



FAIRBANKS CITY COUNCIL
AGENDA NO. 2013-03
REGULAR MEETING February 04, 2013
FAIRBANKS CITY COUNCIL CHAMBERS
800 CUSHMAN STREET, FAIRBANKS, ALASKA

REGULAR MEETING

I 7:00 P.M.

1. ROLL CALL

2. INVOCATION

3. FLAG SALUTATION

4. CITIZENS COMMENTS, oral communications to Council on any item not up for Public Hearing. Testimony is limited to five (5) minutes. Any person wishing to speak needs to complete the register located in the hallway. Normal standards of decorum and courtesy should be observed by all speakers. Remarks should be directed to the City Council as a body rather than to any particular Council Member or member of the staff. In consideration of others, kindly silence all cell phone, electronic and messaging devices.

5. APPROVAL OF AGENDA AND CONSENT AGENDA

(Approval of Consent Agenda passes all routine items indicated by an asterisk (*). Consent Agenda items are not considered separately unless a Council Member so requests. In the event of such a request, the item is returned to the General Agenda).

6. APPROVAL OF PREVIOUS MINUTES

* Regular Meeting Minutes of January 07, 2013

7. SPECIAL ORDERS

8. MAYOR'S COMMENTS AND REPORT

9. UNFINISHED BUSINESS

- a) Ordinance No. 5915 – An Ordinance Approving the Payment in Lieu of Taxes Agreement Between the City of Fairbanks and Rest Easy LLC and Granting a Property Tax Exemption for Certain Property Interests. Introduced by Mayor Cleworth. SECOND READING AND PUBLIC HEARING.

10. NEW BUSINESS

- *a) Resolution No. 4559 – A Resolution Awarding a Contract to Exclusive Paving, Inc., for the Helmericks Avenue Extension and Bentley Trust Road Upgrade Project FB-12-22 in the Amount of \$4,914,911.76. Introduced by Mayor Cleworth.
- *b) Resolution No. 4560 – A Resolution in Support of the Alaska Stand Alone Pipeline from the North Slope to Southcentral Alaska. Introduced by Mayor Cleworth.
- *c) Resolution No. 4561 – A Resolution Amending the Schedule of Fees & Charges for Services by Adjusting Refuse Collection Rates. Introduced by Mayor Cleworth.

11. DISCUSSION ITEMS (INFORMATION AND REPORT)

Committee Reports

12. COMMUNICATIONS TO COUNCIL

13. COUNCIL MEMBERS' COMMENTS

14. CITY ATTORNEY'S REPORT

15. CITY CLERK'S REPORT

16. ADJOURNMENT



FAIRBANKS CITY COUNCIL
REGULAR MEETING MINUTES, JANUARY 7, 2013
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 Jerry Cleworth presiding and with the following Council Members in attendance:

Council Members Present: Renee Staley, Seat A
 Bernard Gatewood, Seat C
 Jim Matherly, Seat D
 Lloyd Hilling, Seat E (Tardy)
 John Eberhart, Seat F

Absent: Perry Walley

Also Present: Warren Cummings, Fire Chief
 Ernie Misewicz, Assistant Fire Chief
 Paul Ewers, City Attorney
 Janey Hovenden, City Clerk

INVOCATION

The Invocation was given by City Clerk Janey Hovenden.

FLAG SALUTATION

Mayor Cleworth led the Flag Salutation.

CITIZEN'S COMMENTS

John Kohler, 900 Lathrop Street, Fairbanks – Mr. Kohler, President of Rural Alaska Insurance Agency, spoke against Ordinance No. 5914. He indicated that the proposed increase to insurance coverage for commercial passenger transport vehicle (CPTV) is too steep. He stated that, on average, it costs about \$3,100 per year to insure a taxi cab under the minimums currently required by City Code. He commented that the increase may force smaller cab companies out of business. Mr. Kohler stated that while the increase to minimums would benefit him personally, he would not recommend the changes because it would be a detriment to the cab industry. He stated that he does not see many cases in which the current coverage limits are exceeded. He urged the Council to hold off on voting on Ordinance No. 5914 until they have more information.

Mr. Gatewood thanked Mr. Kohler for his input. He asked Mr. Kohler if he would suggest another figure for minimum coverage or if he would be inclined to leave the numbers alone.

Mr. Kohler replied that he typically recommends that his clients get a \$300,000 combined single limit (CSL) and a matching limit for uninsured motorist coverage. He indicated that raising the minimum to a \$500,000 CSL would be too expensive for cab companies.

Ms. Staley asked how much the premium would be for a \$300,000 combined single limit.

Mr. Kohler replied that the annual cost would be about \$3,100 per year, per vehicle.

Mayor Cleworth explained that the code regarding insurance for CPTV's is being looked at partly because of an incident involving City property where the damages greatly exceeded the current minimum of \$25,000. He stated that upon investigating and researching the cost of premiums, he was assured that an increase to a CSL of \$500,000 or even \$1 million was minimal. **Mayor Cleworth** asked Mr. Kohler to estimate the average annual premium for a taxi cab under the current City Code.

Mr. Kohler replied that bare minimum coverage costs about \$2,800 per year. He stated that many of the smaller, independent companies only carry minimum coverage.

Jason Hite, Owner of Arctic Taxi, 2750 Pickett Place, Fairbanks – Mr. Hite pointed out that even if the proposed CSL is reduced from \$500,000 to \$300,000, he would still have to pay an increased premium of about \$700 per vehicle, per year. He stated that with 30 taxis on the road, his annual cost to do business would increase by \$21,000 overnight due to the increase. Mr. Hite commented that Markel Insurance Company offers minimal premium increases under the proposed CSL, but stated that the company is not willing to underwrite any new cab companies. He stated that Markel is only insuring one cab company locally. Mr. Hite stated that there are only three underwriters for taxi cab insurance and that two of them will not insure for a \$500,000 CSL. He pointed out that that would leave only one insurance company for all local cab companies to use if the \$500,000 CSL were to be adopted by the Council. He commented that this would be “bottlenecking” the companies in his industry into using only one insurance agency nationwide. Mr. Hite stated that if his premiums increased by \$700 per vehicle, per year, he would have to downsize his fleet from 30 to 23 to stay in business. He stated that Fairbanks already struggles to keep enough taxis on the streets, especially during extremely cold weather and special conferences and events. He indicated the City may potentially take 50 cabs off Fairbanks streets if the proposed \$500,000 CSL requirement was adopted. He stated his belief that an isolated incident involving City property should not bring about such an increase for the entire cab industry. He spoke to other types of insurance that are available to cab companies that would not increase rates per vehicle and suggested that all companies should carry such policies in addition to the minimum coverage requirements per vehicle.

Mayor Cleworth asked Mr. Hite about his current coverage and related costs.

Mr. Hite replied that he carries \$300,000 for personal injury and \$125,000 for property damage on each vehicle. He stated that he also carries general liabilities policies of up to \$1 million to cover any potential costs beyond the vehicle's insurance coverage. Mr. Hite stated that his annual cost to insure each vehicle is about \$2,800.

Mr. Matherly asked for clarification of Mr. Hite's reference on the \$700 per vehicle increase.

Mr. Hite explained that the \$700 increase is how much it would cost him per vehicle if the minimum coverage were raised to a CSL of \$300,000. He stated that it would be very difficult for the larger companies to maintain their fleet size with an increase that significant.

Bill Northrup, 555 Front Street, Fairbanks – Mr. Northrup stated that he is the Operations Manager for Eagle and Yellow Cab. He referenced the letter he received from the City Attorney, explaining the

possible changes to the City Code. He stated that most accidents are sufficiently covered under the current minimums. He shared that his company's average losses over the last five years have been under \$100,000 per year with the exception of one year. He spoke to the limited market in taxi insurance due to the State of Alaska's lack of enforcement of insurance laws. He stated that insurance companies will not lose money and that there have probably been eight insurance companies come and go in the local market in the past 15 years. He indicated that the high number of uninsured motorist claims are one of the primary reasons why insurance companies don't stick around. Mr. Northrup commented that a \$300,000 CSL seems sufficient and agreed that uninsured motorist and property damage minimums should be increased. He spoke to the impact an increase would have on the industry as a whole, and suggested that a \$500,000 CSL would likely put independent companies out of business. He stated that, like Mr. Hite, he would have to cut back his 40+ vehicle fleet in order to afford the increase.

Mr. Hilling requested clarification on Mr. Northrup's testimony on uninsured motorists and state law.

Mr. Northrup explained that although everyone is required to have insurance, many people are driving without it. He indicated that the State of Alaska does not actively enforce that law and suggested that Alaska require proof of insurance upon renewal of a vehicle registrations, similar to what the State of Washington is doing. He commended the City of Fairbanks for impounding vehicles that do not have insurance and stated that the State Troopers are not currently following the same procedure.

Mr. Hilling asked Mr. Northrup if he could explain why insurance companies do not raise their rates to compensate for the high number of uninsured motorist claims.

Mr. Northrup replied that insurance companies choose not to raise their rates likely because they want to be competitive in the insurance market. He stated that there are also many other insurance markets available to them.

Mayor Cleworth asked Mr. Northrup how much coverage Eagle and Yellow Cab carry.

Mr. Northrup replied that his company carries a \$300,000 CSL, \$100,000 in uninsured motorist coverage and \$50,000 in property damage coverage.

Mayor Cleworth asked Mr. Northrup if he was aware of what the Municipality of Anchorage is currently requiring.

Mr. Northrup replied that he does not know what they are currently requiring because they recently made some changes. He stated that two insurance companies recently pulled out of the Anchorage market due to those changes.

Mayor Cleworth stated that the current Fairbanks General Code requirements on CPTV insurance minimums were established sometime in the mid 90's. He expressed curiosity as to what minimum coverage other municipalities around the state and nation are requiring.

Mr. Northrup indicated that claims and losses haven't changed much over the years. He stated that insurance company statistics show that 95% of all accidents involving a taxi cab are the fault of the other motorist. He explained that the reason for the drastic number is because taxi cabs are on the road nearly

24 hours a day, 7 days a week. Mr. Northrup spoke in opposition to raising the minimum coverage to the proposed \$500,000 CSL.

Jason Miller, 2745 Newby Road, North Pole – Mr. Miller, representative for King and Alaska Cab, stated that his companies carry \$300,000 in personal injury, \$100,000 in uninsured motorist, and \$50,000 in property damage coverage through National Casualty Insurance Company. He stated that currently there is no other company out there that will provide CPTV insurance for his companies. He stated that the maximum coverage National Casualty would provide is a \$325,000 CSL, which would raise his companies' annual cost by \$400 per vehicle. He stated that between the two companies he represents, they have a total of 25-30 vehicles on the road at all times. Mr. Miller stated that his insurance agency told him that the Municipality of Anchorage is not requiring a minimum as high as the proposed \$500,000 CSL. He spoke of the detriment to the local cab industry the increase would bring about, commenting that it would put small company owners completely out of business.

Mayor Cleworth asked Mr. Miller to share any future information he receives about what the Municipality of Anchorage is doing in regards to insurance requirements for the cab industry.

Mr. Miller agreed to do so.

Kathleen Wallace, 3165 Hillary Avenue, Fairbanks – Ms. Wallace stated that she is an owner/operator fighting for her survival as a small business woman. She stated that she has been in the business for over 25 years and is currently driving for Arctic Taxi. She spoke against the proposed increase to minimums, stating that it would double her insurance bill and put her out of business. She stated that she could understand the reasoning behind an increase if taxi drivers were a huge liability, but spoke to the hiring standards of cab companies and to the strict requirements of insurance companies. Ms. Wallace expressed her belief that the increase to insurance minimums is not necessary and asked the Council to reconsider placing that "burden" on cab owners.

Mr. Hilling referenced Ms. Wallace's statement that her insurance premiums would double if Ordinance No. 5914 were adopted. He asked her to speak to the current dollar amounts and the potential premiums after the increase.

Ms. Wallace replied that she is currently paying \$3,000 - \$4,000 per year. She stated that if the minimum requirement is changed to a \$500,000 CSL, her annual premium would increase to \$6,500 - \$7,000 per year.

Mayor Cleworth asked Ms. Wallace to list her current insurance coverage.

Ms. Wallace stated that she carries \$300,000 in personal injury, \$100,000 in uninsured motorist, and \$50,000 in property damage.

Frank Turney, 201 7th Avenue, Fairbanks – Mr. Turney asked if the City or the State of Alaska is responsible for limiting insurance for cab drivers. He spoke to K-9's used by the Fairbanks Police and the Alaska State Troopers and asked who is responsible for the animals' training before they are used in law enforcement. Mr. Turney spoke to the recent incident involving guns and a soldier in the Denny's parking lot. He spoke to treating all citizens equally, whether civilian or military. He expressed his distaste with how the incident was handled by the responding Fairbanks police officer and stated his disapproval of the quote from the officer that was published in the News Miner.

Mr. Hilling asked Mr. Turney which officer was quoted in the News Miner.

Mr. Turney replied that it was Sgt. Thompson. He mentioned that there are two City police officers with the last name Thompson. He stated that Sgt. Thompson was quoted as saying, "The soldiers were drinking and playing with guns."

Mystiek Lockery, 3095 Amanda Loop, North Pole – Ms. Lockery spoke to her request to the City Council for an ordinance that would allow for a medical marijuana dispensary in the City of Fairbanks. She spoke also to a petition that she filed with the Drug Enforcement Administration (DEA), the Attorney General, and the Secretary of Health to de-schedule marijuana. She stated that she emailed a copy of the petition to the Council. Ms. Lockery spoke to how the DEA's own administrative judge directed them to reschedule marijuana, but stated that they did not follow his direction. She distributed an excerpt of the DEA administrative judge's conclusion and recommendation on the scheduling of medical marijuana from 1988. She spoke to a second handout, stating that it contains a collaboration of different studies and information describing the various uses for medical marijuana. Ms. Lockery stated that she has copies of the Alaska Legislature's Act to legalize medical marijuana if any of the Council Members would like to see it. She referenced the Alaska Statute for affirmative defense for medical marijuana patients who have the drug in their possession and stated that she also has that documentation available for the Council if they wish to see it. Ms. Lockery stated that she has done more research on how other communities have allowed for medical marijuana clinics, and indicated that some states made the change in their legislature when they legalized the use of medical marijuana. She stated that in the states where that was not done, municipalities took it upon themselves to adopt ordinances to legalize clinics. She stated that she is willing to educate the Council on all aspects regarding medical marijuana.

Mr. Hilling asked Ms. Lockery to restate the specific Alaska Statutes she referenced in her testimony.

Ms. Lockery stated that she referenced AS 17.37.010 and Alaska Senate Bill (SB) 94.

Mr. Hilling asked Ms. Lockery if her primary purpose in approaching the Council is to have an ordinance developed that would legalize a medical marijuana clinic.

Ms. Lockery replied affirmatively.

Victor Buberger, PO Box 58192, Fairbanks – Mr. Buberger spoke to the rules governing cab companies and chauffeurs. He suggested that the Council do away with regulations for those companies and drivers unless they are willing to place the same regulations on City employees who operate City vehicles. Mr. Buberger related personal experiences involving drugs and stated his belief that marijuana does not cause problems. He indicated that Ms. Lockery may be onto something that could benefit the community. Mr. Buberger spoke to the incident involving a soldier Mr. Turney referred to in his testimony, asking if there is a tiered class system in the City.

Harvey Wallace, 3165 Hillary Avenue, Fairbanks – Mr. Wallace, manager of Arctic Taxi, stated that his concern with the increase to the cab insurance minimums is that it would kill owner/operator businesses and small cab companies. He added that it would also hurt the larger cab companies and have a negative effect on the community as a whole. He stated that there will be less cabs on the road at a time when capacity is significant. He explained that taxi cabs play an important role in the tourist industry, in attracting events and conventions to Fairbanks, and to keeping drunk drivers off the road. He stated that if Ordinance No. 5914 is adopted, cab companies will be forced to pass the costs on to customers.

William Manning, 2073 Pumice Court, North Pole – Mr. Manning stated that he has been a cab driver in Fairbanks for approximately 20 years and has been involved in 9 accidents during that time. He explained that none of the accidents were his fault and that 3 of them involved drunk drivers. Mr. Manning stated that whenever costs increase, cab company owners pass it on to their owner/operators, who then pass it on to customers through a rate hike. He stated that, on average, it costs him about \$150 per day to cover business expenses and has watched his income go from \$1,000 per week to \$500 per week or less. He stated that there are roughly 4,000 total calls to dispatch per day for cabs, City-wide, which has increased while his income has decreased. Mr. Manning stated that there is a heavy dependency on the cab industry and that it is worth protecting.

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

APPROVAL OF AGENDA AND CONSENT AGENDA

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

Mr. Gatewood pulled Resolution No. 4554, Resolution No. 4555, Resolution No. 4556, and Resolution No. 4557 from the Consent Agenda.

Mr. Hilling pulled Ordinance No. 5914 from the Consent Agenda.

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

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

APPROVAL OF PREVIOUS MINUTES

a) Regular Meeting Minutes of December 3, 2012.

PASSED and APPROVED on the CONSENT AGENDA.

b) Regular Meeting Minutes of December 10, 2012.

PASSED and APPROVED on the CONSENT AGENDA.

SPECIAL ORDERS

a) The Fairbanks City Council, Sitting as a Committee of the Whole, heard interested citizens concerned with the below-referenced Liquor License Application for renewal.

Lic #	Establishment Name	License Type	Premise Location	Owner Name
2982	Carlson Community Center	Recreational Site	2010 Second Avenue	SMG of Alaska, Inc.

Mr. Gatewood, seconded by **Mr. Matherly**, moved to WAIVE PROTEST on the Liquor License Application for renewal.

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

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

YEAS: Eberhart, Gatewood, Staley, Matherly

NAYS: None

ABSENT: Walley, Hilling

Mayor Cleworth declared the MOTION CARRIED.

MAYOR'S COMMENTS AND REPORT

Mayor Cleworth thanked the cab company owners and drivers for attending the meeting and for sharing their testimonies with the Council. He stated that the section of Code pertaining to cab insurance has not been looked at in a number of years. He stated that he contacted various insurance companies himself and was given information quite contrary to what was said during public testimony. **Mayor Cleworth** explained that the proposed change was never intended to be punitive and was only addressed for purposes of updating. He commented that it appears most cab companies already carry more than the minimum coverage required by the Code. He stated that more research will be done on the issue should the Council move to advance Ordinance No. 5914. **Mayor Cleworth** informed the Council that he would be introducing an ordinance pertaining to the new hotel on Fort Wainwright. He explained that the City is getting close to working out a Payment in Lieu of Taxes (PILT) agreement with them. **Mayor Cleworth** stated that the City is trying to keep up-to-date snow removal information posted to the website so that residents can see where work is scheduled to be done. He spoke to the recent tragedy involving the death of a man in the downtown post office. He stated that the City's Fire and Police Departments are investigating the incident and are taking it very seriously. He asked anyone having witnessed the event to come forward.

NEW BUSINESS

- a) Resolution No. 4554 – A Resolution Allocating Discretionary Funds from Hotel/Motel Tax in the Amount of Two Hundred Sixty-nine Thousand, Nine Hundred Ninety-eight Dollars. Introduced by Council Member Matherly.

Mr. Gatewood, seconded by **Mr. Matherly**, moved to APPROVE Resolution No. 4554.

Mr. Gatewood asked **Mr. Matherly** to speak to the Discretionary Fund Committee's allocation method and by what process organizations are "zeroed out." He asked why the total grant amount is for \$269,998 instead of the full \$270,000.

Mr. Matherly explained that at the end of the presentation meeting, the Committee eliminated any applicants that were given a zero allocation by three or more Committee members. He stated that the Committee has used the same method in the past.

Ms. Hovenden stated that the number worked out to be two dollars less than the full grant amount stated in the code due to the average of the six members' allocations.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO APPROVE RESOLUTION NO. 4554 AS FOLLOWS:

YEAS: Gatewood, Eberhart, Matherly, Staley, Hilling

NAYS: None

ABSENT: Walley

Mayor Cleworth declared the MOTION CARRIED and Resolution No. 4554 APPROVED.

- b) Resolution No. 4555 – A Resolution Authorizing the City of Fairbanks to Accept Funds from the United States Department of Homeland Security for the Purchase of Fire Protection Equipment. Introduced by Mayor Cleworth.

Mr. Matherly, seconded by **Ms. Staley**, moved to APPROVE Resolution No. 4555.

Mr. Gatewood requested a staff report from Chief Cummings.

Chief Cummings stated that the Council gave the approval for the Fire Department to apply for the grant in the spring/summer of 2012. He explained that originally, the plan was to use the funds to purchase a mobile propane-fueled burn simulator for training purposes. He stated that it is becoming very difficult to burn petroleum products under EPA guidelines and indicated that the propane-burning simulator burns much cleaner.

Mr. Gatewood asked if long-term maintenance costs for the equipment would significantly exceed the grant dollar amount.

Chief Cummings replied that fuel for the burner would likely cost more than its maintenance.

Mr. Gatewood asked Chief Cummings if he foresees an increase to next year's Fire Department budget request to cover the cost of fuel for the burn simulator.

Chief Cummings replied that he anticipates about \$1,500 per year in maintenance and fuel costs.

Ms. Staley asked Chief Cummings to speak to the life expectancy of the burn simulator.

Chief Cummings replied that its life expectancy is 15-20 years.

Mayor Cleworth stated that he shares Mr. Gatewood's concerns. He spoke to how the Fire Department was once able to train by performing controlled burns on structures that needed to be demolished. He stated that it is impossible to do that anymore due to all the current regulations.

Chief Cummings stated that last year the Fire Department was asked to do controlled burns on three homes in the downtown core area but was prohibited from doing so by the EPA.

Mr. Hilling shared his general conviction that the Council should not accept federal grant dollars because, by doing so, it creates more debt for future generations and it increases the power of the federal government. He stated that he also must consider denying money to the local citizens that elected him to serve on the Council. **Mr. Hilling** stated that he believes the City can afford the \$128,000 needed to

purchase the equipment without accepting grant funds. He explained that for those reasons, he intends to vote against Resolution No. 4555.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO APPROVE RESOLUTION NO. 4555 AS FOLLOWS:

YEAS: Matherly, Staley, Gatewood, Eberhart

NAYS: Hilling

ABSENT: Walley

Mayor Cleworth declared the MOTION CARRIED and Resolution No. 4555 APPROVED.

- c) Resolution No. 4556 – A Resolution Authorizing the City of Fairbanks to Apply for and Accept Funds from the Alaska Division of Homeland Security for the FFY2012 Emergency Management Performance Grant. Introduced by Mayor Cleworth.

Mr. Matherly, seconded by **Mr. Gatewood**, moved to APPROVE Resolution No. 4556.

Chief Cummings stated that last year the Borough decided that the Cities of Fairbanks and North Pole were not covered under its Emergency Management Program. He explained that the state then decided to offer Emergency Management grant funding for the two cities and that this grant is the beginning of that funding opportunity. He stated that the City of Fairbanks is already doing some emergency management related things such as training, Continuity of Operation Plan (COOP) reports, and Emergency Operation Center (EOC) grant planning. He indicated that this grant funding would offset the City's administrative costs for time spent developing and maintaining emergency operation plans between now and the end of June, 2013. He expressed hope that his department could reapply next year for additional emergency management grant funds.

Mr. Gatewood commented on the grant's 50% required match. He asked Chief Cummings to confirm that since he and the Assistant Chief are already performing the emergency management duties, the grant dollars would simply offset their wage costs for work that would have to be done anyway.

Chief Cummings confirmed. He explained that the City had civil defense powers back in the early 1970's, but that the power was turned over to the Borough for a number of years. He stated that the Borough recently decided that their Emergency Management Program does not cover the Cities of Fairbanks or North Pole.

Mr. Hilling asked Chief Cummings for clarification on where the emergency management grant funds originate, whether it be the State of Alaska or the federal government.

Chief Cummings replied that the grant comes through the State of Alaska Department of Military and Veteran's Affairs, but that the monies originate from the federal government's civil defense funds.

Mr. Hilling asked if the federal government would stop passing along these funds to the State of Alaska if the City did not accept it.

Chief Cummings replied that the funding would still go somewhere if it did not go to the City of Fairbanks.

Mr. Hilling restated his position on accepting federal grant dollars. He stated that he believes the City can afford the program on its own.

Mayor Cleworth stated that he agrees with Mr. Hilling's philosophy on accepting grant dollars from a federal government that is nearly \$60 trillion in debt. He pointed out that these specific grant dollars will be spent in the Fairbanks community regardless of whether or not the City chooses to accept them. He stated that in this case, the funds will likely go to the Borough if the City does not accept them.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO APPROVE RESOLUTION NO. 4556 AS FOLLOWS:

YEAS: Matherly, Gatewood, Hilling, Eberhart, Staley

NAYS: None

ABSENT: Walley

Mayor Cleworth declared the MOTION CARRIED and Resolution No. 4556 APPROVED.

- d) Resolution No. 4557 – A Resolution Authorizing the City of Fairbanks to Request Funds from the Department of Homeland Security U. S. Fire Administration Assistance to Fire Fighters Grant Program for the FFY2012 Fire Prevention and Safety Grant. Introduced by Mayor Cleworth.

Mr. Gatewood, seconded by **Mr. Matherly**, moved to APPROVE Resolution No. 4557.

Mr. Gatewood requested a staff report from Chief Cummings.

Chief Cummings explained that this is a grant offered by the U. S. Fire Administration every year. He stated that the City has applied for the grant for the past 8 or 9 years and has been successful in obtaining the grant 3 or 4 times. He stated that this year, there will be a focus on Lakeview Terrace if the funding is received. Chief Cummings explained that there have been three calls to the Lakeview Trailer Court since it was added to the City's fire service area under contract. He indicated that in each of those cases, there was no working smoke detector in the dwellings.

Mr. Gatewood asked how many smoke detectors could be purchased with the grant funding.

Chief Cummings replied that about 500 could be purchased. He stated that not all of the detectors would go to the Lakeview area, but that the majority of them would.

Mr. Gatewood asked how preference for smoke detectors is determined.

Chief Cummings stated that smoke detectors are provided to any City resident who requests them. He stated that the department's target population are households with children and elderly residents.

Mr. Gatewood asked how an individual would know to ask for a smoke detector. He asked if anything is being done to advertise the program.

Assistant Chief Misewicz spoke to the Fairbanks Fire Department's public relations and education efforts. He stated that the department gets calls on a regular basis from residents requesting the

installation of smoke detectors. He explained that the department not only provides the detectors, but installs them and educates residents on fire safety and how to maintain the devices. Assistant Chief Misewicz stated that the department also conducts a 6-8 month follow-up with individuals to ensure that smoke detectors are still properly installed and are being maintained.

Mr. Gatewood asked if the City would still purchase the smoke detectors without grant funding.

Assistant Chief Misewicz replied that most of the time, the City does not purchase the devices without grant dollars.

Ms. Staley asked how many smoke detectors the department currently has on-hand. She asked Assistant Chief Misewicz to speak to the department's efforts to advertise the program to local residents.

Assistant Chief Misewicz replied there are currently about 30 detectors at the department. He stated that much of the "advertising" is done through local civic and community organizations, state programs, and native associations' health and safety programs.

Ms. Staley asked Assistant Chief Misewicz about how many smoke detectors have been given out within the past year by the Fairbanks Fire Department.

Assistant Chief Misewicz replied that about 30-40 devices have been given out within the last year. He explained that as part of the program, the department will not hand out smoke detectors unless they are properly installed by a fire fighter.

Chief Cummings added that the fire department will not leave an incident unless there is a working smoke detector installed within the structure.

Mr. Hilling suggested that the smoke detectors are not worth the \$25,000 price tag if the City is not willing to purchase them without grant funding.

Mr. Gatewood stated that he understands that this was not a priority in the Fire Department's budget, but that it can become a priority with the opportunity for grant funding.

Chief Cummings pointed out that his department already budgeted the \$4,800 required match in their capital account in anticipation of applying for the grant.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO APPROVE RESOLUTION NO. 4557 AS FOLLOWS:

YEAS: Staley, Matherly, Gatewood, Eberhart

NAYS: Hilling

ABSENT: Walley

Mayor Cleworth declared the MOTION CARRIED and Resolution No. 4557 APPROVED.

e) Ordinance No. 5912 – An Ordinance to Amend the Date of the 2013 City of Fairbanks General Election. Introduced by Mayor Cleworth.

ADVANCED on the CONSENT AGENDA.

- f) Ordinance No. 5913 – An Ordinance to Amend Fairbanks General Code Section 74-117 Regarding Definitions in Hotel/Motel Sales Tax Ordinance. Introduced by Mayor Cleworth.

ADVANCED on the CONSENT AGENDA.

- g) Ordinance No. 5914 – An Ordinance to Amend Fairbanks General Code Section 86-52 Proof of Insurance to Increase Mandatory Minimum Insurance Coverage for Commercial Passenger Transport Vehicles. Introduced by Mayor Cleworth.

Mr. Matherly, seconded by **Mr. Hilling**, moved to ADVANCE Ordinance No. 5914.

Mr. Hilling spoke to the City's more stringent regulation of the taxi industry back in the 1970's. He stated that most municipalities regulate taxi cabs in some way to protect their citizens. He stated that despite the City's deregulation of taxi rates around 1980, the industry has done well. **Mr. Hilling** stated that while he respects some regulation of the industry in order to protect citizens, he believes the minimum regulations already in place are sufficient. He expressed appreciation to those who testified on behalf of the cab industry and stated that he would reserve his judgment on Ordinance No. 5914 until the vote at the next meeting.

Mayor Cleworth spoke to the series of deregulation of the cab industry by the City Council. He provided a brief history of the evolution of City Code pertaining to cab companies since the 1960's. He stated that he intends to do more research on the issue and indicated that he would like to mirror what the cab industry is already doing in relation to insurance coverage. **Mayor Cleworth** stated that he does not want to take taxi cabs off the road and would like to take another look at the ordinance before proceeding. He stated that he will be willing to prepare an amended version of Ordinance No. 5914 with adjusted minimum coverage requirements if the Council advances the ordinance.

Ms. Staley stated that she was shocked to learn how few insurance companies are willing to insure cab companies. She empathized with local cab owners who struggle to find good coverage.

Mr. Matherly spoke in favor of advancement, given the Mayor's recommendations. He stated that he does not want to place a burden on the cab industry.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO ADVANCE ORDINANCE NO. 5914 AS FOLLOWS:

YEAS: Eberhart, Staley, Matherly, Gatewood

NAYS: Hilling

ABSENT: Walley

Mayor Cleworth declared the MOTION CARRIED.

DISCUSSION ITEMS

Committee Reports

Fairbanks Parking Authority – **Ms. Staley** spoke to the completion of the office remodel at the Fairbanks Parking Authority and to the 2013 budget of the organization. She stated that some of the budget figures were inaccurate and that the board will be reviewing the revised numbers on Wednesday morning.

Public Safety Commission – **Mr. Eberhart** stated that the PSC met on December 11, 2012, but that he was unable to attend. He stated that Police Chief Zager gave a presentation on the public safety officer concept. He asked Mayor Cleworth if he would like to share any information from the meeting.

Mayor Cleworth stated that Chief Zager only reviewed the functions of the police department for the benefit of new committee members. He stated that union representatives for both the fire and police departments are invited to the next PSC meeting on January 8, 2013, to further discuss the public safety officer concept. **Mayor Cleworth** stated that he assumes Chair Peter Stern would begin addressing the public safety officer concept in more detail at the following PSC meeting.

COMMUNICATIONS TO COUNCIL

- a) Bed Tax Discretionary Fund Meeting Minutes of November 8, 2012.
ACCEPTED on the CONSENT AGENDA.
- b) Bed Tax Discretionary Fund Meeting Minutes of December 12, 2012.
ACCEPTED on the CONSENT AGENDA.
- c) Bed Tax Discretionary Fund Meeting Minutes of December 17, 2012.
ACCEPTED on the CONSENT AGENDA.

COUNCIL MEMBERS' COMMENTS

Mr. Eberhart announced that the next PSC meeting would be held on January 8, 2013 at 11:30 A.M. in Council Chambers. He commended City Attorney, Paul Ewers, on settling the issue of payment for “discovery” in state criminal cases. **Mr. Eberhart** commented on emails he has received from a family in North Pole in regards to the serious air pollution in their neighborhood. He stated that he doesn't know of an easy fix to the problem and spoke to his own frustration with poor air quality in the Fairbanks area, especially during extremely cold temperatures. He spoke to the efforts of the City Council to address the issue by banning future installations of hydronic heaters within the City of Fairbanks and to their more recent efforts to improve the problem by allowing existing hydronic heaters to be upgraded to more clean-burning systems. **Mr. Eberhart** suggested that the best solution to the community's air quality problem may be getting natural gas to Fairbanks. He stated his belief that there is not much else the City or the Borough can do to help the problem at this time. **Mr. Eberhart** spoke to the interesting issues coming up in the state and federal legislatures. He wished everyone best wishes for 2013.

Mr. Hilling spoke to the fantastic snow removal job done by the City's Public Works Department after the recent heavy snowfall. He expressed his support for local cab companies and questioned to what extent the City should regulate the industry. He spoke to the insurance companies' regulation of the cab

industry, suggesting that without any regulation from the City, they may perhaps expand their requirements of cab companies and drivers. **Mr. Hilling** spoke to the issue of legalizing marijuana and stated that if the substance were to be legalized, it would present many of the same problems that firearms present, especially to children. He commented that, ultimately, it is a parent's responsibility to protect their children from these dangers. He stated that his view of drugs in society is that there should be no laws against adult use, purchase or sale. **Mr. Hilling** indicated that the legalization of drugs would eliminate gang activity and would dwindle corruption in neighborhoods. He stated his intent to look into an ordinance that would allow for a medical marijuana clinic in the City of Fairbanks. He spoke to the criticism he received for introducing a resolution in support of the legalization of industrial hemp, stating that 80% of the population believe that drugs should be illegal.

Mr. Matherly wished everyone a Happy New Year. He expressed appreciation to those who take the time to attend City Council Meetings and speak to issues that affect them. He spoke to the great Christmas holiday and commended the City's Public Works Department for doing a nice job with snow removal. **Mr. Matherly** stated that, like Mr. Eberhart, he had also received emails from the North Pole family in regard to poor air quality. He stated that he recently spoke with Borough Assembly Member Dukes who lives in the same area and that they refer to the area as the "death triangle." He sympathized with the families that live in the triangle, stating that he plans to drive by and see it for himself. He encouraged the public to continue to contact the Council with issues of concern.

Ms. Staley echoed Mr. Matherly's Happy New Year wishes. She stated that she never received the email to which Mr. Matherly and Mr. Eberhart referred. She spoke to the state's upcoming session and to the recent information sent out by the Chamber regarding the 2013 pre-filed bills and house bills, commenting that it was an interesting read. **Ms. Staley** thanked Mr. Eberhart for providing information about the PSC meetings and stated her intent to attend the next meeting. She stated that she will be also attending the Borough Assembly Meeting on Thursday, January 10. **Ms. Staley** spoke to the importance of local cab companies and to the benefits they offer to the community.

Mr. Gatewood echoed the Happy New Year wishes. He announced that school will resume on January 8 and that there are lots of upcoming school plays, concerts and sporting events. He encouraged everyone to support local high school students, as they are the future of our community and our nation.

Mayor Cleworth spoke to the City's policy on snow removal, stating that it is not done when the temperature falls below -30 degrees. He explained that the extremely cold weather is not good for the equipment's hydraulics or the snow removal blades. He stated that this year, the City broke the policy and removed snow during the cold snap. He encouraged residents to contact the City if they are in an area that has not yet been maintained and stated that pickup of the snow berms is currently underway.

CITY ATTORNEY'S REPORT

City Attorney Ewers referenced his memo to Council regarding the "discovery" billing dispute. He stated that Attorney General Michael Geraghty stepped in to resolve the dispute between the District Attorney's Office and the Public Defender Agency and to find out who was responsible for the balance owed to the City. He stated that Attorney General Geraghty also helped develop a method for future dealings with the state so that the process is more streamlined. He asked for a motion from the Council to accept the \$25,000 settlement from the state for the outstanding bills.

Mr. Hilling, seconded by **Mr. Gatewood**, moved to ACCEPT the settlement from the State of Alaska in the amount of \$25,000.

Mr. Gatewood asked Mr. Ewers to speak to why the City is settling for only part of what was owed.

Mr. Ewers explained that the original agreement between the two state agencies was unclear on the responsibilities of each party. He stated that the City's Finance Department is satisfied with the settlement amount. He stated that the process going forward has been changed and is much more clear.

Mayor Cleworth stated that the issue came to the City's attention because an accounting technician in the Finance Department expressed concern of the liability being carried from year to year on the City's books. He stated that the City decided that it would not be appropriate to write off the balance and began exploring possibilities for collection. He credited the Attorney General for the \$25,000 settlement offer that was made.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO ACCEPT THE SETTLEMENT FROM THE STATE OF ALASKA IN THE AMOUNT OF \$25,000 AS FOLLOWS:

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

ADJOURNMENT

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

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

Mayor Cleworth declared the Meeting adjourned at 9:15 P.M.

JERRY CLEWORTH, MAYOR

ATTEST:

JANEY HOVENDEN, CMC, CITY CLERK

Transcribed by: DS

ORDINANCE NO. 5915

**AN ORDINANCE APPROVING THE PAYMENT IN LIEU OF
TAXES AGREEMENT BETWEEN THE CITY OF FAIRBANKS
AND REST EASY LLC AND GRANTING A PROPERTY TAX
EXEMPTION FOR CERTAIN PROPERTY INTERESTS**

WHEREAS, the Alaska Constitution makes private leaseholds, contracts, or interests in land or property owned by the United States taxable to the extent of such interests; and

WHEREAS, the Alaska legislature enacted AS 29.45.030(a)(8), which exempts from taxation private leasehold, contract, or other interests in property located on a military base and created under the Military Housing Privatization Initiative (MHPI) if the taxing authority enters into an agreement for the payment in lieu of taxes (“PILOT”) with the leaseholder; and

WHEREAS, Rest Easy LLC is a Delaware limited liability company that maintains certain military lodging units located on Fort Wainwright pursuant to a lease with the United States of America, acting by and through the Secretary of the Army, entered into pursuant to the Military Housing Privatization Initiative codified at 10 U.S.C. § 2871 – 2885 (the “MHPI”); and

WHEREAS, the City and Rest Easy desire to enter into an Agreement that will provide long term certainty as to payments Rest Easy will make to the City and the City will receive from Rest Easy in connection with Rest Easy’s project on Fort Wainwright; and

WHEREAS, the City and the Fairbanks North Star Borough have worked together with Rest Easy to create a PILOT agreement that is fair and equitable under the circumstances,

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, as follows:

SECTION 1. The council approves the terms of the attached PILOT Agreement and authorizes the Mayor to sign the Agreement on behalf of the City.

SECTION 2. Upon execution of the PILOT Agreement by Rest Easy and the City, Rest Easy’s property interests located on Fort Wainwright, as described in the PILOT Agreement, will be exempt from taxation by the City of Fairbanks.

SECTION 3. That the effective date of this Ordinance shall be the ___ day of _____ 2013.

Jerry Cleworth, Mayor

AYES:
NAYS:
ABSENT:
ADOPTED:

ATTEST:

APPROVED AS TO FORM:

Janey Hovenden, CMC, City Clerk

Paul J. Ewers, City Attorney

**AGREEMENT
PROVIDING FOR PAYMENTS IN LIEU OF TAXES
BETWEEN
REST EASY LLC AND THE CITY OF FAIRBANKS**

This Agreement Providing For Payments In Lieu Of Taxes ("Agreement") is made by REST EASY LLC, a Delaware limited liability company ("Leaseholder"), and the CITY OF FAIRBANKS, an Alaska municipal corporation ("the City"). Leaseholder and the City may be referred to jointly as the "Parties" and each separately may be referred to as a "Party."

RECITALS

A. Leaseholder manages and maintains certain military lodging units located on Fort Wainwright pursuant to a lease with the United States of America, acting by and through the Secretary of the Army, entered into pursuant to the Military Housing Privatization Initiative codified at 10 U.S.C. § 2871 – 2885 (the "MHPI").

B. The Parties desire to enter into an Agreement that will provide long term certainty as to payments Leaseholder will make to the City and the City will receive from Leaseholder in connection with the Project (as defined in Section 1 below).

C. Whereas the Alaska Legislature has enacted AS 29.45.030(a)(8) which authorizes the City to enter into a Payment in Lieu of Taxes Agreement with respect to MHPI projects such as the Project.

WITNESSETH:

In consideration of the mutual covenants hereinafter set forth, the Parties hereto do agree as follows:

Section 1 - DEFINITIONS

Whenever used in this Agreement, if a definition is provided below, that definition is controlling. Otherwise, terms shall have any legal definition provided by legal authorities or their ordinary meaning. The term:

(a) "Lease" means the lease agreement between the Secretary of the Army and Rest Easy LLC, as amended, a memorandum of which was recorded as Instrument No. 2011-015001-0 with the Office of the Recorder of the State of Alaska, Fairbanks Recording District, and includes the entire Project and certain other land and related improvements located at various other Army installations (which are not subject to the terms and conditions of this Agreement).

(b) "Project" means all interests of Leaseholder in the land, improvements, buildings, structures, fixtures, alterations and associated personal property in each case to the extent located at Fort Wainwright and subject to the Lease.

(c) "Taxing Body" means the City of Fairbanks, in which the property subject to the Lease is situated.

Section 2 - TERM

This Agreement becomes effective on the date it is executed by the last Party to do so (the "Effective Date") and continues in force until terminated in accordance with Section 5.

Section 3 - OBLIGATION OF REST EASY LLC TO MAKE PAYMENTS IN LIEU OF TAXES

(a) So long as

- (i) the land at Fort Wainwright that is subject to the Lease is owned by the federal government; and
- (ii) the Project is used primarily to provide lodging to military personnel pursuant to the terms of the Lease; and
- (iii) the Lease remains in force and effect with respect to the applicable land and improvements at Fort Wainwright,

the City agrees that it will not levy or impose any real or personal property taxes upon the Project or upon the Leaseholder with respect to the Project. During such period, the Leaseholder shall make annual payments (herein called "Payments in Lieu of Taxes" or "PILOT") in lieu of such taxes and in payment for the public services and facilities furnished to the residents of the City of Fairbanks by the City without other cost or charge for or with respect to such Project. The Parties acknowledge that, unless a separate Payment in Lieu of Taxes Agreement or similar arrangement is entered into between the Leaseholder and the Fairbanks North Star Borough (the "Borough"), the Borough will be required to provide valuations, issue tax invoices, make collections or take other actions required by applicable law in connection with taxes levied or imposed by the Borough.

(b) Leaseholder shall pay the City a PILOT in the amount of \$25,713.50, based on the initial assessed value (\$6,794,532) times the City mill rate for 2012 (5.734) times 66%, per year as adjusted in accordance with Section 3(c). Payment of the annual PILOT amount is due within 30 days after the Effective Date, for the first year, and on September 1 in each calendar year thereafter.

(c) The annual PILOT amount payable by Leaseholder to the City under Section 3(b) shall be adjusted annually according to the formula set out in "Exhibit A – Calculation of Annual PILOT Amount For Rest Easy LLC," the terms of which shall upon execution of this Agreement become part of the Agreement as if fully set out herein.

Section 4 – AMENDMENTS

(a) This Agreement shall only be amended, modified or changed by a writing, executed by authorized representatives of the Parties, with the same formality as this Agreement was executed, including approval by the Fairbanks City Council if the amendment results in any monetary adjustment.

(b) The only representative of the City authorized to sign any amendment, modification or change to the terms and conditions of this Agreement is the Mayor of the City or his/her duly appointed designee. The only representatives of Leaseholder authorized to sign any amendment, modification or change to the terms and conditions of this Agreement is any officer of the sole member of the Leaseholder's managing member or his/her duly appointed designee. Each Party represents to the other Party that such Party has duly authorized, executed and delivered this Agreement and that any amendment, modification or change to this Agreement that is agreed to and signed by or on behalf of such Party shall be duly authorized, executed and delivered by such Party.

(c) Any attempt to amend, modify, or change this Agreement by either an unauthorized representative or unauthorized means shall be void.

(d) Any change in the duration of this Agreement must be approved in writing by the City and attached hereto as an amendment.

(e) This Agreement may be terminated in accordance with the provisions of Section 5.

Section 5 – TERMINATION

This Agreement may be terminated:

(a) By mutual consent of the Parties expressed in writing.

(b) By the City if (i) the Lease is terminated and not replaced with a new lease to Leaseholder or its Mortgagee (as defined in the Lease) for the remaining term of, and on substantially the same terms and conditions as, the Lease; or (ii) if any of the fee interest in the real property then subject to the Lease and located at Fort Wainwright is no longer owned by the United States.

(c) For cause, by either Party where the other Party fails in any material way to perform its obligations under this Agreement. Termination under this paragraph is subject to the condition that the terminating Party must notify the other Party in writing of its intent to terminate, stating with reasonable specificity the grounds for termination, and must allow the other Party sixty (60) days after receiving the written notice to cure such failure. The City's right to terminate this Agreement for non-payment of amounts due is in addition to all other rights the City has to collect amounts due it under this Agreement.

Section 6 - EFFECTS OF TERMINATION

Immediately upon the effective date of termination of this Agreement, the Project and the possessory interests on the federal land thereon shall become taxable to the extent permitted by law. However, nothing in this Section or any other provision of this Agreement shall preclude (or be deemed or construed to preclude) the Leaseholder from then contesting the validity, application, imposition, assessment, or levy, after such effective date of termination, of real and/or personal property taxes on the Project and/or the Leaseholder's possessory interests on the federal land at Fort Wainwright pursuant to the Lease or otherwise.

Section 7 – INSPECTION AND RETENTION OF RECORDS

(a) The Leaseholder is required to submit to the City, by the fifteenth day of the month following the month being reported upon, a fully completed, signed, and dated City of Fairbanks Hotel/Motel Sales Tax Report.

(b) Leaseholder shall maintain any records to which the City has the right to request, inspect, and/or otherwise review relating to this Agreement for a period ending three years after the effective date of termination of this Agreement in accordance with Section 5.

(c) Upon request, and within a reasonable time, Leaseholder shall submit to the City (i) copies of any modifications to the Lease; (ii) such other information that is directly pertinent to validate Leaseholder's proper current, past, or future obligation(s) as set forth in Section 3 of this Agreement; and (iii) supporting documentation relating to the foregoing information, in each case irrespective of how such information is stored. If any such documents or information include documents or information the Leaseholder considers proprietary or confidential, Leaseholder shall mark such documents "confidential" prior to submittal to the City. The City shall keep such documents confidential, to the extent permitted by law, and will notify Leaseholder if any public records request is made that pertains to such documents so that Leaseholder may petition the court for a protective order.

(d) If for any reason Leaseholder ceases operations under this Agreement or the Lease before the end of any record retention period provided for in such Lease, Leaseholder shall nevertheless continue to retain copies of all records described in this Section for the remainder of such record retention period.

(e) If Leaseholder fails to submit to the City the information that is directly pertinent to validate Leaseholder's proper current, past, or future obligation(s) as set forth in Section 3 of this Agreement, the City may, in a reasonable manner, unilaterally project the information required to calculate such obligation(s) under Section 3 and require payment of such obligation(s) in that amount.

Section 8 – ASSIGNMENTS AND REVERSIONS

(a) The Leaseholder will notify the City at any time any Project land at Fort Wainwright reverts to the federal government or is otherwise transferred, conveyed, or assigned to any third party. Such reversion, transfer, conveyance, or assignment to a third party (other than a full reversion to the United States) shall not release the Leaseholder of its obligations under this Agreement unless such release is consented to in writing by the City, which consent shall not be unreasonably withheld.

(b) Except as otherwise consented to in writing by the City (which consent shall not be unreasonably withheld), any assignment by Leaseholder of its obligations under any part of this Agreement or any delegation of duties under this Agreement shall be void, and any attempt by Leaseholder to assign any part of its interest or delegate its duties under this Agreement shall give the City the right to immediately terminate this Agreement without any liability to the City. Notwithstanding the foregoing, Leaseholder may assign this Agreement to an affiliate in the event the affiliate enters into (or assumes the Leaseholder's obligations under) the Lease (or a replacement thereof that is for the remaining term of, and on substantially the same terms and conditions as, the Lease), provided the assignee agrees in writing to assume all of Leaseholder's duties and obligations hereunder, and the City is given prior written notice of the assignment.

Section 9 – PERMITS AND LAWS

Leaseholder shall acquire and maintain in good standing all required permits, licenses and other entitlements necessary to its performance under this Agreement.

Section 10 - NONWAIVER

The failure of the City at any time to enforce a provision of this Agreement shall in no way constitute a waiver of such provision, nor in any way affect the validity of this Agreement or any part hereof, or the right of the City thereafter to enforce each and every provision hereof.

Section 11 – JURISDICTION; CHOICE OF LAW

Any civil action arising from this Agreement shall be brought in the Superior Court for the Fourth Judicial District of the State of Alaska at Fairbanks. The laws of the State of Alaska and the City of Fairbanks shall govern the rights and obligations of the Parties under this Agreement. This Section shall not apply to any post-termination actions brought pursuant to Section 6 of this Agreement.

Section 12 - SEVERABILITY

With the express exception of Leaseholder's payment obligations to the City under Section 3 of this Agreement (which, if held to be invalid, illegal or unenforceable, shall not be severable and shall result in a termination of this Agreement), if any provision of this Agreement shall be held to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of

the remaining provisions shall in no way be affected or impaired thereby, and such remaining provisions shall remain in full force and effect. The invalid, illegal or unenforceable provision shall be replaced by a mutually acceptable provision, which, being valid, legal and enforceable comes closest to the intention of the Parties underlying the invalid, illegal or unenforceable provision.

Section 13 - INTEGRATION

This instrument and all appendices and amendments hereto embody the entire Agreement of the Parties. There are no promises, terms, conditions or obligations other than those contained herein, and this Agreement shall supersede all previous communications, representations or agreements, either oral or written, between the Parties or their principals and agents hereto.

Section 14 – INVALIDITY OF AS 29.45.030(a)(8) OR OTHER LEGAL CHALLENGE TO TAXABILITY OR VALUATION

In the event the Alaska Supreme Court finds the provision of AS 29.45.030(a)(8) authorizing this PILOT Agreement is invalid or unlawful, the Parties shall seek to remedy the invalidity, if possible, and continue this Agreement in effect. If continuing the Agreement in effect is not possible under the terms of the Court's decision, then this Agreement shall terminate and the obligation of Leaseholder for future taxes shall depend upon the state of the law as it exists after termination. If a court other than the Alaska Supreme Court finds that the provision of 29.45.030(a)(8) authorizing this PILOT Agreement is invalid, the City, if it has proper legal standing to do so, agrees to appeal such decision to a higher appellate court unless the Parties agree no appeal shall be taken.

Except as otherwise provided in Section 6 of this Agreement with respect to Leaseholder's contest rights, (a) a subsequent court or administrative body determination concerning taxability and/or valuation of the property or similarly situated property shall have no effect on this Agreement or any obligation hereunder unless specifically ordered by the Court; (b) no party to this Agreement shall request or otherwise move for such an order; and (c) the Parties specifically waive any right to a refund, deduction or increase in payment which may arise from any subsequent court order.

Section 15 - NOTICES

Any notice required pertaining to the subject matter of this Agreement shall be personally delivered, sent via facsimile (FAX) or mailed* by prepaid first class registered or certified mail, return receipt requested to the following addresses:

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective as of the Effective Date.

LEASEHOLDER
REST EASY LLC,
A Delaware Limited Liability Company

By: RE Managing Member LLC,
It's Managing Member

By: Lend Lease (US) Public Partnerships
Holdings LLC,
Its Sole Member

By: _____
Charlie Smith
Senior Vice-President

STATE OF TENNESSEE)
) ss:
COUNTY OF _____)

Personally appeared before me, Charlie Smith, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who acknowledged upon oath that such person executed the within instrument for the purposes therein contained, and who further acknowledged that such person is the Senior Vice President of Lend Lease (US) Public Partnerships Holdings LLC, sole member of RE Managing Member LLC, managing member of Rest Easy LLC, the within named limited liability company, and is authorized by the maker or by its constituent, the constituent being authorized by the maker, to execute this instrument on behalf of the maker.

Witness my hand, at office, this _____ day of _____ 2013.

Notary Public in and for Tennessee
My commission expires: _____

CITY OF FAIRBANKS

By: _____
Jerry Cleworth, Mayor

STATE OF ALASKA)
) ss:
FOURTH JUDICIAL DISTRICT)

THIS CERTIFIES that on the ____ day of _____ 2013, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared Jerry Cleworth, known to me to be the Mayor of the City of Fairbanks, named in the foregoing instrument, and acknowledged to me that he, in his official capacity, is authorized by the City of Fairbanks to execute the foregoing instrument as the free act and deed of the said City of Fairbanks for the uses and purposes therein stated.

WITNESS my hand and official seal the date and year first above written.

Notary Public in and for Alaska
My commission expires: _____

City of Fairbanks
 Calculation of Annual Pilot Amount For Rest Easy LLC
 (November 2011 through October 2012 is used as the Base Year)

**** 2013 through 2019 Gross Revenue numbers and Mill Rates are for example only. ****

Taxing Authorities	Rest Easy Assessed Value 2012	Mill Rates 2012	Rest Easy Taxes 2012	Agreed Percent of 2012 Assessed Value to Use for Calculations	Base Year Calculated PILOT Amounts	Rest Easy Gross Revenue Base (November 2011 through October 2012)	2013				2014				2015				Rest Easy Look-Back Gross Revenue Average 2013 - 2015	2016						
							Mill Rates	Mill Rate Factors	Gross Revenue Factor	Calculated PILOT Amounts for 2013	Mill Rates	Mill Rate Factors	Gross Revenue Factor	Calculated PILOT Amounts for 2014	Mill Rates	Mill Rate Factors	Gross Revenue Factor	Calculated PILOT Amounts for 2015		Rest Easy Gross Revenue 2013	Rest Easy Gross Revenue 2014	Rest Easy Gross Revenue 2015	Mill Rates	Mill Rate Factors	Gross Revenue Factor	Calculated PILOT Amounts for 2016
(a)	(b)	(c)	(d: b*c/1000)	(e)	(f: d*e)	(g)	(h)	(i: h/c)	(j)	(k: f*i*j)	(l)	(m: l/c)	(n)	(o: f*m*n)	(p)	(q: p/c)	(r)	(s: f*q*r)	(t)	(u)	(v)	[w: (t+u+v)/3]	(x)	(y: x/c)	(z: w/g)	(aa: f*y*z)
Borough - Areawide	\$6,794,532	11.216	\$76,207.47	66%	\$50,296.93	\$2,640,872	11.400	1.02	1.00	\$51,122.06	11.300	1.01	1.00	\$50,673.62	11.350	1.01	1.00	\$50,897.84	\$2,700,000	\$2,950,000	\$2,400,000	\$2,683,333	11.100	0.99	1.02	\$50,577.08
City of Fairbanks	6,794,532	5.734	38,959.85	66%	25,713.50	2,640,872	5.900	1.03	1.00	26,457.91	5.800	1.01	1.00	26,009.47	5.850	1.02	1.00	26,233.69	2,700,000	2,950,000	2,400,000	2,683,333	5.600	0.98	1.02	25,516.37
Total	6,794,532	16.950	115,167.32	66%	76,010.43	2,640,872	17.300	1.02	1.00	77,579.97	17.100	1.01	1.00	76,683.09	17.200	1.01	1.00	77,131.53	2,700,000	2,950,000	2,400,000	2,683,333	16.700	0.99	1.02	76,093.45

Notes/Assumptions:

1. The PILOT payment due date is 9/1 of each tax year.
2. Future PILOT amounts are only adjusted by gross revenue changes (using a three-year adjustment cycle) and mill rate changes (using an annual adjustment cycle).
3. Mill rates for each entity are by tax year and are updated yearly.
4. Rest Easy's annual gross revenue numbers are revenue derived from all sources for 12-month periods ending on 6/30/20xx (example: the 12-month period ending on 6/30/2013 for tax year 2013). The gross revenue base year is the 12-month period from **November 2011** through **October 2012**.
5. The starting point gross revenue base is used as the three-year average for tax years 2013, 2014, and 2015's calculations. The three-year average is updated tri-annually using a three-year look-back annualized average that is then compared to the original 2012 gross revenue base.
6. The PILOT amounts for tax years 2013, 2014, and 2015 are calculated by taking the base year's (2012's) calculated PILOT amounts (column f) and multiplying them only by mill rate factors, calculated as follows: each year's approved mill rates (tax year 2013, 2014, or 2015) divided by the 2012 base year mill rates (column c).
7. In all future years, starting in 2016, the PILOT amounts are calculated by multiplying the base year calculated PILOT amounts times: 1) the mill rate factors: each year's mill rates divided by the 2012 base year mill rates, and then 2) the gross revenue factor: the last three-year look-back annualized gross revenue average divided by the base year gross revenue (column g). Essentially (base year PILOT amounts) x (mill rate factors) x (three-year look-back gross revenue factor) = PILOT each year.

Cells to be input 2013 - 2015
Label or cells to be input for 2016 - 2018
Label or cells to be input for 2019 - 2021
Possibly subject to change

Introduced by: Mayor Cleworth
Date: February 4, 2013

RESOLUTION NO. 4559

**A RESOLUTION AWARDED A CONTRACT TO EXCLUSIVE
PAVING, INC., FOR THE HELMERICKS AVENUE EXTENSION
AND BENTLEY TRUST ROAD UPGRADE PROJECT FB-12-22 IN
THE AMOUNT OF \$4,914,911.76**

WHEREAS, in accordance with FGC Chapter 54, Article IV, Competitive Bidding, bids were solicited for the Helmericks Avenue Extension And Bentley Trust Road Upgrade Project; and

WHEREAS, the successful low bidder for the project is Exclusive Paving, Inc., North Pole, Alaska; and

WHEREAS, funding for this project is provided to the City of Fairbanks through the a legislative appropriation as defined in the Transfer of Responsibility Agreement between the City of Fairbanks and the Alaska Department of Transportation; and

WHEREAS, the City of Fairbanks will maintain the improvements, all easements for the improvements have been acquired, and there is no City of Fairbanks match requirement for the construction of this project; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Fairbanks,

SECTION 1. That the Bid by EXCLUSIVE PAVING, INC., in the amount of Four Million, Nine Hundred Fourteen Thousand, Nine Hundred Eleven dollars and Seventy-Six cents (\$4,914,911.76) is hereby approved for award.

SECTION 2. That the Mayor is hereby authorized to execute a contract and such other documents in a form approved by the City Attorney as may be necessary to effect award of the contract.

PASSED, APPROVED and EFFECTIVE this 4th day of February 2013.

JERRY CLEWORTH, MAYOR

AYES:
NAYS:
ABSENT:
APPROVED:

ATTEST:

APPROVED AS TO FORM:

Janey Hovenden, CMC, City Clerk

Paul Ewers, City Attorney

Introduced By: Mayor Jerry Cleworth
Date: February 4, 2013

RESOLUTION NO. 4560

**A RESOLUTION IN SUPPORT OF THE ALASKA STAND ALONE PIPELINE
FROM THE NORTH SLOPE TO SOUTHCENTRAL ALASKA**

WHEREAS, the extremely high cost of energy for residents and businesses in the interior of Alaska is well known; and

WHEREAS, trucking LNG from the North Slope to the interior is a vital short-term solution; and

WHEREAS, there is a critical need for a long-term solution that provides clean affordable gas to the interior; and

WHEREAS, the Alaska Gasline Development Corporation (AGDC) has created the Alaska Stand Alone Pipeline (ASAP) and has done much of the preliminary work required before going to Open Season; and

WHEREAS, production of Cook Inlet gas reserves is uncertain and currently insufficient to provide long-term supply guarantees,

NOW, THEREFORE, BE IT RESOLVED that the City of Fairbanks supports legislation that continues the ASAP project as it will add a long overdue critical component to our state's infrastructure needs and will utilize an important resource to greatly reduce energy costs and help make Alaska competitive.

PASSED and APPROVED this 4th day of February 2013.

JERRY CLEWORTH, MAYOR

AYES:
NAYS:
ABSENT:
APPROVED:

ATTEST:

APPROVED AS TO FORM:

Janey Hovenden, CMC, CITY CLERK

Paul J. Ewers, CITY ATTORNEY

RESOLUTION NO.4561

**A RESOLUTION AMENDING THE SCHEDULE OF FEES & CHARGES
FOR SERVICES BY ADJUSTING REFUSE COLLECTION RATES**

WHEREAS, Ordinance 5744 adopted the City *Schedule of Fees & Charges for Services* to be amended by resolution; section 37 of Ordinance 5744 provided that refuse collection rates be adjusted each year to reflect the annual change in the Anchorage Consumer Price Index as well as changes in the cost of fuel and tipping fees charged by the Fairbanks North Star Borough landfill; and

WHEREAS, the change in the annual consumer price index for 2012 was 2.2 percent; in addition, landfill tipping fees increased by \$7.00/ton; and

WHEREAS, while the actual calculated increases are \$4.00 per quarter for refuse collection, \$3.00 per quarter for the senior discount rate and \$3.00 per quarter for oversized refuse pickup, the City Council has elected to approve lesser increases:

\$3.00 increase per quarter for refuse collection to \$73.00
Senior discount rate increased by \$2.00 per quarter to \$54.00
Oversize refuse pickup increased by \$3.00 to \$33.00 per pickup

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, to approve the attached amended version of the *Schedule of Fees and Charges for Services* amending the refuse collection rates effective April 1, 2013.

PASSED and APPROVED this ____ day of February 2013.

Jerry Cleworth, MAYOR

AYES:
NAYS:
ABSENT
APPROVED:

ATTEST:

APPROVED AS TO FORM

Janey Hovenden, CMC, City Clerk

Paul J. Ewers, City Attorney

City of Fairbanks Fee Schedule

Resolution 4561

Category	Code Sec.	Topic	Current Fee	Resolution 4561	Unit
Refuse Collection	66-42	Refuse Collection Rates*	\$ 70.00	\$ 73.00	<i>Rounded from \$73.51</i>
	66-43	Senior <i>Discounted</i> Rate*	\$ 52.00	\$ 54.00	<i>Rounded from \$54.75</i>
	66-42 66-69	Oversized Refuse Pickup	\$ 30.00	\$ 33.00	Per Trip Rounded from \$32.65