



FAIRBANKS CITY COUNCIL
REGULAR MEETING MINUTES, NOVEMBER 19, 2012
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: Perry Walley, Seat B
Bernard Gatewood, Seat C
Jim Matherly, Seat D
Lloyd Hilling, Seat E
John Eberhart, Seat F

Absent: Renee Staley, Seat A (Excused)

Also Present: Pat Cole, Chief of Staff
Warren Cummings, Fire Chief
Dave Burglin, Deputy City Attorney
Janey Hovenden, City Clerk
Stephanie Johnson, Dispatch Center Manager
Tony C. Shumate, Director Personnel/Purchasing/RM
Jim N. Soileau, Chief Financial Officer
Laren Zager, Police Chief
Ernie Misewicz, Assistant Fire Chief

INVOCATION

The Invocation was given by City Clerk Janey Hovenden.

FLAG SALUTATION

Mayor Cleworth led the Flag Salutation.

CITIZEN'S COMMENTS

Mayor Cleworth stated that although Ordinance No. 5903, as Amended, has already been open to Public Testimony, he would like to reopen Public Testimony during Unfinished Business with the concurrence of the Council.

There was no objection from the Council.

Greg Allison, 346 Spence Avenue, Fairbanks – Mr. Allison stated that he is the Tourism Senior Sales Manager for the Fairbanks Convention and Visitor's Bureau (FCVB). He gave a report on his recent visit to Australia for the 2012 Australia Down Under Workshop for Alaska Delegates to promote the Fairbanks community to operators, media and travel agents. He mentioned the

FCVB Tourism Sales Manager's recent trip to the International World Travel Fair in Taiwan to promote Fairbanks tourism. He thanked the City for reinvesting bed tax dollars into destination marketing.

Mr. Matherly asked Mr. Allison to speak more to the tourism market in Australia.

Mr. Allison stated that Australian market makes up roughly 27% of Fairbanks' international clientele. He indicated that the reason for that is because Australians, on average, get a generous amount of vacation time and are a young, adventurous market.

Mystiek Lockery, 1608 Central Avenue, Fairbanks – Ms. Lockery referenced the proposal she sent to the Council regarding medical marijuana. She stated that she would like to open a medical marijuana clinic in Fairbanks. Ms. Lockery explained that while medical marijuana has been legal in the State of Alaska for several years, there is no legal way for consumers to get it. She indicated that the only way to fix the problem is for someone to “okay” an outlet such as a clinic. She stated that her clinic would be run securely, hopefully with growth and storage facilities on-site to avoid transportation issues. She stated that in other states where the use of medical marijuana is legal, local governments have approved the use of such facilities within a community. She stated that in those areas where medical marijuana facilities have opened, there have been no negative effects to the communities.

Mr. Eberhart asked Ms. Lockery to speak to the steps that need to be taken at the state and federal levels in order to proceed.

Ms. Lockery replied that the state has already done their part by legalizing medical marijuana. She stated that the City Council's approval is the next step because the City has police powers and has the right to give permission for the clinic to open its doors.

Mr. Eberhart asked Ms. Lockery how she could legally open the clinic since the use of medical marijuana is against federal law.

Ms. Lockery acknowledged that the use of medical marijuana is against federal law, but stated that clinics are still operating all over the country with the consent of local governments. She presented a copy of a petition she sent to the Drug Enforcement Administration (DEA), the Attorney General and the Secretary of Health requesting that marijuana be removed from the federal government's schedule of illegal drugs. Ms. Lockery explained that in order to receive the medical marijuana through her clinic, patients would be required to show their identification, their medical marijuana card and their prescription. She stated that the prescription would be verified through the prescribing doctor before the marijuana was given to the patient.

Mr. Hilling asked if it is currently illegal for patients to have their prescriptions for medical marijuana flown in from out of state.

Ms. Lockery stated that she believes it is illegal because the marijuana would be crossing state lines.

Mr. Hilling asked if existing pharmacies could legally dispense medical marijuana if they so wished.

Ms. Lockery replied that she believes they could, but that they would probably have to prove that the marijuana came from within the state. She added that the pharmacies may not wish to carry the product because of their ties to pharmaceutical companies and that currently, no local pharmacies have medical marijuana available.

Mr. Hilling addressed the quality of marijuana. He asked Ms. Lockery if she is hoping for the Council to pass legislation approving the clinic. He asked Ms. Lockery to also describe the quality of the medical marijuana.

Ms. Lockery replied that she would like the Council to give the approval for her clinic to open. She stated that although there are different types of marijuana, all types help the ailments of patients that use it. She indicated, however, that a certain strain may have traits that can help treat specific symptoms more effectively than another strain. She stated that she intends to have a variety of plants on-hand for patients to choose from.

Mr. Gatewood asked if she is aware if insurance companies cover the prescription for marijuana.

Ms. Lockery stated that she does not know if insurance companies cover the product, but that she plans to use a cash-based system for the sale of prescriptions.

Mr. Gatewood asked Ms. Lockery to speak to the security measures she referred to in her testimony.

Ms. Lockery explained that the security measures would include locks on doors and windows as well as 2-3 security staff on-site at all times.

Mr. Walley asked if there were any similar facilities currently in operation in Alaska.

Ms. Lockery replied that currently there are not. She stated that there are over 300 people in Alaska who have been issued a medical marijuana card, but are not able to get the product.

Mr. Matherly asked Ms. Lockery to speak to her background and credentials.

Ms. Lockery replied that since marijuana is a plant that grows naturally and has natural health benefits, no education or credentials would be necessary for an individual to open a facility to sell the product. She stated that she does not have an education or a degree in any field pertaining to the industry, but is simply interested in helping people.

Mr. Matherly asked if other similar clinics operate under a certain set of rules or guidelines.

Ms. Lockery answered that rules are set by the government entity that approves the use of the facility.

Mr. Matherly asked how many of those 300+ people live in the Fairbanks area. He also asked Ms. Lockery who in Fairbanks prescribes medical marijuana to patients.

Ms. Lockery replied that she does not know how many individuals in Fairbanks have a medical marijuana prescription due to the privacy of the registry. She stated that there is no disclosure of the doctors who prescribe marijuana, but indicated that some doctors from Anchorage travel to Fairbanks regularly to write prescriptions for patients.

Mr. Eberhart shared a story he recollected in which a large city in California had allowed the opening of medical marijuana facilities, only to later try to shut them down due to various problems. He asked Ms. Lockery if she had heard of the situation, and if so, to speak to the types of problems surrounding the situation.

Ms. Lockery expressed her belief that problems do not come from the medical marijuana clinics, but from the government. She suggested that the federal government does not like the states exercising their right to legalize marijuana.

Mayor Cleworth stated that his understanding of the situation in California was that there became such a proliferation marijuana dispensaries and an ease in obtaining the product, that the government began questioning if it was being used strictly for medical purposes.

Ms. Lockery stated her awareness of the situation in California. She expressed her belief that marijuana is beneficial for both recreational and medical use, but stated that her intention is to only provide marijuana to those who have a prescription and need the product.

Frank Turney, 201 7th Avenue, Fairbanks – Mr. Turney spoke in support of the medical marijuana clinic. He stated that last summer a doctor set up a clinic in Fairbanks and had participation from over 100 individuals with medical marijuana cards. Mr. Turney stated that he believes the doctor was looking for someone to come forward to open a dispensary in Fairbanks. He spoke to Marinol, a synthetic marijuana that is sometimes prescribed by doctors as a marijuana substitute. He stated that elected officials need to be educated on the Alaska laws pertaining to marijuana possession and personal use. He expressed his support for the establishment of Ms. Lockery's clinic. He stated that he would like to hear the City Attorney's legal stance on the issue. Mr. Turney spoke to the old dairy building on 2nd Avenue and recommended that each Council Member take the time to go look at the dilapidated structure. He mentioned that he brought the issue of the old structure up to the Public Safety Commission (PSC) and suggested that the City has not taken any action to remove the old building because it is owned by a former City engineer. Mr. Turney addressed the liability involved in allowing the structure to stand with a handicapped living facility next door.

Mr. Hilling asked Mr. Turney if he could pinpoint a specific issue of safety or health with the structure on 2nd Avenue.

Mr. Turney stated that the building is caved in and has been burned. He commented that vagrants or residents of the facility next door may enter the structure and that the building is a danger to the public.

Mr. Hilling asked Mr. Turney if he could compare Marinol to marijuana.

Mr. Turney replied that he tried Marinol about 20 years ago and that it had no effect on him. He stated that marijuana makes him mellow.

Victor Buberger, PO Box 58192, Fairbanks – Mr. Buberger stated that he has had a lot of experience with marijuana, but no longer smokes. He spoke to the damage and trash in the old dairy building on 2nd Avenue and to the need for something to be done. Mr. Buberger spoke to the Local Improvement District (LID) for clean and safe services in Downtown Fairbanks. He recommended that the City put out an RFP for the services instead of moving forward with the formation of a LID. He offered a second alternative to a LID by suggesting that City laborers be put to work removing snow with snow blowers during the winter months.

David Lerman, 126 2nd Avenue, #15, Fairbanks – Mr. Lerman stated that he will be running for City Council in the 2013 Municipal Election. He spoke to his newest website titled *Voter Butter*, which was created to “churn” good ideas. He stated that one of the ideas on the site is the Russian’s interest in building a Bering Strait Tunnel connecting Russia to Alaska. He spoke to his idea of creating a Decibel Regulation Task Force to prevent hearing damage to the public. He further suggested that images of a damaged inner ear and damaged lungs replace the quilted wall hangings in Council Chambers to educate the public on the harmful effects of high decibels and the importance of air quality. Mr. Lerman spoke to his other website, *Renovation Fairbanks*, and to the need for a Renovation Task Force in the City of Fairbanks. He stated that the City should waive building permit fees for property owners who wish to renovate their dilapidated properties. He spoke in support of a City resolution to support Mr. Marlow’s efforts to renovate the Polaris Building downtown. He stated that he believes if he repeats himself enough, what he suggests will come to pass.

Mr. Matherly stated that he is weary of hearing about Mr. Marlow’s intention to renovate the Polaris Building. He asked Mr. Lerman what would happen if the City waived all the building permit fees for the renovation of the structure and Mr. Marlow did not follow through.

Mr. Lerman stated that it is a matter of psychology and that the Council needs to take a positive approach with Mr. Marlow. He asked what the City would have to lose. He clarified that if the City waived the fees for Mr. Marlow, they would also have to waive the fees for all other property owners who chose to renovate a dilapidated structure. He stated that the cost of building permit fees is a small price to pay in order to spark renovation.

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. Eberhart pulled the Approval of the 2013 City Council Meeting Schedule from the Consent Agenda.

Mayor Cleworth pulled Resolution No. 4547 from the Consent Agenda.

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

With no objection from the Council, **Mayor Cleworth** added Firefighter's Union discussion to the Executive Session topic.

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

APPROVAL OF PREVIOUS MINUTES

- a) Regular Meeting Minutes of October 22, 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 Transfer and Restaurant Designation Permit.

Transfer of Ownership:

Type: Restaurant/Eating Place

FROM:

Current DBA: Thai House Restaurant, License #3687

Licensee: Chalermpon Boonprasert (deceased)

Location: 412 5th Avenue, Fairbanks

TO:

License: Thai House Restaurant, License #3687

Licensee/Applicant: Boonchoo, Inc.

Physical Location: 412 5th Avenue, Fairbanks

Mayor Cleworth gave a brief explanation of the new layout of liquor licenses in the Council's agenda packets.

Mr. Hilling, seconded by **Mr. Gatewood**, moved to WAIVE Protest on the Liquor License Application for Transfer and Restaurant Designation Permit.

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 THAI HOUSE RESTAURANT LIQUOR LICENSE APPLICATION FOR TRANSFER AND RESTAURANT DESIGNATION PERMIT AS FOLLOWS:

YEAS: Matherly, Hilling, Walley, Gatewood, Eberhart

NAYS: None

ABSENT: Staley

Mayor Cleworth declared the MOTION CARRIED.

MAYOR'S COMMENTS AND REPORT

Mayor Cleworth congratulated Pat Cole on winning the Vic Fischer Local Government Leadership Award, and Janey Hovenden on receiving the prestigious Municipal Clerk of the Year Award. He stated that both Ms. Hovenden and Mr. Cole were presented with their awards at the 2012 Alaska Municipal League (AML) Conference in Anchorage. **Mayor Cleworth** stated that the 2013 Budget has to be adopted by December 15, 2012 according to City Code. He explained that it is being introduced early so that it may be postponed for one meeting if any problems or questions arise. **Mayor Cleworth** spoke to the recent dinner with Dr. Morin, Assistant Secretary of the Air Force, at Eielson Air Force Base (EAFB). He stated that Dr. Morin's speech regarding the future of EAFB was rather discouraging. He commented that the Air Force seems to have already made up its mind on the relocation of the F-16's to Joint Base Elmendorf-Richardson (JBER), although the congressional delegation does not agree with the findings of the Site Activation Task Force (SATAF) report. He stated that the Air Force plans to destroy several buildings at EAFB, totaling approximately \$100 - \$200 million in value, because they don't want to be liable for utility and maintenance costs. He commented that it seems like a waste to destroy such valuable property in order to save on recurring costs. **Mayor Cleworth** explained that if there is ever a mission in the Pacific, the two Air Force bases in Alaska have the luxury of housing extra troops, but that Eielson would no longer have that luxury if the buildings are destroyed as planned. He stated that our community—and even the Anchorage communities—are not in support of the movement. He stated that the TIGER Team would continue to meet weekly with the congressional delegation to compare notes on the issue. **Mayor Cleworth** addressed the Public Testimony on the old dairy on 2nd Avenue. He commented that the City is criticized for doing abatements and when the City does not take abatement action, they are criticized for doing nothing. He stated that the City's policy on abatements is simple: when a property is identified as a hazard and when numerous complaints have been filed, the City notifies the owner and tries to work with the owner on a deadline. He explained that owners are typically given two or more deadlines by which to take care of the issue, and when those deadlines are not met, the City will take action. He stated that in 2012, the City did not do any abatements, but did identify several properties that needed attention. **Mayor Cleworth** stated that the old dairy building was on the 2012 list of City abatements. He explained that the City contacted the owner who promised to have the property cleaned up. He stated that since the owner did not follow through, the City will continue to move forward with the abatement of the property. He clarified that this property has not been treated any differently than other City abatements. **Mayor Cleworth**, in response to Mr. Lerman's comments on the Polaris Building, stated that Mr. Marlow is not developing the building. He explained that Mr. Marlow owes back taxes and has two notes on the structure that total far more than its value. He stated that there are two groups that are trying to get the Polaris Building from Mr. Marlow in

order to develop it, but that he is doubtful that they will be successful either. **Mayor Cleworth** stated that the City has set the abatement deadline for the Polaris Building at the end of summer, 2013. He added that if nothing has been done by then, the City will step in to abate. He stated that Mr. Marlow has exhausted all resources to make the renovation a success and added that a renovation of the structure would be a \$20 million project with a \$15 million renovated value. **Mayor Cleworth** spoke to the annual contribution the City makes to the Community Service Patrol (CSP). He explained that while the City Code does not require an annual report from the CSP, it does stipulate that the contribution is only for four years and that a match is required. He asked Mr. van den Berg to come forward to provide the Council with a report.

Mr. van den Berg spoke to the purpose and history of the CSP. He distributed handouts of the CSP's service area boundaries, a summary of CSP transports from 2008 through 2012, a 2012 YTD Income Report for the CSP, and Ordinance No. 5822, as Amended. He stated that in 2010, the City saw fit to contribute \$50,000 annually for four years to the CSP since the program is a savings to the City's police and fire services. Mr. van den Berg spoke to the problem with chronic inebriates in the downtown area and stated that 355 individuals comprised the 1,805 CSP total transports in the past 12 months. He stated that the CSP works with the Housing First facility to ensure that its residents are returned there if they are picked up by the patrol. He indicated that of the 18 individuals that became residents of Housing First since it opened its doors in May, only five were picked up in the month of October. He stated that the statistics speak to the early success of the Housing First project. Mr. van den Berg spoke to the \$140,000 match required of the CSP by Ordinance No. 5822, as Amended. He referenced the YTD Income Report of the CSP and pointed out that the program has only brought in \$123,406 so far in 2012. He stated that with the addition of pending contributions to the CSP in 2012, the total income would be a little shy of the \$140,000 match.

Mayor Cleworth asked Mr. van den Berg if the CSP had reached the \$140,000 match at the end of last year.

Mr. van den Berg replied that the CSP's total income for 2011 was \$135,058.02, excluding the City's \$50,000 contribution. He stated that if in-kind contributions counted, the total would have been \$191,653.50.

Mr. Gatewood asked what percentage of Mr. van den Berg's salary is attributed to in-kind contributions.

Mr. van den Berg replied that in 2011, the \$3,600 in-kind time contribution constituted 5% of his total annual salary.

UNFINISHED BUSINESS

- a) Ordinance No. 5903, as Amended – An Ordinance Amending FGC Chapter 34, Article VI, Section 34-201, to Allow Replacement of Hydronic Heaters. Introduced by Council Member Stiver. Public Hearing was Held on November 5, 2012. POSTPONED from the Regular Meeting of November 5, 2012.

Motion to ADOPT Ordinance No. 5903, as Amended, was already on the floor from the Regular Meeting of November 5, 2012 when the ordinance was postponed.

Mayor Cleworth asked the Council if they had received the memo from the City Attorney regarding the terminology used in Ordinance No. 5903, as Amended.

Mayor Cleworth called for Public Testimony.

David Lerman – Mr. Lerman spoke in support of Ordinance No. 5903, as Amended. He spoke to minimizing air pollution in the City and to finding ways to improve air quality. He mentioned a local pawn shop that operates a hydronic heater and spoke to the air pollution it creates. Mr. Lerman recommended the use of visuals to educate the public on what's in the air they are breathing in. He spoke to the decline in air quality in Fairbanks over the years.

Mr. Eberhart asked where the pawn shop is located and how long the owner has been using the hydronic heater. He asked Mr. Lerman if he knew what was being burnt in the hydronic heater.

Mr. Lerman replied that the shop is at the corner of Airport Way and Cushman Street and that he is unsure how long the hydronic heater has been in operation. He stated that the owner told him she was burning wood.

Victor Buberger – Mr. Buberger stated that his neighbor has a hydronic heater that used to bother him. He commented that he no longer has a problem with the poor air quality since his neighbor extended the chimney. Mr. Buberger indicated that coal-burning is a bigger problem than hydronic heaters in the Fairbanks area.

Frank Turney – Mr. Turney stated that he has been unable to locate the pawn shop that Mr. Lerman referred to in his testimony.

Vivian Stiver, 523 2nd Avenue, Fairbanks – Ms. Stiver distributed a handout from the EPA website which lists cleaner units that meet EPA standards. She stated that when she was on the City Council, Mayor Strle introduced a moratorium on the installation of hydronic heaters. She commented that at that time, she recommended that the City Building Department research hydronic heating devices. She stated that it makes sense to allow homeowners to upgrade to cleaner burning hydronic heaters. Ms. Stiver again requested that the City Building Department research the devices. She acknowledged that there are other significant factors besides hydronic heaters that contribute to poor air quality in Fairbanks, such as industrial plants and wood stove exhaust. She stated that it is imperative that the City allow those currently using hydronic heaters to upgrade to a newer, cleaner burning system.

Mr. Hilling asked Ms. Stiver to speak to the handout and to the issue of “qualified” versus “certified.”

Ms. Stiver stated that she obtained the list of cleaner hydronic heaters from the EPA's website and that she has not seen the memo from the City Attorney that speaks to the difference between “qualified” and “certified” in relation to hydronic heaters.

Mayor Cleworth clarified that the list consists of only Phase 2 hydronic heater models. He explained that the EPA no longer qualifies Phase 1 heaters.

Mr. Hilling asked Ms. Stiver to speak to the process by which homeowners would install replacement hydronic heaters with the City's approval.

Ms. Stiver stated that she envisions the Building Department setting some sort of testing standard or publish a list of approved devices. She stated that the City would still require homeowners to obtain a permit for the installation of the heater.

Mr. Eberhart asked Ms. Stiver if she would see a problem with changing the word "certified" to "qualified" in Ordinance No. 5903, as Amended. He stated that he is unclear on what entity actually certifies the devices.

Ms. Stiver replied that she does see a problem with the word change, but that she believes the current version is more clear.

Tammie Wilson, 571 Canoro Road, North Pole – Ms. Wilson, State Representative for District 11, stated that she takes the hydronic heating issue very personally. She explained that the EPA certifies wood stoves but has never certified outdoor boilers. She stated that the EPA only qualifies hydronic heaters and are getting close to qualifying Phase 3 devices. She spoke to the "boom" of hydronic heater installation in Fairbanks about five years ago when gas prices spiked. She indicated that the original use of hydronic heaters was primarily for large buildings in non-urban areas. Ms. Wilson explained that hydronic heating devices have now become more common in homes which have much less square footage than commercial buildings and that homeowners must keep the devices on a low setting which creates much more smoke. She spoke in support of Ordinance No. 5903, as Amended, stating that it would not increase the number of hydronic heaters in Fairbanks.

Mr. Eberhart indicated that if the EPA is close to qualifying Phase 3 devices, perhaps the Council should not limit qualified upgrades to Phase 2 hydronic heaters.

Ms. Wilson commented that there are good and bad Phase 2 devices. She stated that all Phase 2 hydronic heaters meet the minimum standards, but that some greatly exceed the requirements. She stated that one cannot assume that a Phase 2 hydronic heater is a clean-burning device without looking at the actual numbers compared to other units.

Mayor Cleworth asked if the EPA still qualifies Phase 1 devices.

Ms. Wilson replied that they do not.

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

Mr. Eberhart read aloud a headline from the Fairbanks Daily News Miner which read, "Poor air quality expected for days." He stated that Fairbanks residents should be concerned about the health of their families and neighbors and that there needs to be an equal balance with the

concern of high energy costs. He thanked the City Attorney for his memo which recommended a change of the word “certified” to “qualified” in Ordinance No. 5903, as Amended.

Mr. Eberhart, seconded by **Mr. Gatewood**, moved to AMEND Ordinance No. 5903, as Amended by replacing the word “certified” with the word “qualified” in the fifth whereas and in the sixth line of Section 34-201.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO AMEND ORDINANCE NO. 5903, AS AMENDED, BY REPLACING THE WORD “CERTIFIED” WITH THE WORD “QUALIFIED” IN THE FIFTH WHEREAS AND IN THE SIXTH LINE OF SECTION 34-201 AS FOLLOWS:

YEAS: Matherly, Gatewood, Hilling, Eberhart, Walley

NAYS: None

ABSENT: Staley

Mayor Cleworth declared the MOTION CARRIED.

Mr. Eberhart suggested that the City Building Department also look into the setback requirements for commercial hydronic heaters referenced in the City Attorney’s memo. He spoke to the BTU output comparison of residential and commercial devices. **Mr. Eberhart** indicated that there are some long-term issues that should be considered by the Council before proceeding. He distributed a handout of other possible amendments to Ordinance No. 5903, as Amended, for group discussion. He commented that if natural gas is brought to the Fairbanks area, residents may no longer wish to use hydronic heaters. He gave a brief explanation of the first proposed amendment.

Mr. Matherly, in reference to the first proposed amendment on the handout, stated that hydronic heaters cannot burn both wood and coal. He asked if there two different types of devices, one for coal and one for wood.

Mr. Eberhart requested that Ms. Wilson come forward to answer Mr. Matherly’s question.

Ms. Wilson explained that coal burning and wood burning hydronic heaters are two different types of devices. She stated that a wood burning device can be modified to burn coal by adding numerous parts, but that they are not manufactured to burn both wood and coal. She stated that the Borough has approved one coal burning device which tested to burn cleaner than pellet stoves and some Phase 2 hydronic heaters. She stated that the type of fuel should not be a deciding factor in the approval of devices; rather, approval should be based on emission levels.

Mr. Matherly asked what EPA’s stance is on coal burning devices.

Ms. Wilson replied that the EPA has not addressed coal units.

Mr. Eberhart spoke to the model codes that the EPA has been involved with. He quoted an excerpt which stated that coal is prohibited from use in an outdoor hydronic heater. He asked if there is a certified or qualified coal burning hydronic heater on the market.

Ms. Wilson replied that there is not. She explained that the EPA does not test coal burning devices at all. She stated that the statement from the model code read by Mr. Eberhart was most likely in reference to the ban of the use of coal in wood burning hydronic heaters.

Mr. Eberhart asked Ms. Wilson for her input on rewording the proposed amendment regarding the use of coal in hydronic heaters.

Ms. Wilson replied that it is against state law to burn coal in a wood burning unit. She stated that if the Council banned the use of coal as a source of heating fuel, it would likely put several local businesses out of commission. She suggested that the Council adopt Ordinance No. 5903, as Amended, as it currently reads and have the Building Department look into the clean burning coal devices being used by some local businesses.

Mayor Cleworth stated that he met with a gentleman recently who shared information that there is a new technology for a device that uses a mixture of bio products and coal as a fuel source. He cautioned banning coal due to new technologies that may actually burn cleaner than many other types of fuel currently being used in the Fairbanks area. **Mayor Cleworth** spoke to the many changes on the horizon and the possible elimination of hydronic heaters altogether when natural gas is brought to Fairbanks.

Mr. Eberhart spoke to the second proposed amendment on the handout. He stated that while Ordinance No. 5903, as Amended, allows for the replacement of existing hydronic heaters, it does not ban the use of older models still being used that may not meet EPA standards. He expressed concern that if a deadline isn't set by which older devices *must* be replaced with an EPA qualified device, there may be more problems in the future. **Mr. Eberhart** expressed the same concern for commercial hydronic heating systems, but declined to make a motion to amend. He suggested that the City Building Department look into the issue further.

Mr. Hilling stated that "grandfather" clauses are often inserted into legislation like Ordinance No. 5903, as Amended. He stated that he would not be too concerned about incorporating Mr. Eberhart's proposed amendments since natural gas will be brought to Fairbanks in the near future.

Mr. Gatewood commented that he is not confident that a significant portion of the local population would be using natural gas within the next two years. He stated that he likes Ordinance No. 5903, as Amended, as written, but stated that he would support an amendment to prohibit the use of coal in heaters designed for wood.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO ADOPT ORDINANCE NO. 5903, AS AMENDED, AS FOLLOWS:

YEAS: Walley, Matherly, Gatewood, Hilling, Eberhart

NAYS: None

ABSENT: Staley

Mayor Cleworth declared the MOTION CARRIED and Ordinance No. 5903, as Amended, ADOPTED.

NEW BUSINESS

- a) Resolution No. 4547 – A Resolution Stating the City’s Capital Priorities for the State 2013-14 Fiscal Year. Introduced by Mayor Cleworth.

Mr. Eberhart, seconded by **Mr. Gatewood**, moved to APPROVE Resolution No. 4547.

Mayor Cleworth explained that the Council normally has an opportunity to rank the City’s capital projects, but that the ranking in Resolution No. 4547 was put together ahead of time. He asked the Council for their input on the prioritization of the projects.

Mr. Gatewood asked Mayor Cleworth to speak to the reasoning behind the proposed order of projects and to why the South Cushman Reconstruction was the only project submitted for inclusion in the Governor’s Budget.

Mayor Cleworth stated that he met with the Governor about a month ago. He explained that the City decided to submit only the South Cushman Reconstruction project because FMATS has put \$5 million in seed money aside for the project and the project finally has commitment. He stated that the South Cushman area has been put off for many years and badly needs reconstruction. He spoke to right-of-way issues and how they can complicate the construction of road projects. **Mayor Cleworth** explained that there are two improvement options for the South Cushman Reconstruction described in Resolution No. 4547: Complete Reconstruction with Utility Improvements and Rehabilitation with Limited Utility Improvements. He remarked at the staggering cost difference between the two options.

Mr. Hilling asked if the utilities could be taken care of at a later time without complete reconstruction should the Governor approve the lesser option.

Mayor Cleworth replied that the utilities would likely not be improved for decades if the lesser option was approved and completed.

Mr. Gatewood asked how the projects came to be ranked as they are in Resolution No. 4547.

Mayor Cleworth stated that the ranking is arbitrary. He stated that he and City staff discussed the ranking and agreed on the most important tasks. He commented that road improvements are a top priority for the City. He added that talking with the lobbyists sometimes helps in coming up with a strategy for prioritizing projects.

Mr. Hilling asked if there are any plans for sidewalks included in the Rickert Subdivision project.

Mayor Cleworth replied that there are not. He explained that typically sidewalk construction is not included in project plans unless specifically requested. He stated that most residences have encroached into the City right-of-way, complicating sidewalk construction.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO APPROVE RESOLUTION NO. 4547 AS FOLLOWS:

AYES: Hilling, Eberhart, Walley, Matherly, Gatewood
NAYS: None
ABSENT: Staley
Mayor Cleworth declared the MOTION CARRIED and
Resolution No. 4547 APPROVED.

- b) Ordinance No. 5905 – An Ordinance Amending Fairbanks General Code Sections 2-260 and 2-261 and Enacting 2-262 Regarding the Authorized Investment Selections of the City Permanent Fund Investment Policy. Introduced by Mayor Cleworth and Council Member Gatewood.

ADVANCED on the CONSENT AGENDA.

- c) Ordinance No. 5906 – An Ordinance Authorizing Release of an Easement in Peger Lake Development. Introduced by Mayor Cleworth.

ADVANCED on the CONSENT AGENDA.

- d) Ordinance No. 5907 – An Ordinance Adopting the 2013 Operating and Capital Budgets. Introduced by Mayor Cleworth.

ADVANCED on the CONSENT AGENDA.

- e) Ordinance No. 5908 – An Ordinance Amending the 2012 General Fund Budget for the Third Time. Introduced by Mayor Cleworth.

ADVANCED on the CONSENT AGENDA.

DISCUSSION ITEMS

Committee Reports

Bed Tax Discretionary Fund Committee – **Mr. Matherly** stated that he presided over his first meeting as Chair on November 8, 2012. He stated that the meeting was brief and that the committee discussed parameters for presentation and allotment of discretionary funds. He stated that all presentations will take place at one meeting this year instead of two. He expressed his appreciation for the opportunity to serve on the committee.

Mayor Cleworth stressed the importance of all Bed Tax Committee Members being present for the presentations.

Mr. Matherly stated that attendance and punctuality was addressed by the committee at the meeting.

Public Safety Commission – **Mr. Eberhart** gave a brief report of the November 13, 2012 meeting. He stated that Fire Chief Cummings and Assistant Fire Chief Misewicz gave a

PowerPoint presentation on the operations of the Fairbanks Fire Department (FFD) in the context of studying the public safety officer concept. He explained that the concept involves cross-training of police, fire and Emergency Medical Services (EMS) duties. He stated that there will be a similar presentation to the committee in December by Police Chief Zager.

COMMUNICATIONS TO COUNCIL

- a) Approval of the 2013 City Council Meeting Schedule

Mr. Eberhart, seconded by **Mr. Hilling**, moved to APPROVE the 2013 City Council Meeting Schedule.

Mr. Eberhart stated that he will be out of the country from February 7 through March 1, 2013. He requested that one of the February meetings be rescheduled so that he may attend at least one.

Mr. Hilling, seconded by **Mr. Gatewood**, moved to AMEND the 2013 City Council Meeting Schedule by changing the February 11, 2013 Regular City Council Meeting date to February 4, 2013.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO AMEND THE 2013 CITY COUNCIL MEETING SCHEDULE BY CHANGING THE FEBRUARY 11, 2013 REGULAR CITY COUNCIL MEETING DATE TO FEBRUARY 4, 2013.

AYES: Gatewood, Walley, Eberhart, Matherly, Hilling

NAYS: None

ABSENT: Staley

Mayor Cleworth declared the MOTION CARRIED.

Mayor Cleworth called for objection to the APPROVAL of the 2013 City Council Meeting Schedule, as Amended, and, hearing none, so ORDERED.

- b) Permanent Fund Review Board Meeting Minutes of August 1, 2012.

ACCEPTED on the CONSENT AGENDA.

COUNCIL MEMBERS' COMMENTS

Mr. Walley wished everyone a Happy Thanksgiving.

Mr. Gatewood congratulated Mayor Cleworth, Pat Cole and Janey Hovenden on the awards they received at the 2012 AML Conference in Anchorage, stating that the awards are a testament to their professionalism and dedication. He remarked that Dispatch Manager Stephanie Johnson and Engineer Jerry Colp also received awards earlier in the year. **Mr. Gatewood** used the recent news that Hostess is going out of business to remind everyone of the importance of communication between employers, staff and unions. He expressed hope that the City would continue to have good working relationships with all unions they hold a contract agreement with.

Mr. Eberhart commented that the new format of Liquor Licenses is much easier to read. He commended Mayor Cleworth, Pat Cole and Janey Hovenden on being awarded at the AML Conference. He expressed his sympathies in the loss of Fairbanks resident Melvin "Glen" Malde who recently passed away at the age of 101. He wished everyone a Happy Thanksgiving.

Mr. Hilling stated his appreciation for Ms. Lockery's presentation on a medical marijuana clinic. He expressed his belief that drug laws are very misguided and that more harm is done by making drugs illegal. He stated that there should be strong penalties in place for cases where minors are involved, but spoke to his belief that government should not have the right to govern an individual's use of drugs. **Mr. Hilling** spoke to the crime that could be eliminated by legalizing drugs and expressed his sympathy in Ms. Lockery's plea to the Council. He asked the City Attorney to look further into the request. He acknowledged that drugs may cause harm and that individuals can become dependent on drug use. **Mr. Hilling** spoke to the relocation of the F-16's at EAFB to JBER, expressing concern that up to 1,500 jobs may be lost. He asked Mayor Cleworth if he could provide a summary of the local economic impact that would be realized with the loss. He commented that the 1,500 jobs would constitute roughly 5% of the Fairbanks population.

Mayor Cleworth replied that he doesn't have economic impact projections readily available.

Mr. Hilling offered congratulations to Janey Hovenden for receiving the Clerk of the Year Award. He stated that the Clerk's Office appears to be well-managed, responsive and efficient. He also applauded the Mayor and Chief of Staff on receiving their awards. **Mr. Hilling** asked Mayor Cleworth what groups were interested in the Polaris Building and if they would have an opportunity to purchase the building if Mr. Marlow failed to meet the City's deadline.

Mayor Cleworth stated that if one of the groups was successful in negotiating a deal with Mr. Marlow, the City would not interfere. He explained that all the City has done is set a deadline for Mr. Marlow. He stated that one of the groups is looking at renovating the building in stages while the other group is looking at vertical farming, which may not be feasible due to high energy costs.

Mr. Matherly stated that he has attended some Clerk conference sessions and commented that Clerks "have our backs." He congratulated Janey Hovenden, Pat Cole, Mayor Cleworth and other City employees on the awards they each received. **Mr. Matherly** thanked Mayor Cleworth for his clarification and comments on the Polaris Building. He commented that the structure is looking pretty bad and that he has doubts that a renovation will take place. He wished everyone a Happy Thanksgiving. **Mr. Matherly** addressed Mr. Hilling's comments on the legalization of drugs, stating that he can't imagine a society where the use of all drugs is legal.

Mayor Cleworth stated that earlier in the year, some City employees had an opportunity to go inside the Polaris Building with the owner's consent. He stated that the City has photos and a report of the visit if the Council would like to see it.

Mr. Gatewood, seconded by **Mr. Matherly**, moved to go into Executive Session for the purpose of discussing the Utilidor Shed Damage Claim (USAA/Kihleng) and the Firefighter's Union.

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

Mayor Cleworth called for a five minute recess.

EXECUTIVE SESSION

- a) Utilidor Shed Damage Claim (USAA/Kihleng).
- b) Firefighter's Union

The City Council met in Executive Session to discuss the Utilidor Shed Damage Claim and the Firefighter's Union. Direction was given to staff and no action was taken.

ADJOURNMENT

Mr. Matherly, seconded by Mr. Walley, moved to ADJOURN the meeting.

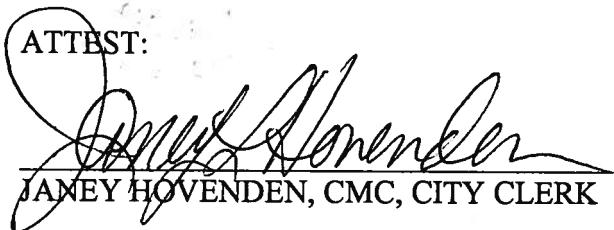
Mayor Cleworth called for objection and, hearing none, so ORDERED.

Mayor Cleworth declared the Meeting adjourned at 10:25 P.M.



JERRY CLEWORTH, MAYOR

ATTEST:



JAMEY HOVENDEN, CMC, CITY CLERK

Transcribed by: DS