



FAIRBANKS CITY COUNCIL
REGULAR MEETING MINUTES, JULY 9, 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: Vivian Stiver, Seat A
Chad Roberts, Seat B
Bernard Gatewood, Seat C
Jim Matherly, Seat D
Lloyd Hilling, Seat E
John Eberhart, Seat F

Absent: None

Also Present: Clem Clooten, Building Official
Warren Cummings, Fire Chief
Paul Ewers, City Attorney
Janey Hovenden, City Clerk
Tony C. Shumate, Director Personnel/Purchasing/RM
Laren Zager, Police Chief

INVOCATION

The Invocation was given by City Clerk Janey Hovenden.

FLAG SALUTATION

Mayor Cleworth led the Flag Salutation.

CITIZEN'S COMMENTS

Lance Roberts, PO Box 83449, Fairbanks – Mr. Roberts spoke in favor of the City divesting itself of surplus properties, stating his hope that the City gets fair values from sales. He cautioned that if care is not taken in those property sales, it could bring a bad repute upon the City. Mr. Roberts spoke to the parking problem at the Marriott Hotel/Lavelle's Bistro. He suggested that the cut-off for downtown parking be changed from 6 P.M. to 5 P.M. in order to encourage more people to come into the City in the evening. Mr. Roberts spoke in support of Ordinance No. 5887.

Mr. Hilling asked for clarification on the intent of Mr. Roberts' suggestion for an earlier cut-off time for parking.

Mr. Roberts stated that parking downtown should be free after business hours.

Mayor Cleworth thanked Mr. Roberts for stepping forward and filing as a candidate for the FNSB Assembly.

Dan Gogerty, 2406 Mercier Street, Fairbanks – Mr. Gogerty addressed the Council concerning his vehicle that was impounded by the City while he was on a military deployment. He stated that a friend had driven the vehicle, which was not registered or insured. He explained that the vehicle is not worth as much as the impound fees and pleaded with the Council to reduce the fees.

Ms. Stiver asked Mr. Gogerty if he was deployed to a battle zone and what his job during the deployment entailed.

Mr. Gogerty replied that he is a civilian mechanic for the Stryker Brigade at Fort Wainwright.

Mr. Matherly asked Mr. Gogerty to clarify the value of the impounded vehicle. He stated that it is his understanding that the Mayor had already reduced the impound fees. He inquired as to the time of the impound and to Mr. Gogerty's communication with his friend while he was deployed.

Mr. Gogerty replied that the car is worth about \$500.00 and that Mayor Cleworth had reduced the fees to \$650.00. He stated that the seizure just took place about a month ago and that he was at Fort Lewis at the time. He added that he had returned to Fairbanks three days ago.

Mr. Eberhart asked for clarification on why the vehicle had Washington plates and how long the vehicle had been in Alaska. He asked Mr. Gogerty if he had driven the vehicle since he brought it to Alaska.

Mr. Gogerty explained that he brought the car here in 2008 and that he had not driven the vehicle in Alaska. He stated that his friend was taking care of his apartment while he was out of town and had access to the vehicle's keys. He stated that he'd rather not take legal action against his friend.

Frank Turney, 201 Seventh Avenue, Fairbanks – Mr. Turney spoke in support of reducing Mr. Gogerty's impound fees. He gave an update on the resolution that was passed opposing the National Defense Authorization Act (NDAA). He stated that Senator Coghill will be working on a bill to block the enforcement of the NDAA, Sections 1021 and 1022, and possibly a state nullification bill.

Victor Buberger, PO Box 58192, Fairbanks – Mr. Buberger apologized to the Council and stated that he wouldn't complain about the potholes on Illinois Street because he recently learned that the area is maintained by the State of Alaska, not the City. He commended whomever was responsible for the beautiful landscaping and care of the lawn in front of City Hall. He spoke to the need for public restrooms in the downtown area. Mr. Buberger spoke against the City's procurement of grant funding, stating that the money is not free and that the grants put our country deeper in debt.

David Lerman, 126 Second Avenue, #15, Fairbanks – Mr. Lerman stated his intent to run for City Council in the 2012 Municipal Election. He spoke to his website, *Renovation Fairbanks*. He recommended that the City create a mission statement promoting renovation, develop a renovation task force and draft an ordinance to waive building permit fees for dilapidated properties. He spoke to other task forces that could be created to address other issues such as DUI's, crime and air quality.

APPROVAL OF AGENDA AND CONSENT AGENDA

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

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

City Clerk Hovenden read the Consent Agenda into the record.

APPROVAL OF PREVIOUS MINUTES

Regular Meeting Minutes of June 25, 2012.

PASSED and APPROVED on the CONSENT AGENDA.

SPECIAL ORDERS

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

License Type:	Brewery
D.B.A.:	HooDoo Brewing Company , License #5169
Licensee/Applicant:	Fairbanks Fermentation, LLC
Physical Location:	1951 Fox Avenue, Fairbanks, Alaska

Mr. Roberts, seconded by **Mr. Matherly**, moved to WAIVE Protest on the Application for a New Liquor License.

Mayor Cleworth called for Public Testimony.

Frank Turney – Mr. Turney stated that the liquor license should be treated like others that have come before and that a Certificate of Occupancy should be required prior to the business opening.

Bobby Wilken, PO Box 71343, Fairbanks – Mr. Wilken, owner of the HooDoo Brewing Company, stated that his would be the first brewery in the City of Fairbanks since the Pioneer Brewery closed in 1942. He described the layout of his brewery and stated that its construction is about 99% complete. He explained that the front portion of the brewery will have a tap room where customers can observe the brewing process and sample beers. He stated that the tap room is roughly 85% complete, but would be finished in about a month when the beer is ready for

consumption. He asked the Council to waive protest on the liquor license so that he could begin brewing as soon as possible.

Ms. Stiver asked if the tap room is for sampling or sales. She asked for clarification on the type of liquor license for which Mr. Wilken had applied.

Mr. Wilken replied that sales and sampling will both take place in the tap room. He explained that the liquor license is a brewery license, which would allow him to brew, sell and make beer available for consumption on-site. He added that there are limitations on consumption and that they must stop serving by 8 P.M. under the regulations of a brewery license.

Ms. Stiver asked what the general response from neighboring businesses and property owners has been towards the opening of the brewery.

Mr. Wilken replied that the response has been positive.

Mr. Roberts asked when the next ABC Board Meeting would take place.

Mr. Wilken stated that their next meeting is tomorrow.

Mr. Roberts inquired as to how long Mr. Wilken would have to wait before the next ABC Board Meeting if his license was protested and did not go through at tomorrow's meeting.

Mr. Wilken guessed that it would be a couple months before their next meeting.

Mr. Matherly asked on what date Mr. Wilken would open for business if his liquor license was already approved.

Mr. Wilken replied that he would be ready to open in roughly a month if his license was approved.

Ms. Stiver asked what the capacity of the tap room is.

Mr. Wilken stated that the capacity is 68.

Mr. Gatewood asked Mr. Wilken to explain the problem with waiting for a Certificate of Occupancy before beginning brewing.

Mr. Wilken explained that he is working from a checklist and the liquor license is just one more thing to check off before opening.

Mr. Roberts asked for clarification on Mr. Wilken's plan of action if the Council votes to waive protest.

Mr. Wilken replied that his plan is to use only the brewery portion of the building until a good stock of beer is available for sale and until the tap room is finished and ready for business.

Mr. Eberhart inquired as to the significance of the Certificate of Occupancy. He asked if the certificate was only for the purpose of opening to the public.

Mr. Wilken clarified that the Certificate of Occupancy would be needed not only to open the tap room, but also to occupy the brewing space.

Mr. Eberhart asked about the likelihood of obtaining a temporary liquor license from the ABC Board.

Mr. Wilken replied that he has been told there's a good chance that the ABC Board would grant him a temporary liquor license until the next meeting.

Mayor Cleworth stated that the City Building Department is protesting the HooDoo Brewery Liquor License and that the normal procedure is for the Council to protest contingent upon the issuance of a Certificate of Occupancy. He asked Mr. Wilken what his projected timeline was for completing construction to the Building Department's satisfaction.

Mr. Wilken replied that it would take a couple more weeks to complete the brewery portion.

Mr. Hilling asked if a temporary liquor license from the ABC Board allows for both brewing and tasting.

Mr. Wilken replied that it does.

Mr. Lerman – Mr. Lerman spoke to the public's concern with the use of alcohol in the City of Fairbanks and to alcohol abuse. He spoke to the heavy alcohol content of beer manufactured in breweries and cautioned the Council on increasing the saturation level in Fairbanks.

Mr. Matherly asked Mr. Lerman if he had discussed the brewery with Mr. Wilken. He stated that Mr. Lerman had made many assumptions about the brewery business.

Mr. Lerman replied that he had not spoken with Mr. Wilken about the brewery. He stated his opinion that the brewery is a "recipe for disaster."

Victor Buberger – Mr. Buberger wished success to Mr. Wilken and suggested that he offer free beer the opening week.

Mayor Cleworth made a final call for Public Testimony and, hearing none, declared Public Testimony closed.

Mr. Eberhart requested that Mr. Wilken come forward again to discuss the alcohol content of the brewed beer.

Mr. Matherly indicated that it may not be a good idea to ask Mr. Wilken for details about the alcohol content or the brewing process. He stated that the Council doesn't question other business owners when they open a new business.

Mr. Hilling spoke in favor of having Mr. Wilken speak to the alcohol content.

Mr. Gatewood stated that he is indifferent as to what the alcohol content of the brew is.

Mr. Roberts stated that the Council routinely waives protest on liquor stores who sell liquor with 50% alcohol content.

Ms. Stiver asked Mr. Ewers and Ms. Hovenden if the discussion was inappropriate.

Mr. Ewers replied that, generally, the discussion is relevant.

Mr. Wilken stated that standard light beer is about 4.2% alcohol, standard premium beer is about 4.5% alcohol, and the average American craft beer is roughly 5% alcohol. He explained that beers brewed at small craft breweries can range up to 12% alcohol content, but that the majority of his beers will stay in line with the average craft beer as far as alcohol content is concerned. He clarified that they are classified as "craft" beers because they are not made with corn or rice. He indicated that problems with alcohol abuse are generally not associated with craft beers because they are a higher-end product.

Mr. Gatewood asked if Mr. Wilken planned to brew beers with the higher alcohol content.

Mr. Wilken replied that he would be brewing specialty beers for holidays only.

Mr. Eberhart commended Mr. Wilken on his efforts and expense toward opening a brewery in Fairbanks.

Mr. Roberts asked how the ABC Board differentiates between a Temporary and a Permanent Certificate of Occupancy. He spoke in support of waiving protest so that the liquor license could be considered by the ABC Board at tomorrow's meeting.

Ms. Hovenden stated that they do not differentiate between the two certificates. She indicated that the Hoodoo Brewing Company's Liquor License was not even being considered at the ABC Board's meeting the next day.

Mayor Cleworth spoke to the City's procedures in regards to liquor licenses and to the importance of being consistent.

Mr. Matherly spoke to the differences between a brewery license and a dispensary license.

Mr. Eberhart asked Ms. Hovenden if the Hoodoo Brewing Company's license would not be considered by the ABC Board until their meeting a couple months away.

Ms. Hovenden stated that that is her understanding. She stated that Mr. Wilken may be able to work out a temporary agreement with the ABC Board in the meantime.

Mr. Hilling stated that he will support a motion to protest, contingent upon a Certificate of Occupancy.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO WAIVE PROTEST ON THE HOODOO BREWING COMPANY APPLICATION FOR A NEW LIQUOR LICENSE, AS FOLLOWS:

YEAS: Roberts
NAYS: Stiver, Matherly, Gatewood, Hilling, Eberhart
Mayor Cleworth declared the MOTION FAILED.

Mr. Eberhart, seconded by **Mr. Hilling**, moved to PROTEST the Application for a New Liquor License, contingent upon issuance of a Certificate of Occupancy from the City Building Department.

Mr. Roberts asked for clarification on how the ABC Board views Temporary versus Permanent Certificates of Occupancy.

Ms. Hovenden explained that the ABC Board sees "Protest" or "No Protest," not Certificates of Occupancy.

Ms. Stiver spoke to consistency in the Liquor License hearing process. She stated that a protest does not mean that the Council does not support Mr. Wilkes' business.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO PROTEST THE HOODOO BREWING COMPANY APPLICATION FOR A NEW LIQUOR LICENSE, CONTINGENT UPON THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY FROM THE CITY BUILDING DEPARTMENT, AS FOLLOWS:

YEAS: Hilling, Eberhart, Roberts, Stiver, Matherly, Gatewood
NAYS: None
Mayor Cleworth declared the MOTION CARRIED.

MAYOR'S COMMENTS AND REPORT

Mayor Cleworth stated that he met with a group called the Alaska Natural Gas Pipeline Coalition. He stated that the coalition was hoping to get a resolution of support for the large-diameter pipeline from the Fairbanks City Council to take to the Governor later in the month. He stated that, unfortunately, there will not be enough time to pass a resolution and asked the Council if they would be willing to provide the coalition with a letter of support. He spoke briefly to the large-diameter pipeline project. He stated that he would prepare a draft resolution for the Council to review. **Mayor Cleworth** thanked Mr. Buberger for his comments regarding the front lawn of City Hall. He stated that Festival Fairbanks maintains all the flowers and Joe, a Public Works employee, does a great job maintaining the lawn. He spoke to the on-going construction work on Riverside Drive, Tok Street and Talkeetna Avenue. He stated that the City will be going out to bid within a couple weeks on the Graehl Subdivision in hopes of completion by winter. **Mayor Cleworth** asked the Council to address Mr. Gogerty's impound fees during their comments. He stated that the vehicle was impounded on June 12, 2012, while Mr. Gogerty was out of state. He explained that the impound fees totaled \$1175 at the time Mr. Gogerty

protested and that he had already reduced the total to \$650. **Mayor Cleworth** stated that the reduction was not satisfactory to Mr. Gogerty and that's why he has appealed to the Council.

Ms. Stiver asked if it would be solely up to Mr. Gogerty to claim any damages against the individual who drove the vehicle.

Mayor Cleworth replied affirmatively.

Mr. Gatewood asked how Mayor Cleworth arrived at \$650 as a reduced cost.

Mayor Cleworth replied that the cost is roughly half of the original fees and that there is no other mathematical reason as to why he arrived at that number.

NEW BUSINESS

- a) Resolution No. 4534 – A Resolution Authorizing the City of Fairbanks to Request Funds from the Alaska Division of Homeland Security and Emergency Management Under the FY2012 Homeland Security Grant Program. Introduced by Mayor Cleworth.

PASSED and APPROVED on the CONSENT AGENDA.

- b) Resolution No. 4535 – A Resolution Awarding a Contract to Samson Electric, Inc., for the City Hall Standby Generator & UPS System Project in the Amount of \$382,362. Introduced by Mayor Cleworth.

PASSED and APPROVED on the CONSENT AGENDA.

- c) Ordinance No. 5887 – An Ordinance to Amend Fairbanks General Code Chapter 2, Article II, Division 5, to Require a Fiscal Note for Ordinances and Resolutions. Introduced by Council Member Stiver.

ADVANCED on the CONSENT AGENDA.

DISCUSSION ITEMS

Committee Reports

Local Improvement District (LID) Ad-hoc Committee – Ms. Stiver gave a brief description of the Committee's purpose and a summary of the discussion at the meeting on July 6, 2012. She announced that meetings are held at 8:15 A.M. on Fridays. She shared the names of Committee members and stated that there is still one vacant seat.

COMMUNICATIONS TO COUNCIL

Chena Riverfront Commission Meeting Minutes of May 7, 2012.

ACCEPTED on the CONSENT AGENDA.

COUNCIL MEMBERS' COMMENTS

Mr. Matherly wished Mr. Wilkes the best of luck with his new business. He spoke in favor of reducing Mr. Gogerty's impound fees to the towing fee only. **Mr. Matherly** spoke to the incredible turnout at the Armed Services YMCA Father/Daughter Ball that he attends annually. He stated that it is an honor to serve on the City Council.

Mr. Matherly, seconded by **Mr. Roberts**, moved to reduce Mr. Gogerty's impound fees to \$135.

Mr. Roberts asked which fees would be waived by reducing the total to \$135.

Mayor Cleworth replied that the administrative and storage fees would be waived if the motion carried.

Mr. Gatewood stated that he would not support reducing the fees past \$650.

Mr. Eberhart spoke to maintaining consistency in all issues that are presented to the Council. He stated that Mr. Gogerty's situation is unfortunate, but that he believes the \$650 is a reasonable offer.

Mr. Eberhart, seconded by **Ms. Stiver**, moved to AMEND the motion to reduce Mr. Gogerty's impound fees by changing the total fees to \$650.

Mr. Hilling asked for clarification on the purpose of the amendment if the original offer to Mr. Gogerty was the same.

Mayor Cleworth explained that, since there was a motion to reduce fees to \$135, Mr. Eberhart's motion was appropriate.

Ms. Stiver spoke in support of the amendment, stating that the Council has addressed similar issues in the past in the same manner.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO AMEND THE MAIN MOTION BY CHANGING THE TOTAL TO \$650, AS FOLLOWS:

YEAS: Gatewood, Eberhart, Stiver, Cleworth
NAYS: Roberts, Matherly, Hilling
Mayor Cleworth declared the MOTION CARRIED.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO REDUCE MR. GOGERTY'S IMPOUND FEES, AS AMENDED, AS FOLLOWS:

YEAS: Eberhart, Gatewood, Stiver, Hilling
NAYS: Matherly, Roberts

Mayor Cleworth declared the MOTION CARRIED and Mr. Gogerty's impound fees to total \$650.

Mr. Hilling stated that he is on the cusp of agreeing with jury nullification, but that he would like to hear more arguments against it before he decides. He spoke further to the issue of jury nullification. **Mr. Hilling** spoke to his duty as a Council Member to represent the Fairbanks citizens and the care that must be taken when considering the waiving of fees. He addressed Mr. Lerman's testimony against the HooDoo Liquor License and stated his belief that it is not the City's job to deny the brewery a license for the sake of minimizing the alcohol saturation in Fairbanks. **Mr. Hilling** commented that the Clay Street Cemetery looks very nice and commended Mr. Turney for his work. He spoke to Mr. Buberger's testimony in regards to the public restroom issue and grant funding. He stated that he will continue to look in to a solution for public restrooms. He discussed grant funding for the City and stated that he may consider voting against applying for and accepting future federal grant funding.

Mr. Eberhart expressed his sympathy for the passing of Michelle Roberts. He thanked the Mayor for his work with the Tiger Team and the movement of the F-16's from EAFB to JBER. He announced that the Public Safety Commission will meet at the Fire Department on July 10, 2012, at 11:30 A.M. He stated that only the voting members will be in attendance and they will discuss the future roles and responsibilities of the Commission.

Mr. Gatewood reminded the Mayor and Council that he will not attend the next regular meeting. He spoke in support of Ordinance No. 5887, to require a fiscal note for ordinances and resolutions.

Mr. Roberts spoke to the long deliberation on the HooDoo Liquor License. He stated that, while the Council typically protests new licenses contingent upon a Certificate of Occupancy, he believes the Council may be becoming complacent on how businesses are treated. He spoke to the high cost of building and renovating in the City of Fairbanks versus outside the City limits and cautioned the Council on keeping that in mind for future considerations. **Mr. Roberts** stated that the City of Fairbanks should be more accommodating for new businesses. He commented that he has received complaints about the Building Department and, while the Council cannot micromanage the staff, he believes there is a need to understand how important new businesses are to the community. **Mr. Roberts** addressed Chief Zager regarding a problem with youth congregating on the Wendell Street Bridge, which is causing a problem with traffic flow. He stated that the problem is compounded by the fact that Wendell Street is the main thoroughfare to downtown from the north side due to the construction on Illinois Street.

Ms. Stiver announced that the memorial for Michelle Roberts will be held at the Golden Heart Plaza on July 25 from 5:30 to 8:00 P.M. She sympathized with Mr. Gogerty's situation with the impounded vehicle, but stated that she believes the Council's decision was fair. She spoke to accommodating new businesses in the City of Fairbanks and suggested that one solution could be to look into a partial exemption in Borough taxes. **Ms. Stiver** commented on the gorgeous summer weather.

Mayor Cleworth, in response to Mr. Roberts' comments, stated that the City's Building Code Review & Appeals Commission and the Landscape Review & Appeals Commission are both

staffed by peers in the profession. He stated that the Building Code Commission sets high standards for the in the City limits. He gave Clem Clooten credit for helping eliminate the Beautification Commission. He suggested that the landscape and beautification portion of the code may need to be looked at and possibly amended because it is so restrictive. **Mayor Cleworth** spoke to the significant influence the Building Department has on annexation decisions made by the Local Boundary Commission. He stated that the Council needs to constantly look at the City's rules and regulations to ensure fairness to its citizens. He added that the City of Fairbanks' mill rate is low compared to other municipalities and the tax structure is very stable.

Mr. Roberts expressed appreciation for Mayor Cleworth's comments. He agreed that the City's tax structure is stable and that tax rates are low. He stated that the Council needs to be mindful that the cost of energy and the cost to do business in Fairbanks is much higher than in other communities.

ADJOURNMENT

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

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

Mayor Cleworth declared the Meeting adjourned at 9:00 P.M.

for 

JERRY CLEWORTH, MAYOR

ATTEST:



JANEV HOVENDEN, CMC, CITY CLERK

Transcribed by: DS