



FAIRBANKS CITY COUNCIL
REGULAR MEETING MINUTES, MAY 7, 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: Pat Cole, Chief of Staff
Warren Cummings, Fire Chief
Paul Ewers, City Attorney
Janey Hovenden, City Clerk
Margarita Bell, Grants Administrator
Tony C. Shumate, Director Personnel/Purchasing/RM
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

David Lerman, 126 2nd Avenue, #15, Fairbanks – Mr. Lerman stated his intent to run for a seat on the City Council in the 2012 Municipal Election. He spoke to his website, *Renovation Fairbanks*. He stated that he does not own a car and uses a bicycle to commute. He spoke to the things that he notices as a pedestrian that may go unnoticed to those who travel primarily by car such as inoperable right-of-way buttons for crosswalks at intersections and broken handicapped ramps. Mr. Lerman spoke of the need for various task forces in the City of Fairbanks, particularly a renovation task force.

Mr. Hilling asked Mr. Lerman to share his ideas on how an ordinance be written to create a renovation task force. He asked how one would determine who would be eligible for fee waivers and what criteria would classify a property as “dilapidated.”

Mr. Lerman replied that there are reasonable standards that could be developed in order for a property to qualify; he suggested that the waiving of fees be applied to all parties wishing to renovate a dilapidated property. He provided specific examples of how the ordinance could read.

Victor Buberger, PO Box 58192, Fairbanks – Mr. Buberger spoke to the need for public restrooms and signage in the downtown area. He stated that he has used public parking lots to relieve himself and will continue to do so until the City spends the money to place restroom facilities downtown. He spoke to too much time and money being spent on union negotiations and employee benefits. He thanked Mayor Cleworth for encouraging the public to call and report potholes. He stated that Cushman Street is in dire need of repair and mentioned several more areas in the City need attention.

Mr. Matherly asked Mr. Buberger why he promotes urinating in public when a restroom is not available.

Mr. Buberger stated that the City Council needs to make restroom facilities available with proper signage in the downtown area.

Frank Turney, 201 7th Avenue, Fairbanks – Mr. Turney agreed that public restrooms are needed downtown. He provided an update on industrial hemp farming at the state level and thanked the Council for passing the resolution that encouraged the legislature to support hemp farming. He spoke to the Bill of Rights and to protecting the freedoms and liberties of the American people for future generations.

Marylee Bates, 1290 Saint Anton Drive, Fairbanks – Ms. Bates referred to the memo in the Council packet regarding the Community Development Block Grant (CDBG). She read aloud a letter from the Clearwater Ministries Board of Directors in support of the CDBG Memorandum of Understanding.

Warren Cummings, 3292 Jefferson Drive, Fairbanks – Mr. Cummings stated that his 9-year-old grandson and another boy recently visited the Clay Street Cemetery. He stated that Mr. Turney was there cutting the grass and took twenty minutes of his time to give the boys a history of the cemetery. He shared that Mr. Turney’s attention to those two 9-year-old boys made their day and thought it appropriate to share with the Council.

APPROVAL OF AGENDA AND CONSENT AGENDA

Mr. Roberts, seconded by **Mr. Hilling**, 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

- a) Regular Meeting Minutes of March 19, 2012.

PASSED and APPROVED on the CONSENT AGENDA.

- b) Regular Meeting Minutes of April 9, 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 and Name Change:

Type: Beverage Dispensary
License: **Boomtown Grill and Bar, #3969**
Licensee/Applicant: JSR, Inc.
Physical Location: 537 Gaffney Road, Suite 1, Fairbanks
Current DBA: Tony's
Licensee: Full Moon, Inc.
Location: 537 Gaffney Road, Suite 1, Fairbanks

Mr. Roberts, 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 LIQUOR LICENSE APPLICATION FOR TRANSFER AND RESTAURANT DESIGNATION PERMIT AS FOLLOWS:

YEAS: Eberhart, Gatewood, Stiver, Hilling, Matherly, Roberts
NAYS: None

Mayor Cleworth declared the MOTION CARRIED.

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

Transfer of Ownership (Stock):

Type: Beverage Dispensary
License: **Kodiak Jack's, #4232**
Licensee/Applicant: JSR, Inc.

Physical Location: 537 Gaffney Road, Suite 2, Fairbanks

Current Information: Same

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

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 TRANSFER AS FOLLOWS:

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

NAYS: None

Mayor Cleworth declared the MOTION CARRIED.

MAYOR'S COMMENTS AND REPORT

Mayor Cleworth thanked Dorothy Chomicz with the Fairbanks Daily News Miner for the nice article on Warren Cummings' career with the City of Fairbanks. He commented on his attendance at "Lemonade Day," a nationwide event put on locally by UAF that gives children an opportunity to learn about entrepreneurship. He spoke to his and Ms. Stiver's attendance at the Military Appreciation Banquet put on by the Chamber of Commerce. He encouraged others to attend next year. **Mayor Cleworth** announced the military appreciation parade taking place downtown on Saturday, May 12, 2012. He thanked the Police and Public Works Departments in advance for their help with the event and encouraged everyone to attend. He spoke to holding future work sessions to discuss 2012 City abatements and Public Works projects for the next 2-3 years. He stated that the LED streetlight conversion is scheduled for completion this summer. He commented that the City is in a good position right now with a lot of funding that can put a major dent into the backlog of street repair/construction that badly need completed. He spoke to various road construction projects that are scheduled in the near future and asked for patience from the public. **Mayor Cleworth** stated that Frank Turney has returned to work as the grounds keeper at the Clay Street Cemetery. He commended Mr. Turney's work.

Mr. Hilling asked Mayor Cleworth to share what happened that allowed Mr. Turney to return to work.

Mayor Cleworth explained that there are strict rules established by the IRS that determine whether a worker is an employee or a contractor and that employers must abide by that criteria. He stated that Mr. Turney's working relationship with the City was evaluated and discussed and he now meets the criteria to work as a private contractor for the City of Fairbanks.

Mr. Hilling asked Mayor Cleworth to address Mr. Buberger's concern with potholes.

Mayor Cleworth replied that he would try to have Mike Schmetzer, Director of Public Works, address the issue at the next Council Meeting. He commented that the Public Works Department has been working very hard and is ahead of the game so far this year.

NEW BUSINESS

- a) Resolution No. 4523 – A Resolution Approving Purchase of Self Contained Breathing Apparatus from Mine Safety Appliances Company in the Amount of \$300,000. Introduced by Mayor Cleworth.

PASSED and APPROVED on the CONSENT AGENDA.

- b) Resolution No. 4524 – A Resolution to Apply for and Accept Funding from the Alaska Highway Safety Office for FFY2013 Traffic Safety Program. Introduced by Mayor Cleworth.

PASSED and APPROVED on the CONSENT AGENDA.

- c) Ordinance No. 5882 – An Ordinance Amending the 2012 Budget Estimate for the First Time. Introduced by Mayor Cleworth.

ADVANCED on the CONSENT AGENDA.

- d) Ordinance No. 5883 – An Ordinance Ratifying a Collective Bargaining Agreement Between the City and the Fairbanks Fire Fighters Association. Introduced by Mayor Cleworth.

ADVANCED on the CONSENT AGENDA.

DISCUSSION ITEMS

Committee Reports

FNSB Assembly – Ms. Stiver stated that the Assembly split the Borough budget meeting into two and will meet again on May 10, 2012.

Fairbanks Convention and Visitor's Bureau (FCVB) – Mr. Hilling explained that he had an excused absence at the last meeting, but will have a report after the next regular FCVB meeting.

Mayor Cleworth commented that the FCVB has been hosting the Annual Alaska Federation of Natives (AFN) Convention and that there have been recent meetings to discuss the future location of the Convention. He expressed hope that the convention would be held in Fairbanks in 2013.

COMMUNICATIONS TO COUNCIL

- a) Appointment to the Public Safety Commission

APPROVED on the CONSENT AGENDA.

- b) Memo Concerning the CDBG Grant for Emergency Shelter for Homeless Youth – Additional Grant Terms Required by the State of Alaska.

Mayor Cleworth explained that the grant terms are being presented to the Council again due to the changes in the agreement by the State of Alaska. He briefly explained the history of the CDBG terms. He stated that if the Clearwater Ministries project were to fail in the sixth year, the liability to the City would remain the same as before. He spoke to the initial confusion with the new terms, but clarified that Margarita Bell had done research to ensure there would be no change in the City's liability for the grant. He asked Ms. Bell to come forward.

Margarita Bell came forward to explain the changes in the CDBG terms. She spoke to two likely questions that the Council may have: 1) Why was there no notification of the 20-year useful life from the State at the time the grant was awarded?, and, 2) Where did the 5-year-term come from in the beginning? Ms. Bell explained that the CDBG is different from other grants in that pre-grant agreement documentation must be submitted before a draft of the grant agreement is brought forward. She spoke to the draft agreement she created based on the State's change in grant life terms from five to twenty years. Ms. Bell stated that, initially, the useful life of the grant was five years according to federal regulations. She noted that the latest useful life term of twenty years will be outlined in the Scope of Work once the official grant agreement is received. Ms. Bell added that the City could be liable for the full amount of the grant if the project failed within the first five years. She spoke to insuring that the agreement contain language that would protect the City from being liable for more than the fair market value of the property if the project should fail.

Ms. Stiver asked Ms. Bell when she anticipated receiving the agreement.

Ms. Bell stated that they will not provide the final agreement until a pre-grant agreement has been submitted.

Mr. Eberhart asked if the City would be liable for the whole amount of the grant if the facility ceases to operate as a community youth center within 5 years.

Ms. Bell replied that, based on her conversation with the State, the City would be liable for the "fair market value" of the property at that time based on an appraisal. She stated that City liability for the whole grant amount could come into play if the project failed within the first year. She added that the building is expected to depreciate each year.

Mr. Eberhart expressed his confusion with the liability issue. He asked if the City would be liable for the difference in the grant amount and the appraised value of the building if the project failed in year six and the building was only worth \$300,000. He spoke to other grants he is familiar with that have a 20-year useful life and the liabilities involved.

Ms. Bell replied that the City would be "on the hook" only for the appraised value of the building at that time. She stated that there isn't anything in writing that speaks directly to this issue, but that language to protect the City would be drafted before any agreements were signed.

Mr. Roberts asked if Clearwater Ministries was using the purchase of the building as their in-kind contribution for the grant; and, if so, how the grant would be paid back upon failure of the project and sale of the building.

Ms. Bell replied that the grant would be returned to the CDBG Program in proportion to the way the funds were originally spent.

Mr. Hilling asked about the depreciation rate of the building.

Ms. Bell replied that there is not a set rate, only a guess that the building will gradually depreciate over time.

Mr. Hilling inquired as to the definition of “useful life.”

Ms. Bell answered that, in this particular case, the useful life would be twenty years. She clarified that there would be no grant stipulations past that twenty year mark.

Mr. Eberhart stated that he does not feel comfortable moving forward with the CDBG until he sees satisfactory language that would protect the City. He pointed out that the Letter of Guarantee from the Fairbanks Rescue Mission only addresses the conditions set out in Resolution No. 4493, as Amended, for the five-year term.

Mr. Hilling, seconded by **Mr. Eberhart**, moved to REQUIRE a brief report to the City Council outlining the City’s liabilities and obligations concerning the CDBG after the draft documentation is received from the state.

Mr. Eberhart commented that he would like the state to provide the common provisions information for this type of grant.

Ms. Bell explained that the state will not provide the final grant agreement until the City provides them with certain documentation. She stated that they have given her a standard agreement for this type of grant, but that it does not contain the definition of “useful life” or information regarding the specific liabilities to the City throughout the life of the grant.

Ms. Stiver asked what would happen if the draft agreement was approved by the Council, but the final agreement was not.

Ms. Bell replied that the City would still have the opportunity to turn down the agreement at that stage. She explained that moving forward with the pre-grant documentation is the next step in getting a final agreement drafted.

Mr. Gatewood agreed with Mr. Eberhart’s comment about the need for a revised Letter of Guarantee from the Fairbanks Rescue Mission since the terms of the CDBG have changed.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO REQUIRE A BRIEF REPORT TO THE CITY COUNCIL OUTLINING THE CITY’S LIABILITIES AND OBLIGATIONS CONCERNING THE CDBG AGREEMENT, AS FOLLOWS:

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

NAYS: None

Mayor Cleworth declared the MOTION CARRIED.

COUNCIL MEMBERS' COMMENTS

Mr. Gatewood stated that his stepdaughter had returned from college this weekend and commented how nice it is to have family together at home. He spoke to his attendance at the Culinary Arts Dinner at Hutchison Career Center and the 16th Annual Women of Distinction Awards Banquet held by the Farthest North Girl Scout Council. He mentioned those who were honored as Women of Distinction for 2012: Shelby Nelson, Karen Perdue, and Bernice Joseph.

Mr. Roberts thanked the Fairbanks Police and Fire Departments for giving him and his nephew a tour of their facilities.

Ms. Stiver commented that the Military Appreciation Banquet was an emotionally stirring but very nice event. She stated that the Fairbanks community put their "best foot forward" at the recent AFN Board Member Reception. She spoke to the well-attended Senior Luncheon at which senior citizens were able to see what was available to them in the community, such as housing, medical alert, crafts and various activities. She spoke to the impressive number of active senior citizens in the Fairbanks community. She expressed her excitement and hopes for success with the CDBG grant.

Mr. Matherly spoke to Senior Recognition Day and the value of senior citizens in the Fairbanks community. He stated that he missed the Military Appreciation Banquet because he spent the evening at the Alaska Peace Officers Association Annual Banquet. He commented on upcoming graduations and cautioned youth to be safe. He was hopeful that City Staff could provide a definitive report on the City's liability in order to continue in the CDBG grant process.

Mr. Hilling thanked those who regularly vocalize their beliefs in a public forum. He thanked Mr. Turney for the work he does at the Clay Street Cemetery. He spoke to upholding the Bill of Rights as American citizens. He stated that he cannot ignore Mr. Lerman's ideas on creating a Renovation Task Force and spoke to the benefits of renovation. He asked Mayor Cleworth about the broken crosswalks that Mr. Lerman had spoken about in his testimony. **Mr. Hilling** spoke to Mr. Buberger's issue with the lack of public restrooms in the downtown area. He stated that he was unsure who's obligation it would be to make restroom facilities available to the public. He invited citizens to come forward with ideas on how to make more restrooms available to the public. He followed-up on his promise to Mr. Buberger to examine the parking signage along the Northward Building by stating that he thought they were acceptable. **Mr. Hilling** spoke to the CDBG.

Mayor Cleworth, in response to Mr. Hilling's question regarding crosswalks, stated that most crosswalks in the City are controlled and maintained by DOT, but that the City would look into it.

Mr. Eberhart spoke to the 2012 Legislative Session and the City's Capital Budget requests. He highlighted agenda items for the upcoming Public Safety Commission meeting. He spoke to his

and Mr. Matherly's attendance at the Alaska Peace Officers Association Annual Banquet. He thanked the Public Safety Employees Association for inviting him to attend. He commented on the terrific article in the Fairbanks Daily News Miner on Fire Chief Warren Cummings and commended Chief Cummings for his dedication to the City of Fairbanks.

Mr. Roberts, seconded by **Mr. Matherly**, moved to go into Executive Session for the purpose of discussing the Fairbanks Fire Fighters Association Labor Contract.

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

Mayor Cleworth called for a five minute recess.

EXECUTIVE SESSION

Labor Contract Negotiations – Fairbanks Fire Fighters Association

The City Council met in Executive Session to discuss FFA Labor Negotiations. Direction was given to staff and no action was taken.

ADJOURNMENT

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

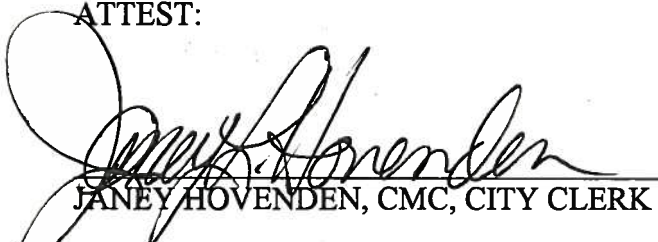
Mayor Cleworth called for objection and, hearing none, so ORDERED.

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



JERRY CLEWORTH, MAYOR

ATTEST:



JANEY HOVENDEN, CMC, CITY CLERK

Transcribed by: DS