



FAIRBANKS CITY COUNCIL
REGULAR MEETING MINUTES, MARCH 5, 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: Chad Roberts, Seat B
Jim Matherly, Seat D
Lloyd Hilling, Seat E
John Eberhart, Seat F

Absent: Vivian Stiver, Seat A
Bernard Gatewood, Seat C (Excused)

Also Present: Pat Cole, Chief of Staff
Warren Cummings, Fire Chief
Paul Ewers, City Attorney
Janey Hovenden, City Clerk
Michael J. Schmetzer, City Engineer
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

David van den Berg, 332 Slater Drive, Fairbanks – Mr. van den Berg spoke in favor of Hand-carried Resolution No. 4516 and thanked the Mayor and Council for their willingness to address the energy crisis issue.

David Lerman, 126 2nd Avenue, #15, Fairbanks – Mr. Lerman stated that he will run for City Council in the 2012 Municipal Election. He defined the “nucleus” of his campaign as his *Renovation Fairbanks* website. Mr. Lerman spoke to the establishment of various task forces in the City of Fairbanks. He suggested that these task forces would benefit the City by reducing crime and raising property values and would benefit the public by soliciting participation and encouraging input. He spoke in favor of waiving building permit fees for property owners who are willing to renovate their dilapidated properties, stating that the fees would be recovered by the City in the increase of property taxes and decrease in police calls.

APPROVAL OF AGENDA AND CONSENT AGENDA

Mr. Hilling, seconded by **Mr. Roberts**, moved to ADD Hand-carried Resolution No. 4516 to the Agenda, under New Business.

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

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

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO APPROVE THE AGENDA AND CONSENT AGENDA, AS AMENDED, AS FOLLOWS:

YEAS: Hilling, Eberhart, Roberts, Matherly

NAYS: None

ABSENT: Gatewood (excused), Stiver

Mayor Cleworth declared the MOTION CARRIED.

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

SPECIAL ORDERS

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

Applicant: Matthew Robert Hayes

Mr. Roberts moved to WAIVE Protest on the Chauffeur Appeal.

Mayor Cleworth declared the MOTION FAILED for lack of a second.

- b) 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 and Restaurant Designation Permit.

New License:

License Type: Beverage Dispensary – Duplicate License

D.B.A.: Lavelle's Annex, #5125

Licensee/Applicant: Café de Paris Catering Co.

Physical Location: 519 1st Avenue, Fairbanks

Mr. Matherly, seconded by **Mr. Hilling**, moved to WAIVE Protest on the New Liquor License and Restaurant Designation Permit.

Franklin Eagle, 912 Gillam Way, Fairbanks – Mr. Eagle, owner of Lavelle’s Bistro, stated that he would be happy to answer any questions concerning the application for a new license. He explained that the New Horizons Gallery downtown in the Lathrop Building has been vacant for a few years and there is a lot of potential for the vacant space. He stated that the first step in the process to establish a catering business from the new location is to obtain the duplicate license. He added that there are no definitive plans to renovate the space at this time. Mr. Eagle spoke to the challenges of successfully obtaining a duplicate Liquor License for two unattached properties. He stated that if the duplicate License does not go through, he could transfer his current Lavelle’s Liquor License to the new location and apply for a new license for Lavelle’s Bistro.

Mr. Hilling asked for clarification on the location of the new catering business.

Mr. Eagle replied that the Lathrop Building is just down the street, contiguous to the Marriott Hotel parking lot.

Mr. Eberhart asked for more information on the business plan for the proposed space.

Mr. Eagle replied that there is not adequate space in his bar/restaurant to meet the high demand for catering services. He stated that the new space would likely be used primarily as a private catering facility, but may also be used for storage and office space.

Mr. Matherly asked what the square footage of the new location is.

Mr. Eagle stated that it is 6,000 square feet on one floor. He spoke to the benefits of creating more activity in Downtown Fairbanks.

David Lerman – Mr. Lerman stated that he has frequented Lavelle’s Bistro since his move to the City of Fairbanks. He spoke highly of the food and service at the restaurant and bar, but voiced his concern with too many liquor establishments in the downtown area.

David van den Berg – Mr. van den Berg disclosed that Mr. Eagle is a member of the Board of Directors for the Downtown Association. He spoke in support of the proposed catering business and duplicate liquor license.

Mayor Cleworth stated that two City departments have entered a protest for the new license due to the condition of the space. He explained that the Fire and Building Departments will not have the opportunity to inspect the location until renovation is complete. He suggested that the Council move to waive protest contingent upon successful completion of inspection by the City’s Fire and Building Departments.

Mr. Roberts asked if building and fire code standards differ between private businesses and businesses open to the public.

Mayor Cleworth clarified that the proposed catering operation would house events, thus qualifying as a business open to the public.

Mr. Matherly, with concurrence of the second, moved to WITHDRAW the motion to WAIVE Protest on the New Liquor License and Restaurant Designation Permit.

Mr. Matherly, seconded by **Mr. Roberts**, moved to PROTEST the New Liquor License and Restaurant Designation Permit contingent upon final inspection by the City Building and Fire Departments.

Mr. Roberts asked Ms. Hovenden if the protest would slow the progress of Mr. Eagle's business plan.

Ms. Hovenden replied that the only hurdle standing in the way of the Council's approval of the license is a Certificate of Occupancy or approval from the City to open for business. She stated that the ABC Board will likely allow Mr. Eagle to proceed with the application for the license in the interim.

Mayor Cleworth spoke in favor of the development of the Lathrop Building and wished Mr. Eagle the best of luck.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO PROTEST THE NEW LIQUOR LICENSE AND RESTAURANT DESIGNATION PERMIT CONTINGENT UPON FINAL INSPECTION BY THE CITY BUILDING AND FIRE DEPARTMENTS, AS FOLLOWS:

YEAS: Roberts, Matherly, Hilling, Eberhart

NAYS: None

ABSENT: Gatewood (excused), Stiver

Mayor Cleworth declared the MOTION CARRIED.

- c) 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
License: **Alaska Salmon Bake, #1639**
Licensee/Applicant: Malemute, Inc.
Physical Location: 2300 Airport Way, Fairbanks

Current DBA: Alaska Salmon Bake
Licensee: Inter Sea, Inc.
Location: 2300 Airport Way, Fairbanks

Mr. Matherly, seconded by **Mr. Hilling**, moved to WAIVE Protest on the Liquor License 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 TRANSFER AND RESTAURANT DESIGNATION PERMIT, AS FOLLOWS:

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

MAYOR'S COMMENTS AND REPORT

Mayor Cleworth announced that Stephanie Johnson, City Dispatch Director, has been selected as Association of Public Safety Communications 9-1-1 Professional of the Year. He offered his congratulations to Ms. Johnson. He stated that the IBEW bargaining unit had accepted the City's offer and an ordinance would be coming forward at the next Regular Meeting to ratify the terms of the agreement. **Mayor Cleworth** explained that Resolution No. 4516 had been hand-carried due to the time sensitivity of the issue of gas distribution. He spoke briefly to the planning of the Helmericks/Bentley Upgrade Project and asked Mike Schmetzer to come forward and provide the Council with an update.

Mr. Schmetzer referenced an aerial map of the Bentley/Helmericks area. He explained the basic construction design and the locations of the proposed roundabouts. He stated that 8-foot wide sidewalks will be constructed on the north side of Helmericks Avenue and Bentley Trust Road and 4-foot wide bike paths/shoulders will be built on both sides of each road. Mr. Schmetzer informed the Council that a traffic light is under consideration for the intersection at Bentley Trust Road and the Old Steese Highway. He explained the design and construction plan of the roundabouts in greater detail. He stated that the estimate for the project is roughly \$7.8 million dollars.

Mr. Roberts commented on the bypass lanes.

Mr. Schmetzer stated that the bypass lanes will greatly improve traffic flow due to the high volume of traffic in the area.

Mr. Hilling asked Mr. Schmetzer if it was ever in the construction plan to build a roundabout at the intersection of Helmericks Avenue and the Old Steese Highway.

Mr. Schmetzer replied that a roundabout is recommended for that intersection but is not included in the Bentley/Helmericks Project. He added that the State of Alaska and the City of Fairbanks have agreed to commit to improvements to the Old Steese/Helmericks intersection upon completion of the Bentley/Helmericks Project.

Mr. Hilling asked Mr. Schmetzer how confident he is in the plan to replace the Old Steese/Helmericks intersection with a roundabout.

Mr. Schmetzer clarified that the new roundabouts are large enough to accommodate the largest commercial vehicles on the roadways.

Mayor Cleworth commented that he has always felt hesitant about placing roundabouts in the City unless they have a good footprint. He stated that there is enough land space at all of the proposed sites to build sufficient roundabouts.

Mr. Schmetzer stated that Eric Grant, the City's Operator Foreman, formerly maintained the roundabout at the University of Alaska, Fairbanks. He assured the Council that all maintenance for the new construction would be done at night when there is little traffic flow.

Mayor Cleworth stated that the Bentley/Helmericks Project Plans would be submitted to the Borough Planning Commission and the State DOT within the next few days.

Mr. Roberts thanked Mr. Schmetzer and the City's Engineering Department for their swift and thorough work on the project plan.

Mayor Cleworth welcomed the homeschool students in attendance.

UNFINISHED BUSINESS

- a) Ordinance No. 5876 – An Ordinance to Amend Chapter 14, 46, and 78, to Repeal, Amend, and Clarify Certain Offenses. Introduced by Mayor Cleworth. SECOND READING AND PUBLIC HEARING.

Mr. Matherly, seconded by **Mr. Roberts**, moved to ADOPT Ordinance No. 5876.

David Lerman – Mr. Lerman spoke in support of enhancing regulations on “disturbing the peace.”

Mr. Hilling asked for the reasoning behind the removal of “Urinating in Public” as an offense.

Mr. Ewers explained that the offense had been stricken under the “Penalties” provision, but is still included under Section 46-257, “Urinating in Public.”

Mayor Cleworth explained that, up until now, the only punishment for urinating in public was to arrest the individual or issue a court summons. He stated that the change to the Code would give officers the option to issue a citation.

Mr. Eberhart stated that there had been some discussion at a recent Public Safety Commission (PSC) Meeting about changing the hours governing “disturbing the peace” from 11:00 p.m. to 7:00 a.m. to 10:00 p.m. to 7:00 a.m. He remarked that he was absent from the meeting and asked Mayor Cleworth if the PSC had made a recommendation on the issue.

Mayor Cleworth stated that much of the upcoming road construction in the City will be done at night due to traffic congestion. He clarified that the hours of 11:00 p.m. to 7:00 a.m. are already set forth in the existing Code and the PSC did not make a formal motion to amend it.

Mr. Eberhart asked the reasoning behind striking “motorcycle, snow machine” in Section 46-42(a)(3). He asked if there was already State law governing modified mufflers on vehicles of various types.

Mayor Cleworth replied that the section was dated and had never been enforced. In response to Mr. Eberhart’s second question, **Mayor Cleworth** stated that the City’s Code contains tools to address excessive noise. He asked Chief Zager to come forward to further answer Mr. Eberhart’s question.

Chief Zager explained that some offenses could be cited under “disorderly conduct” depending on the nature of the situation. He stated that his intention was to see how the changes made by Ordinance No. 5876 played out, then tweak the Code as necessary. In response to Mr. Eberhart’s question regarding modified mufflers, Chief Zager stated that he was unsure if the City had an ordinance specifically addressing the issue. He informed the Council that the primary author of Ordinance No. 5876 was Lieutenant Eric Jewkes.

Mr. Roberts expressed concern with taking the section addressing snow machines and motorcycles out due to the individuals who abuse riding in residential areas.

Mayor Cleworth acknowledged Mr. Roberts’ concern, but stated that keeping and enforcing that section of Code would prohibit someone from riding a motorcycle down Airport Way after 11:00 p.m.

Mr. Roberts argued that riding a motorcycle down Airport Way is different than doing so in a residential neighborhood. He stated that he would not like to see the language removed.

Mr. Eberhart respectfully disagreed with Mayor Cleworth’s interpretation of the Code. He agreed with Mr. Roberts’ comments on the matter, stating that simply riding a motorcycle is much different than abusing the right to ride by disturbing the peace in a residential area.

Mr. Eberhart, seconded by **Mr. Roberts**, moved to AMEND Ordinance No. 5876 by including the language, “motorcycle, snow machine” previously stricken in Section 46-42(a)(3).

Mayor Cleworth asked Mr. Ewers if Sections 46-42(c)(1), (2) addressing “loud sound” would allow for the City to take action in such events as described by Mr. Eberhart and Mr. Roberts.

Mr. Ewers commented that the current Code specifies that driving a motorcycle or snow machine in the City is only an offense if the offender had been previously informed that such operation was disturbing the peace. He stated that the offense could also fall under the regulations outlined in Sections 46-42(a)(1), (2) as long as the disturbance had been brought to the attention of the offender previously.

Mr. Hilling concurred with Mr. Roberts’ and Mr. Eberhart’s position on the issue.

Mr. Eberhart commented that citizens should not be expected to be put in the position of issuing warnings to offenders. He expressed his opinion that there would be no benefit to removing the language, “motorcycle, snow machine.”

Mr. Hilling asked Chief Zager to address the issue.

Chief Zager indicated that FPD is willing to issue a warning to offenders once they are alerted of a disturbance. He stated that noise level is a highly debatable issue and he acknowledged the concern of the Council. He informed Mr. Hilling that issues of this nature are typically handled by first issuing a warning.

Mr. Hilling spoke in favor of the amendment to Ordinance No. 5876.

A ROLL CALL VOTE WAS TAKEN, ON THE MOTION TO AMEND ORDINANCE NO. 5876, AS FOLLOWS:

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

A ROLL CALL VOTE WAS TAKEN, ON THE MOTION TO ADOPT ORDINANCE NO. 5876, AS AMENDED, AS FOLLOWS:

YEAS: Hilling, Eberhart, Roberts, Matherly
NAYS: None
ABSENT: Gatewood (excused), Stiver
Mayor Cleworth declared the MOTION CARRIED and Ordinance No. 5876, as Amended, ADOPTED.

- b) Ordinance No. 5877 – An Ordinance Authorizing a Land Exchange Between the Greater Fairbanks Community Hospital Foundation and the City of Fairbanks to Facilitate Vacation of 11th Avenue and to Provide Parking Adjacent to Fire Station Headquarters. Introduced by Mayor Cleworth. SECOND READING AND PUBLIC HEARING.

Mr. Eberhart, seconded by **Mr. Roberts**, moved to ADOPT Ordinance No. 5877.

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

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO ADOPT ORDINANCE NO. 5877, AS FOLLOWS:

YEAS: Roberts, Eberhart, Matherly, Hilling
NAYS: None
ABSENT: Gatewood (excused), Stiver

Mayor Cleworth declared the MOTION CARRIED and Ordinance No. 5877 ADOPTED.

NEW BUSINESS

- a) Resolution No. 4515 – A Resolution Amending the Schedule of Fees and Charges for Services by Adjusting Refuse Collection Rates and Tow Fees. Introduced by Mayor Cleworth.

PASSED and APPROVED on the CONSENT AGENDA.

- b) Ordinance No. 5878 – An Ordinance to Amend Chapter 2, Article III, Division 8, Landscape Review and Beautification Commission and FGC Sections 10-436, 438, 439, and 441 of the Fairbanks Landscape Ordinance. Introduced by Mayor Cleworth.

ADVANCED on the CONSENT AGENDA.

- c) Resolution No. 4516 – A Resolution Supporting House Bill 289 and Senate Bill 153 to Extend Tax Credits for the Costs of Construction of Natural Gas Storage Facilities in Interior Alaska. HANDCARRIED. Introduced by Mayor Cleworth.

Mr. Matherly, seconded by **Mr. Hilling**, moved to APPROVE Resolution No. 4516.

Mr. Roberts thanked Mayor Cleworth for introducing Resolution No. 4516, Representative Steve Thompson for his work on House Bill 289, and Representatives Thomas and Coghill for their work on Senate Bill 153. He spoke in support of bringing gas to Fairbanks.

Mr. Hilling spoke in support of the House and Senate Bills and Resolution No. 4516.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO APPROVE RESOLUTION NO. 4516, AS FOLLOWS:

YEAS: Matherly, Hilling, Roberts, Eberhart

NAYS: None

ABSENT: Gatewood (excused), Stiver

Mayor Cleworth declared the MOTION CARRIED and Resolution No. 4516 APPROVED.

DISCUSSION ITEMS

Committee Reports

Public Safety Commission – Mr. Eberhart gave a brief report of the February 14, 2012 committee meeting. He announced that there would be a Work Session on March 19, 2012 to discuss the future role, if any, of the PSC.

COMMUNICATIONS TO COUNCIL

- a) Proposed Findings and Conclusions – Board of Adjustment Appeal

Mr. Roberts, seconded by **Mr. Eberhart**, moved to APPROVE the Proposed Findings and Conclusions on the Board of Adjustment Appeal of Wayne Sandstrom.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO APPROVE THE PROPOSED FINDINGS AND CONCLUSIONS, AS FOLLOWS:

YEAS: Roberts, Matherly, Hilling, Eberhart

NAYS: None

ABSENT: Gatewood (excused), Stiver

Mayor Cleworth declared the MOTION CARRIED.

- b) Appointment to the Board of Plumber Examiners

PASSED and APPROVED on the CONSENT AGENDA

COUNCIL MEMBERS' COMMENTS

Mr. Roberts praised the City Engineering Department for their work in the plan to reconstruct roads and intersections in the Bentley Trust area.

Mr. Eberhart expressed his appreciation for the financial stability of the City of Fairbanks. He congratulated Jerry Colp for his award as Engineer of the Year. He announced the next PSC meeting will be March 13, 2012. He encouraged the public to visit the 2012 Ice Park at their new location.

Mr. Hilling apologized to Mr. Hayes that he was not presented an opportunity to speak on behalf of the denial of his Chauffeur License. He spoke to the City's mission statement and requested that it be posted on the home page of the City of Fairbanks website.

Mr. Matherly greeted the homeschoolers in attendance. He expressed appreciation for members of the public who regularly attend Council meetings and offer their input. He spoke to Mr. Lerman's consistent testimony and indicated that many of the requests made by Mr. Lerman can be accomplished without delegating a task force. He commented that waiving building permit fees to promote renovation would not be a good idea because defining and limiting which properties are eligible would be difficult. He commended Mr. Lerman for his desire to make Fairbanks a better place to live.

Mr. Eberhart, seconded by **Mr. Hilling**, moved to go into Executive Session for the purpose of discussing FFA Labor Negotiations.

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

Mayor Cleworth called for a five minute recess.

EXECUTIVE SESSION

Labor Contract Negotiations – FFA Labor Negotiations

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

ADJOURNMENT

Mr. Matherly, seconded by **Mr. Roberts**, 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:

for 

JANEY HOVENDEN, CMC, CITY CLERK

Transcribed by: DS