance No. 5960 – An Ordinance to Amend Fairbanks General Code Section 14-71 Multi-Vendor Events. Introduced by Mayor Eberhart. Public Hearing was held on November 24, 2014. POSTPONED from the Regular Meeting of November 24, 2014.

NOTE: Because Ordinance No. 5960 was postponed, the motion to ADOPT was already on the floor (the motion to ADOPT was made by Mr. Gatewood, seconded by Mr. Walley, at the Regular Meeting of November 24, 2014).

Mr. Cleworth stated that it is important to remember that City ordinances need to apply to everyone in a fair manner. He pointed out that Ordinance No. 5960 allows for exemptions for non-profit organizations and government entities. He stated that the original intent behind the Multi-vendor Event Permit was to simplify the licensing process so that each vendor

participating in an event would not have to obtain a City business license. He suggested that the City should either repeal the entire ordinance or treat every organization the same under the Code. **Mr. Cleworth** referenced the letter from Kris Knutzen, a director of local events who regularly purchases the Multi-vendor Event Permit.

Mr. Cleworth, seconded by **Mr. Pruhs**, moved to SUBSTITUTE Ordinance No. 5960, as Amended, for Ordinance No. 5960.

Mayor Eberhart stated that his initial impression was that the Borough felt that the permit fee would deter organizations from wanting to hold their events at Pioneer Park. He indicated that he does not want to push people out of the City limits.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO SUBSTITUTE ORDINANCE NO. 5960, AS AMENDED, FOR ORDINANCE NO. 5960 AS FOLLOWS:

YEAS: Walley, Pruhs, Matherly, Staley, Cleworth

NAYS: Gatewood

Mayor Eberhart declared the MOTION CARRIED.

Mr. Cleworth requested that the City Clerk's Office weigh in on the proposed ordinance.

City Clerk Hovenden stated that the UWA requested to use the Pioneer Park Civic Center one year because their usual facility was unavailable. She commented that she heard reports that the turnout for the UWA event was so much better that they decided to continue using the Civic Center as their regular venue for the annual bazaar.

Deputy Clerk Tanya Clooten stated that the Code revisions adopted in April of 2014 allowed for the sponsor of a Multi-vendor Event to elect not to obtain a permit so long as the event had a minimal number of vendors with a valid City business license. She stated that it would become very labor intensive to issue a business license to each vendor participating in a large event and added that the change will also streamline the permitting process for the vendors.

City Clerk Hovenden stated that sponsors of these types of events typically require vendors to pay a fee in order to cover overhead costs. She stated that if "one-time" vendors participating in a multi-vendor event were always required to obtain a City business license, they would receive renewal notices and reminders each following year. She indicated that the compliance efforts could become a waste of City resources.

Ms. Clooten spoke in greater detail to compliance efforts by the City in regard to business licensing.

Mr. Cleworth asked Ms. Clooten if she believes the Multi-vendor Event Permit fees are fair.

Ms. Clooten expressed her opinion that the fees are reasonable. She stated that she has attended several local multi-vendor events where she believes vendors earn a good profit.

Mr. Pruhs asked about the number of days per year these types of events take place or how many local events the multi-vendor event permit would apply to.

Ms. Clooten replied that most events occur over a weekend. She stated that the Clerk's Office issued 15 permits in 2014 and 16 permits in 2013. She explained that the Clerk's Office also made efforts to increase compliance by sending notifications to all local venues that might host vending events.

Clerk Hovenden stated that the multi-vendor code also applies to the Downtown Market event because it addresses recurring events held over non-consecutive days.

Mr. Cleworth again emphasized the need to be fair to all organizations.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO ADOPT ORDINANCE NO. 5960, AS AMENDED, AS FOLLOWS:

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

NAYS: None

Mayor Eberhart declared the MOTION CARRIED and Ordinance No. 5960, as Amended, ADOPTED.

NEW BUSINESS

- a) Ordinance No. 5962 – An Ordinance Ratifying a Labor Agreement Between the City of Fairbanks and the AFL-CIO Joint Crafts Council. Introduced by Mayor Eberhart.

ADVANCED on the CONSENT AGENDA.

COMMUNICATIONS TO COUNCIL

- a) Memorandum Regarding the City's 457(b) Plan – MetLife Update/Correction

Ms. Staley stated that she has received some phone calls from City employees who are concerned about the selection process. She requested a staff report.

City Attorney Ewers stated that the Deferred Compensation Committee was established by the City Council and listed its members as follows:

Chief of Staff, Jim Williams
HR Director, Barbara Sunday
Chief Financial Officer, Jim Soileau
Payroll Specialist, Denise Kendrick
Paul Ewers, City Attorney & Committee Chair

City Attorney Ewers stated that the Committee chose to appoint an at-large employee representative to serve on the Selection Committee for the RFP, an appointment that was made based on the recommendation of the collecting bargaining units. He stated that Jason Anderson,

a Fire Department employee, was selected. He explained that the Selection Committee approached MetLife with some of the concerns of City employees. He stated that there were some misunderstandings between the City and MetLife in regard to the details of the transition between providers. Attorney Ewers stated that when the misunderstanding was noticed, the Committee met and proposed a three-year phase in of employees on old 457 plans. He explained that the Committee's proposal to MetLife stated that employees would not be forced to transfer money already contributed to the old provider(s), thus not incurring any fees. He stated that the proposal also stated that any new funds employees contribute to the 457 Plan would have to be to the new provider. Attorney Ewers stated that the Committee has not yet received a response from MetLife. He stated that he wants the Council to be aware of what is happening with the agreement and would like to know whether the Council will accept the three-year transition period change.

The Council and City Attorney discussed different types of investments in the 457 Plan and the penalties associated with certain contracts. They discussed whether earning rates would be affected by maintaining investments in both an old plan and the new plan. Attorney Ewers again clarified that regular investments will not incur fees for transferring to the new plan.

Mr. Matherly stated that the employees who contacted him were primarily concerned with transparency and the timeline. He stated that they requested enough time to ask questions and review the details before the agreement is approved.

Chief of Staff Jim Williams stated that he was perplexed that there was such a profound misunderstanding between the City and MetLife. He indicated that he feels comfortable in taking a few more days to discuss the agreement with employees and the City Attorney.

Mr. Cleworth stated that the 457 Plan issue originally came up because the City was concerned about liability if one of the plans went south on an employee. He asked Attorney Ewers if the City can mitigate liability through contract negotiations with the unions.

Attorney Ewers replied that right now, the majority of the collective bargaining agreements say that the City will have a 457(b) plan available to employees and that if the City makes changes to the plan it will confer with the union. He stated that it may be a possibility to incorporate language similar to what Mr. Cleworth suggested.

Mr. Cleworth stated that he does not want the City to be liable for the stability of the 457 plans and spoke in favor of limiting employees to one plan, thus limiting the City's exposure. He suggested that the City might propose addendums to union contracts that would alleviate the City's liability on existing plans.

Attorney Ewers suggested that the issue could be addressed individually by informing employees that any investments in old plans are at their own risk. He stated that he would like to have direction from the Council so that the agreement could be complete by January 1, 2015.

Mr. Cleworth suggested that the Council give direction to proceed with the provision that the administration approach the various unions in order to mitigate the City's liability.

Mr. Matherly asked what the harm would be by not giving direction to move forward right away.

Attorney Ewers stated that by postponing the issue, the Council would have to wait to take official action on the issue at the next Regular Meeting of January 5, 2015. He explained that it could be problematic to wait because the target completion date for everyone was January 1, 2015. He stated that MetLife staff is in the area and would like to start scheduling time with City employees.

Mr. Matherly stated that he is torn on the issue. He asked other Council Members to chime in.

Mr. Pruhs stated that he is willing to give authority to move forward to Mayor Eberhart.

Ms. Staley commented that the 4579(b) plans are great because they allow employees to maintain a regimented contribution that is pre-taxed. She stated that her understanding is that City employees are primarily concerned about fees.

Mr. Gatewood stated that he believes it would be wise to speak to employees a little more to explain the process and make sure that MetLife and the City are on the same page before moving forward. He stated that he is not convinced that there are no fees or penalties. He stated that if employees cannot continue with their current plans they run the risk of losing money. **Mr. Gatewood** asked why the date could not be moved back to February 1, 2015.

Attorney Ewers stated that it may be possible to move the date back.

Mr. Walley asked if employees if they would have to move their current 457 plan investments to MetLife.

Attorney Ewers replied that they would not. He stated that under the latest proposal to MetLife, employees would not have to contribute to the new plan for three more years.

Mr. Walley stated that it has been his experience in the private industry that employees did not have a choice when plans were changed. He stated that he believes the current proposal is fair and indicated that he does not see a problem in moving forward.

Attorney Ewers stated that the caveat is that if the Committee's proposal is changed by MetLife, the agreement would not be approved without first coming back to the Council.

Mr. Cleworth, seconded by **Mr. Pruhs**, moved to APPROVE the City Attorney's Memorandum with an effective date of December 19, 2014, with the understanding that between now and then the City explore avenues of indemnification with employees.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO APPROVE THE CITY ATTORNEY'S MEMORANDUM WITH AN EFFECTIVE DATE OF DECEMBER 19, 2014, WITH THE UNDERSTANDING THAT BETWEEN NOW AND THEN THE CITY EXPLORE AVENUES OF INDEMNIFICATION WITH EMPLOYEES AS FOLLOWS:

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

COUNCIL MEMBERS' COMMENTS

Mr. Matherly thanked Police Chief Aragon for meeting with him earlier in the day. He provided an update to the Council on the Polaris Building by reading aloud his latest correspondence with its owner, Marc Marlow. He stated that he was sad to hear of another car accident fatality in the community and encouraged the public to slow down and buckle up. **Mr. Matherly** stated that he attended the meeting on Ballot Measure 2 with other local officials and commended Borough Attorney Wendy Doxey on her thorough and informative presentation of the issue. He stated that Council Members who could not attend the meeting may be able to obtain a copy of Ms. Doxey's presentation from the Borough. He stated that he learned a great deal from the public testimony at the meeting as well. **Mr. Matherly** thanked the City Clerk's Office for the holiday gesture and expressed thanks to all the City employees for their work. He wished everyone a blessed holiday. **Mr. Matherly** stated that he would like to see the Fact Finding Commission stay in place.

Mr. Cleworth thanked Mr. Turney for continuing to bring the recognition of the Bill of Rights forward. He stated that he read a book several years ago on the formation of the U.S. Constitution and the meetings that took place. He commented that he found it interesting that many of those who founded the Constitution did not feel that the Bill of Rights was necessary because they were assumed to be automatic rights. **Mr. Cleworth** thanked Mr. Williams for his work on the AFL-CIO labor contract and expressed that he enjoyed working with the AFL-CIO negotiating team when he served as City Mayor. He stated that sometimes governments create too many committees and agreed that the Fact Finding Commission has not been used very often. He commented that it is an important body that could be used by the community as a resource outside of the legal system. He spoke in support of keeping the Fact Finding Commission. **Mr. Cleworth** asked if the City is allowed to ask questions about an individual's demographics such as age, religion, medical history, party affiliation, ethnicity, and sexual orientation. He stated that several people have called him recently in regard to the City's Board and Commission application. He indicated that although the demographics section on the application are optional, some people are upset that they are being asked for personal information such as ethnicity, political party affiliation, date of birth and sexual orientation. **Mr. Cleworth** stated that he has always thought it inappropriate to ask those questions, especially when it is sometimes difficult to gain public interest in serving on City Boards and Commissions. He asked how the demographics section on the application came about.

Attorney Ewers stated that the City has an obligation to gather some demographic information in the employment context that is only seen by the HR office.

HR Director Barbara Sunday explained that the demographics that she gathers during the application process for employment are optional and, if submitted, are only seen by the HR Director. She stated that the information is used in complying with fair practices for minority groups. She briefly discussed the review and selection process for new hires. Ms. Sunday stated that she can only speak to the employment application, not to the application for City Boards and

Commissions. She stated that after an employee is hired, demographics are collected and used to submit with an Equal Employment Opportunity (EEO) report.

Mayor Eberhart stated that the City Clerk's Office purchased software to help manage City Boards and Commissions from a company called Granicus. He explained that the demographics section is a part of the application form template built into the software. He deferred Mr. Cleworth's question to the City Clerk.

City Clerk Hovenden stated that the need to collect applicant demographics came into play with the implementation of the Fairbanks Diversity Council.

Mr. Cleworth stated that the City of Fairbanks as an employer tries not to discriminate. He stated that he does not want to offend applicants and wants to encourage more community members to apply to serve on City Boards and Commissions.

Mr. Pruhs asked if Board and Commission applications are public documents.

Mayor Eberhart stated that applications are open to the public but that personal information and demographics are redacted. He added that many applicants select the "prefer not to answer" option when completing the demographics section.

Mr. Cleworth, seconded by **Mr. Matherly**, moved to ELIMINATE the Demographics section of the City's Application for Boards and Commissions.

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

Mr. Cleworth wished everyone a Merry Christmas.

Mr. Pruhs stated that he was honored to read aloud the Seventh Amendment granting the right to a trial by jury. He requested an Executive Session in February or March for the purposes of discussing the possibility of Eminent Domain by the City of Fairbanks in regard to the Polaris Building. **Mr. Pruhs** stated that he was impressed by the turnout at the Ballot Measure 2 meeting and spoke to the potential for City involvement in the State of Alaska's legislative process on marijuana. He reminded the Mayor and Council that he would be absent the first Regular Meeting in January and wished everyone a Merry Christmas.

Mr. Gatewood expressed his condolences to the family of Eric Peterson who lost his life over the weekend in a skiing/avalanche accident. He stated that he hopes Peterson's skiing companion, Dr. Michael Hopper, will make a full recovery. He wished everyone a Merry Christmas.

Mr. Walley thanked Mr. Turney for bringing the Bill of Rights to the Council's attention and for providing the cake. He wished everyone a Merry Christmas and a Happy New Year. He reminded the public that one of his radio stations plays Christmas music from Thanksgiving through Christmas Day. He stated that starting on December 11, the radio station will begin a give-away for families in need who are nominated by others throughout the community.

Ms. Staley stated that she sees no problem in keeping the Fact Finding Commission. She referenced an email forwarded to the Council from the Borough Planning Director, Christine Nelson and spoke to the concern of a Borough Assembly Member at the Ballot Measure 2 meeting on how police will deal with the issues that arise out of the legalization of the drug. **Ms. Staley** stated that discussions need to be had about how the local governments will handle the cannabis issue, but indicated that the state will lead the way on the issue. She stated that she is honored to be a part of the reading of the Bill of Rights and wished everyone a Happy Holiday Season.

CITY ATTORNEY'S REPORT

City Attorney Ewers stated that it appears from the Ballot Measure 2 meeting that the City Council does less talking and takes more action on issues than other local governing bodies.

CITY CLERK'S REPORT

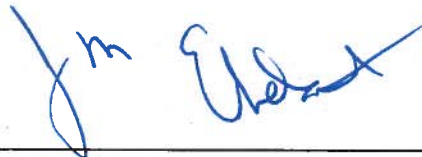
City Clerk Hovenden stated that she wishes everyone a Merry Christmas and a safe holiday season.

ADJOURNMENT

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


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

Mayor Eberhart declared the Meeting adjourned at 8:50 P.M.



JOHN EBERHART, MAYOR

ATTEST:



D. DANYIELLE SNIDER, CMC, CITY CLERK

Transcribed by: DS