



FAIRBANKS CITY COUNCIL
REGULAR MEETING MINUTES, AUGUST 8, 2011
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
Emily Bratcher, Seat E
John Eberhart, Seat F

Absent: None

Also Present: Patrick B. Cole, Chief of Staff
Ernie Misewicz, City Fire Marshal
Paul Ewers, City Attorney
Janey Hovenden, City Clerk
Ryan Rickels, IT Director
Michael J. Schmetzer, City Engineer
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 Pruhs, 520 Eleventh Ave, Fairbanks and Joan Skilbred, 213 Rasmussen Road, Fairbanks – Mr. Pruhs and Ms. Skilbred gave a brief report on the Clay Street Cemetery. They informed Council that there are at least ten markers that are damaged and need repair, with a few needing complete replacement. They mentioned the need for removal of a birch tree that is a safety hazard in the cemetery. Mr. Pruhs and Ms. Skilbred stated that the information board is in fairly good shape, but needs new Plexiglas and hinges which would cost about \$400.00; they requested that the City fund the repair. They also mentioned the need for new benches in the cemetery. Mr. Pruhs and Ms. Skilbred thanked the City for providing weed and feed and praised Frank Turney for his outstanding job taking care of the cemetery. They continued to list numerous small repair projects that need attention and expressed their interest in making Clay Street

Cemetery open for cremation-type burials. They recommended to the Council that Dave Erickson be reinstated on the Clay Street Cemetery Committee.

Mr. Matherly commented that the cemetery is looking great and asked how many grave sites the cemetery held.

Ms. Skilbred replied that the cemetery was about four and a half acres in size and housed more than 1,500 burial sites. She stated that the Clay Street Cemetery Commission is a good team.

Mayor Cleworth asked that Ms. Skilbred contact him the following day in reference to the requests for funding and tree removal.

Frank Turney, 201 Seventh Avenue, Fairbanks – Mr. Turney expressed that it has been his pleasure to work on the Clay Street Cemetery Commission. He stated that the birch tree at the cemetery is an eyesore and a danger and needs to come down. He spoke to the death of Ms. Rockar and the upcoming hearing for the defendant in the case. He thanked Mayor Cleworth for bringing the Chief of Police to the last Council meeting to discuss evidence handling and destruction. Mr. Turney agreed with Chief Zager that there needs to be more audits in the evidence department. He spoke to the 3,000 registered voters in the City of Fairbanks and cautioned the public on electing another attorney to the City Council. He stated that he'd rather have Ms. Bratcher stay in office.

Victor Buberger, PO Box 58192, Fairbanks – Mr. Buberger congratulated Mike Schmetzer for the completion of the Wendell Street project. He asked why the Wendell Street Bridge wasn't included in the project. He spoke to the numerous potholes in the city that need attention. Mr. Buberger expressed his frustration with intersections that have limited visibility around corners due to trees and shrubs. He stated that the Clay Street Cemetery looks the best he's ever seen it. He suggested that the City purchase a new Kabota machine and weed-eater for Mr. Turney to use in taking care of the cemetery. He asked the Council if any project funding has been set aside for the south side of town.

APPROVAL OF AGENDA AND CONSENT AGENDA

Ms. Bratcher, seconded by **Mr. Roberts**, 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.

SPECIAL ORDERS

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: Mark Jay Sibley, Sr.

Mr. Eberhart, seconded by **Mr. Roberts**, moved to GRANT Appeal of Denied Application.

Mayor Cleworth called for Public Testimony.

Mark J. Sibley, Sr., 1116 Charlotte, North Pole – Mr. Sibley stated that he was denied a chauffeur license because of an incident eight years ago involving his ex-wife. He reflected upon his time spent in incarceration and how that motivated him to participate in an anger management class. He expressed his hope that the Council would grant his appeal because, due to his disability, he is unable to do the same work he had done in the past.

Mr. Eberhart thanked Mr. Sibley for coming. He asked Mr. Sibley if he had gotten a divorce since the incident and how long he has been divorced. He also asked if he had completed the anger management course as part of a court requirement.

Mr. Sibley stated that he and his ex-wife have been divorced for about ten years. He added that, since the incident, he has managed his anger well and has completed the court-ordered anger management course. He stated that he is currently unemployed due to his failing kidneys, but has a job prospect with Eagle Cab.

Ms. Stiver referenced the numerous driving offenses listed on Mr. Sibley's driving record. She asked Mr. Sibley why he had continued to drive so often with a revoked license. She expressed concern for the number of offenses.

Mr. Sibley answered that his license has not been revoked for the past ten years, but briefly explained the reasons for revocation prior to that.

Mayor Cleworth asked Mr. Sibley if he could provide a certificate for the completion of the anger management course.

Mr. Sibley replied that he has misplaced the certificate.

Ms. Bratcher asked Mr. Sibley if he had ever taken a defensive driving course.

Mr. Sibley answered in the negative, but stated that he would be willing to complete a course if it meant he could get his chauffeur's license.

Mr. Eberhart stated that he is not condoning the past actions of Mr. Sibley, but that the driving violations are not necessarily offenses that the Council should take into consideration for the appeal. He also expressed concern that the evening's vote on Ordinance No. 5853 could change the outcome for Mr. Sibley's appeal due to the change in the look-back period for criminal history reports.

Mr. Eberhart, seconded by **Mr. Gatewood**, moved to POSTPONE the Chauffeur License Appeal to be heard under item "b)" of UNFINISHED BUSINESS.

Mr. Roberts asked for clarification on the conviction barring Mr. Sibley from obtaining a chauffeur license.

Mr. Ewers stated that the assault conviction was a misdemeanor crime.

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

Mayor Cleworth called for other Public Testimony on the appeal.

Victor Buberger – Mr. Buberger began speaking to Ordinance No. 5853.

Ms. Stiver called for Point of Order.

Mayor Cleworth explained to Mr. Buberger that Public Testimony on Ordinance No. 5853 would take place later in the meeting and clarified that he could only testify on the appeal at this time.

Mr. Buberger spoke in favor of granting the appeal. He stated that chauffeur licensing should be left up to the state.

Frank Turney – Mr. Turney stated that he agreed with **Mr. Eberhart's** motion to postpone.

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

MAYOR'S COMMENTS AND REPORT

Mayor Cleworth, in response to Mr. Buberger's questions during Public Testimony, explained that the Wendell Street project was a State of Alaska DOT project, not the City of Fairbanks. He added that the bridge construction, to his knowledge, is a DOT project in the works. He stated that the far south end of Cushman Street, from Mitchell to Sanduri, is part of a DOT project to be started this year. He stated that Cushman Street, from Airport to the overpass, is a City project that is in line to be slated for construction. **Mayor Cleworth** mentioned a recent meeting with the Governor and stated that the City will attempt to get state funding this year. **Mayor Cleworth** invited the Council to attend the upcoming "State of the City Address" luncheon. He also invited the public and the Council to take a tour of the City Hall gymnasium directly after the evening's meeting to see the renovated bleachers.

UNFINISHED BUSINESS

- a) Ordinance No. 5853 – An Ordinance Amending Chapter 86 Vehicles for Hire. Introduced by Mayor Cleworth and Council Member Stiver. Public Hearing was Held July 25, 2011. POSTPONED from the Regular Meeting of July 25, 2011.

Mayor Cleworth stated that there would be an amended version of Ordinance No. 5853 presented and that the differences between the two ordinances would be brought to light.

Mr. Gatewood, seconded by **Ms. Stiver**, moved to ADOPT Ordinance No. 5853.

Mr. Roberts, seconded by **Mr. Matherly**, moved to SUBSTITUTE Ordinance No. 5853, as Amended for Ordinance No. 5853.

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

Bill Northrup, 555 Front Street, Fairbanks – Mr. Northrup spoke in support of Ordinance No. 5853, as Amended, but stated that he would like to see felony and misdemeanor crimes treated separately. He spoke strongly against approval of applicants convicted of felony offenses. He stated that most misdemeanor convictions for chauffeur applicants are assault-related crimes of passion and should be treated more leniently. He spoke to the importance of allowing applicants to earn an honest living.

Ms. Bratcher asked how important defensive driving is for cab drivers.

Mr. Northrup highly recommended that defensive driving courses be taken by chauffeurs every couple years.

Tim Sovde, 402 Bonnifield, Fairbanks – Mr. Sovde agreed with Mr. Northrup's recommendations on Ordinance No. 5853, as Amended. He went on to state that City Code can always be changed based on what the public and council members see fit. He stated his belief that an applicant should be granted a chauffeur license if he/she has never committed an act of violence upon another person or person's property.

Victor Buberger – Mr. Buberger spoke to the inconsistencies of felony sentencing, using as an example a comparison between prostitution and murder convictions. He suggested lowering the misdemeanor look-back to two years and not taking minor traffic violations into account at all. He concluded by stating his belief that chauffeur licensing should be handled by the state court and the DMV.

Frank Turney – Mr. Turney read aloud portions of Section 86-77 of Ordinance No. 5853, as Amended. He expressed his satisfaction that the look-back terms had been shortened, but stated that he would like to see them shortened even more. He asked the Council to continue to consider the degree of the offense when looking at appeals.

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

Ms. Stiver summarized the changes to Ordinance No. 5853, as Amended, from the original ordinance.

Mr. Ewers clarified the referenced Alaska Statute in FGC Section 86-77(6)(b).

Ms. Stiver explained Section 86-95(a), stating that clerical errors or typos on a criminal history report that would cause the applicant to be denied would not have to be appealed if the applicant

could provide documentation to the City Clerk proving it to be an error. She quoted Section 86-95(b) outlining eligibility for an appeal to the City Council.

Ms. Bratcher asked why the sections outlining licensing fees and driver training were removed.

Ms. Hovenden, in response to **Ms. Bratcher's** question regarding driver training, stated that the section has not been enforced for a few years due to the financial burden it places on applicants.

Mr. Ewers confirmed that the fees were removed from Ordinance No. 5853 because they are outlined in the City's Schedule of Fees.

Mr. Eberhart commended **Ms. Stiver** and Mr. Ewers for all their work on the amended ordinance. He asked Mr. Ewers for clarification on Section 86-54(a). **Mr. Eberhart** stated that he thought Section 86-77 was fairly straightforward.

Mr. Matherly thanked those responsible for drafting the ordinance and Mr. Northrup for his input. He stated that he doesn't feel that the Council, by denying an appeal, is preventing an individual from earning a living. He acknowledged the significance of the opinions of cab company managers and owners. **Mr. Matherly** asked Chief Zager to come forward.

Chief Zager referenced a study done by the National Institute of Justice on prior convictions of police officers. He stated that the study determined that agencies would prefer not to hire individuals for 8.6 years following conviction of a violent crime and 5.8 years following a conviction of a non-violent crime.

Mr. Roberts spoke in support of Ordinance No. 5853, as Amended.

Mr. Eberhart raised the issue of defensive driving and suggested that some requirement of the course be kept in the code.

Ms. Bratcher agreed with **Mr. Eberhart's** proposal for a defensive driving requirement. She offered a solution by suggesting that a course certificate be required upon application or renewal of a chauffeur license.

Ms. Hovenden explained that the prior requirement for defensive driving was presentation of a certificate only upon the first renewal. She indicated that this places more of a financial burden on applicants, in addition to the licensing fee and criminal history/driving record costs.

Mr. Eberhart asked for clarification on the difference in requirements for a renewal vs. a new license.

Ms. Hovenden replied that defensive driving had been a one-time requirement upon renewal of a chauffeur license. She stated that updated criminal history and driving record documents are currently required with every renewal.

Ms. Bratcher suggested a change to Section 86-88, addressing the length of time a driver must wait to operate a Commercial Transport Vehicle after consuming or being under the influence of alcohol or prescription drugs. She stated that twelve hours would be adequate.

Ms. Stiver offered changing the time restriction from five hours to eight hours.

Mr. Gatewood agreed with **Ms. Bratcher's** idea, but wanted to ensure that cab drivers were not restricted more than commercial drivers in other industries.

Mr. Eberhart, seconded by **Ms. Bratcher** moved to AMEND Ordinance No. 5853, as Amended, to reinsert Section 86-81, Chauffeur's Training Required, and replace "12 months" with "24 months" in both the heading and in subsection (2).

Mr. Roberts asked for clarification on the motion on the floor.

Mayor Cleworth replied that the motion would reinsert the one-time requirement for a defensive driving certificate upon renewal.

Mr. Eberhart, with the concurrence by the second, changed the language in the first sentence of Section 86-81, Chauffeur's Training Required, to read, "Within 24 months of issuance or renewal of a city chauffeur's license, each driver shall..."

Mr. Roberts stated that the 24-month recurring requirement in the amendment seemed punitive. He spoke in favor of the original amendment without the recurring requirement.

Mr. Gatewood and **Mr. Matherly** agreed with **Mr. Roberts**.

A ROLL CALL VOTE WAS TAKEN, ON THE MOTION TO AMEND ORDINANCE NO. 5853, AS AMENDED, AS FOLLOWS:

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

Mr. Roberts, seconded by **Ms. Bratcher**, moved to AMEND Ordinance No. 5853, as Amended, to reinsert Section 86-81, Chauffeur's Training Required, and change "12 months" to "24 months" in both the heading and in subsection (2).

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO AMEND ORDINANCE NO. 5853, AS AMENDED, AS FOLLOWS:

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

Ms. Bratcher, seconded by **Mr. Eberhart**, moved to AMEND Ordinance No. 5853, as Amended, to replace “5 hours” with “8 hours” in Section 86-88, Alcoholic Beverages and Controlled Substances.

Mr. Roberts stated his confusion as to why Section 86-88 existed, given that it could not be monitored or enforced.

Mr. Matherly concurred with **Mr. Roberts**.

Mr. Gatewood expressed his opinion that, although it may not be enforceable by the City of Fairbanks, there is no harm in having it be a part of the code. He added that some people follow the law just because it’s the law and spoke in support of the amendment.

Ms. Bratcher asked Mr. Ewers if there was any point in including Section 86-88, from a legal perspective.

Mr. Ewers stated that this would be a more stringent standard than the Alaska state law for DUI legal limits, thus serving its purpose.

Mr. Eberhart spoke in support of the amendment.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO AMEND ORDINANCE NO. 5853, AS AMENDED, AS FOLLOWS:

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

Mayor Cleworth declared the MOTION CARRIED.

Mr. Ewers suggested that if the intent of Section 86-77(6), (h) and (i) was to specify eight years for felony DUI or refusal convictions, that it should be stated in those subsections.

Ms. Stiver, seconded by **Mr. Roberts**, moved to AMEND Section 86-77(6) (h) and (i) by changing “(five years)” to “(five years or eight years for a felony offense).”

Ms. Stiver, upon reflection of the proposed amendment, stated that she was unsure if it was necessary because of the state laws governing the length of driver’s license suspensions for felony DUI’s.

Mr. Ewers stated that sentencing varies for felony DUI’s.

Mr. Matherly asked what the difference is between a DUI and a felony DUI.

Mr. Roberts and **Ms. Stiver** replied that it takes multiple DUI’s to be convicted of a felony DUI.

Ms. Stiver requested to WITHDRAW her motion to AMEND, if her second would concur.

Mr. Roberts declined to second the WITHDRAWAL, stating that it is practical to keep this section of the code.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO AMEND ORDINANCE NO. 5853, AS AMENDED, AS FOLLOWS:

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

NAYS: None

Mayor Cleworth declared the MOTION CARRIED.

Ms. Bratcher recommended that Council consider changing the period for all misdemeanors to five years to mirror the misdemeanor DUI look-back.

Ms. Stiver, in response, stated that the DUI look-back was driven by insurance and should not be related to other misdemeanors.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO ADOPT ORDINANCE NO. 5853, AS AMENDED, AS FOLLOWS:

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

NAYS: None

Mayor Cleworth declared the MOTION CARRIED and ORDINANCE NO. 5853, As Amended, ADOPTED.

- b) Return to motion to GRANT Appeal of Denied Chauffeur Application of Mark Jay Sibley, Sr.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO GRANT APPEAL, AS FOLLOWS:

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

NAYS: None

Mayor Cleworth declared the MOTION CARRIED.

NEW BUSINESS

- a) Ordinance No. 5855 – An Ordinance Amending the 2011 Budget Estimate for the Second Time. Introduced by Mayor Cleworth.

ADVANCED on the CONSENT AGENDA.

- b) Ordinance No. 5856 – An Ordinance Authorizing Prepayment of all Outstanding Revenue Bonds for the Fairbanks Transportation Center. Introduced by Mayor Cleworth.

ADVANCED on the CONSENT AGENDA.

COMMUNICATIONS TO COUNCIL

- a) Request for a Complete/Signature Street Steering Committee.

ACCEPTED on the CONSENT AGENDA.

- b) Reappointment to the Clay Street Cemetery Commission.

APPROVED on the CONSENT AGENDA.

COUNCIL MEMBERS' COMMENTS

Mr. Matherly welcomed **Ms. Bratcher** back. He mentioned the cooler weather. He expressed his appreciation for the process of municipal government and for the input of his fellow Council Members. He expressed his excitement at attending the Tanana Valley State Fair.

Ms. Bratcher apologized for being out of order throughout the evening's meeting. She stated that it was good to be back, although her two weeks out of town was enjoyable. She spoke to the work done at the evening's meeting. **Ms. Bratcher** stated that she will not be running for Seat E and that it is "open for business."

Mr. Eberhart reminded the public that the filing period for candidacy is now open and encouraged those interested to file. He announced the Public Safety Commission meeting coming up and briefly summarized agenda items to be discussed at that meeting. He commended **Mayor Cleworth** for his great ideas. He spoke in support of the upcoming ordinance to pay off City bonds on the Transportation Center and for the proposition that will go before voters in October that, if passed, would pay off the Police Department bonds. **Mr. Eberhart** stated that it is very prudent of the administration to strive to be debt-free. He added that he has filed his declaration for Seat F of the City Council.

Mr. Gatewood reminded the Council that he would not be in attendance for the next regular meeting. He spoke in support of Ordinance No. 5856 that would be presented at that meeting. He stated that he had attended every day of the fair so far and has had a good time. He mentioned that the AML Conference will be held at the Fairbanks Westmark Hotel November 7-11 this year.

Mr. Roberts commented on the nice weather. He remarked that he had not yet attended the fair, but that he had attended a girl's softball tournament over the weekend and had a lot of fun. He commended the Clay Street Cemetery Commission and Frank Turney, stating that the cemetery looks great. He expressed his appreciation for the Council's work on Ordinance No. 5853.

Ms. Stiver informed everyone that "Council Meeting Agendas" on the City website was not current. She asked if the Council had addressed the letter written from a citizen regarding speeding in the Aurora Subdivision. She mentioned also the anonymous letter sent to Mayor and Council Members concerning a property on Dunbar. **Ms. Stiver** recognized the Downtown Market festivities and expressed her hope for its success. She stated that she is looking forward to attending the fair and announced that the City will participate in a 4-H auction in an attempt to

purchase a pig for a City Hall pig roast. She stated that the auction will be held on August 12 at 6 PM at the fairgrounds and proceeds will benefit the future education of 4-H youth. She added that City employees and staff are encouraged to contribute to the fund raiser.

ADJOURNMENT

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


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

Mayor Cleworth declared the Meeting adjourned at 9:05 p.m.



JERRY CLEWORTH, MAYOR

ATTEST:



JANEY HOVENDEN, CMC, CITY CLERK

Transcribed by: DS