



FAIRBANKS CITY COUNCIL
REGULAR MEETING MINUTES, JULY 25, 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
John Eberhart, Seat F

Absent: Emily Bratcher, Seat E - Excused

Also Present: Patrick B. Cole, Chief of Staff
Warren Cummings, Fire Chief
Paul Ewers, City Attorney
Janey Hovenden, City Clerk
Tony C. Shumate, Director Personnel/Purchasing/RM
Jim N. Soileau, Chief Financial Officer
Laren Zager, Police Chief
Ernie Misewicz, Fire Marshal

INVOCATION

The Invocation was given by City Clerk Janey Hovenden.

FLAG SALUTATION

Mayor Cleworth led the Flag Salutation.

CITIZEN'S COMMENTS

Frank Turney, 201 Seventh Ave, Fairbanks – Mr. Turney mentioned the overwhelming number of signs in the flower gardens of the Golden Heart Park that disrupt tourists' attempts at taking good photographs and expressed thanks for their removal. He spoke of his testimony to the Public Safety Commission regarding disposal of marijuana and other illegal substances after an arrest. He stated that he has asked the question about the disposal of such material numerous times under several different administrations and has never received a clear answer. Mr. Turney stated that he had spoken with the DA's office in regard to the hit-and-run accident that killed Ms. Rockar; and related that an autopsy report was being done and there were no results yet. He spoke strongly in favor of prosecuting the driver involved in the accident. He thanked Mayor Cleworth and Council Member Stiver for their kind words about Ms. Rockar.

Tiffany Van Horn, Golden Heart Utilities, 2725 Garnet, North Pole – Ms. Van Horn spoke in support of Hand-carried Resolution No. 4482. She stated that the City is eligible to apply for the grant because it still owns the Wastewater Treatment Plant. She stated that, instead of the City borrowing the whole dollar amount, the grant would pay for 40% of the total cost to rehabilitate the Sludge Dewatering Facility. She encouraged the Council to approve the Resolution.

Mayor Cleworth asked when the deadline would be for the grant application period.

Ms. Van Horn stated that the deadline would be Monday, August 1, 2011.

Victor Buberger, PO Box 58192, Fairbanks – Mr. Buberger spoke to Frank Turney's issue with the disposal of illegal substances by the Fairbanks Police Department. He informed the Council of some potholes on South Cushman Street. He again suggested that Executive Sessions be open to the public. Mr. Buberger thanked Chief Zager and officers involved in successfully capturing a suspected murderer downtown.

APPROVAL OF AGENDA AND CONSENT AGENDA

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

Mr. Roberts, seconded by **Mr. Matherly**, moved to AMEND the Agenda by adding Resolution No. 4482 under New Business.

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

City Clerk Hovenden read the Consent Agenda into the record.

MAYOR'S COMMENTS AND REPORT

Mayor Cleworth asked the City auditor to come forward to make their presentation.

The auditor gave a "clean opinion" for the City's financial statements and state and federal single audit. He stated that the City was in good financial status at the end of 2010. He stated that, in looking at the City as both a business and a budgeted governmental agency, the audit revealed the City of Fairbanks to be in the black, a strong and stable financial condition.

Mayor Cleworth thanked the auditors and City Finance Staff for their hard work in the auditing process.

Mayor Cleworth asked the Chief of Police and Detective Chris Nolan to come forward to brief the public and Council about the investigation of the hit-and-run accident that killed Ms. Rockar. Mr. Nolan stated that, due to the ongoing investigation, he could only disclose a limited amount of information. He explained that indictment of the driver is pending results of the autopsy on Ms. Rocker to determine the cause of death. He also explained that once someone is charged with a crime, the clock starts ticking for a speedy trial; so the DA's Office wants to ensure they have all their "ducks in a row" before proceeding with the indictment.

Ms. Stiver asked about the timeline for the autopsy results.

Mr. Nolan stated that it typically takes 4-6 weeks, but that it is ultimately up to the medical examiner. He stated that he would expect the results within 1-2 more weeks.

Chief Zager asked Mr. Nolan if FPD was ready to move forward with prosecution upon receiving the autopsy results.

Mr. Nolan confirmed that everything was in order.

Mayor Cleworth asked Chief Zager if there had been any problems in recent years with missing evidence.

Chief Zager stated that he has worked closely with the Property and Evidence Technicians and has not seen or heard of any missing evidence. He informed Mayor and Council that the technicians received training and certification last year and that the security, procedures and materials used for tracking, storage, and destruction of FPD evidence is state of the art. He stated that FPD uses a local burn facility, shared by all local law enforcement agencies, to destroy illegal substances

Mr. Matherly asked how often auditing of the evidence room occurs.

Chief Zager replied that it was not as often as he would like, only because of the low staff turnover in that department does not demand it.

Mr. Eberhart asked about the auditing procedure and who performs the audit.

Chief Zager stated that the last audit was done by Dan Welborn and involved a comparison of an inventory list to all physical evidence, with special attention to cash, firearms and drugs. Mr. Nolan explained the standard procedure from the time evidence is seized until it's filed in storage. Chief Zager briefly explained the step-by-step procedure for evidence disposal. He concluded that the entire process is monitored as closely as possible with the resources at hand, but that accountability ultimately depends upon the integrity of the officers and staff involved.

Mayor Cleworth mentioned the recent passing of long-time Fairbanks resident, Patricia Rogge. He expressed his sentiments and stated that she will be missed in our community. He spoke of the morning's meeting where he and Council Members Roberts and Stiver attended with Tom Barrett from Alyeska Pipeline. **Mayor Cleworth** indicated that he was discouraged in the presentation, stating that it summed up the projected economic difficulties facing Alaska in the coming years. He informed the Council that there would be an upcoming work session regarding the plight of the Polaris Building when the current owner, Mr. Marlow, could be scheduled to attend. **Mayor Cleworth** thanked Ms. Hovenden and other City employees for their hard work in helping the Clerk's Office during a time of short-staffing.

UNFINISHED BUSINESS

- a) Ordinance No. 5853 – An Ordinance Amending Chapter 86 Vehicles for Hire. Introduced by Mayor Cleworth and Council Member Stiver. SECOND READING AND PUBLIC HEARING.

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

Victor Buberger – Mr. Buberger spoke to the changes Ordinance No. 5853 would bring, stating that most of the changes were favorable. He did, however, disagree with the eight-year criminal history check, stating that it should be lowered. He added that most applicants who appeal to the City Council have committed minor drug or domestic violence offenses and should be considered more leniently. He spoke to the local justice system and its inconsistencies. Mr. Buberger suggested that the City implement a program to help these individuals with rehabilitation.

Bill Northrup, 555 Front Street, Fairbanks – Mr. Northrup stated that he is the Operations Manager for Eagle and Yellow Cab. He stated that the primary cause for denial of a chauffeur license is a misdemeanor assault conviction. He agreed with the code's five-year restriction on DUI offenses, but suggested reducing the look back for felonies to five years instead of eight. He echoed Mr. Buberger's opinion that misdemeanors involving minor drug or domestic violence offenses should be treated more leniently. He was happy to see that the section of code pertaining to solicitation had been stricken. He quoted section 86.85 of the code, expressing his frustration that the Chief of Police has never given specific instruction on how to display a chauffeur license in a taxi cab.

Ms. Stiver asked Mr. Northrup where he thought the chauffeur license should be displayed.

Mr. Northrup stated that he believes it should appear on the dash of the vehicle or on a lanyard around the driver's neck.

Frank Turney – Mr. Turney stated that he agreed with Mr. Northrup on most points and that it seems more reasonable to reduce felony offenses to a five-year look back, especially those involving non-violent crimes. He added that he would like to see the misdemeanor offense look back cut down to three years. Mr. Turney suggested that Mayor Cleworth or Ms. Stiver simplify Ordinance No. 5853 so that it would be easier to understand. He stated that, overall, he appreciated the changes.

Gerald Carney, 2112 Lakeview Terrace, PO Box 70471, Fairbanks – Mr. Carney stated that he has been a cab driver in Fairbanks for 29 years, he is a registered voter and homeowner and has been a member of the Laborer's Hall since August of 1975. He stated that he retired early in 2000, supplementing his pension income with cab driving. Mr. Carney stated that because of an incident in June, 2004, he was denied renewal of his chauffeur license and would not be eligible for ten years from that date. He estimated \$150,000 as his lost income over that ten-year period, referring to the loss as a "fine." He asked the Council to reduce the felony conviction period to seven years or less, stating that he has had to come out of retirement and even use government assistance to make ends meet.

Mr. Gatewood asked Mr. Carney why he would like the felony period reduced to seven years instead of eight.

Mr. Carney replied that it was because he would be eligible for a chauffeur license if it were lowered to seven.

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

Ms. Stiver distributed new proposed amendments to Ordinance No. 5853. She quoted sections of the amendments regarding appeal options for denied applicants. She asked the City Attorney for clarification on the provision barring an applicant the right to appeal if they have been convicted of any drug offense within the look back period. She expressed her opinion that convictions of drug use be treated more leniently than convictions of drug sales, if the applicant completes a rehabilitation program. She added that applicants with multiple convictions should not be considered for appeal, only those with a single offense.

Mr. Ewers stated that the current version of Ordinance No. 5853 would not allow an applicant convicted of any drug offense, as defined by AS 11.71.140 through 11.71.190, to appeal to the City Council upon denial.

Ms. Stiver expressed her intent to amend the section of Ordinance No. 5853 pertaining to appeals.

Mayor Cleworth recommended that amendments be made one sentence at a time, or that the Council postpone Ordinance No. 5853 so corrections could be made.

Ms. Stiver, seconded by **Mr. Gatewood**, moved to AMEND Ordinance No. 5853 to strike Section 86-95 (a), "The city council may consider appeals of an applicant whose application for a chauffeur's license has been denied by the city clerk" and replace with "The city council will not consider an appeal if the applicant has more than one conviction for any of the offenses listed in section 86-77, regardless of when the convictions occurred."

Mr. Matherly asked for clarification on the terms "chauffeur license" vs. "chauffeur permit".

Mr. Ewers clarified that the term "license" should be used for chauffeurs and the term "permit" for vehicles.

Mr. Eberhart pointed out that the amendment as written would include driving offenses, and he didn't believe that was **Ms. Stiver's** intent.

Mr. Ewers suggested changing the amendment to read "86-77 (6)" instead of "86-77."

Ms. Stiver, with concurrence by the second, changed the amendment to read "86-77 (6)" instead of "86-77."

Ms. Hovenden asked for clarification on the intent of the wording, "...when the convictions occurred."

Ms. Stiver stated that the intent was for the look back period of eight years.

Mr. Ewers suggested that the language be changed to, "...if the convictions occurred within the eight-year period" to reflect the intent.

Ms. Stiver, with concurrence by the second, changed the amendment to read "...if the convictions occurred within the eight-year period" instead of "...when the convictions occurred."

Mr. Roberts asked for clarification on subsections "h" and "i" of 86-77 (6)

Mr. Ewers provided clarification.

Ms. Stiver moved to WITHDRAW the amendment to Ordinance No. 5853 with approval of the second.

Ms. Stiver, seconded by **Mr. Roberts**, moved to POSTPONE Ordinance No. 5853 to the Regular Meeting of August 8, 2011.

Mayor Cleworth asked for Council input on changes to the vehicle for hire code before the revision of Ordinance No. 5853.

Mr. Eberhart suggested adding specification for displaying a chauffeur license in a taxi cab. He asked the Council for their collective opinion on shortening the look back period for misdemeanor convictions.

Mr. Gatewood gave his support for such a distinction between felonies and misdemeanors.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO POSTPONE ORDINANCE NO. 5853 TO THE REGULAR MEETING OF AUGUST 8, 2011, AS FOLLOWS:

YEAS: Roberts, Matherly, Gatewood, Eberhart, Stiver

NAYS: None

Mayor Cleworth declared the MOTION CARRIED.

- b) Ordinance No. 5854 – An Ordinance Authorizing Public Sale of Surplus Property Known as the "Chena Building". Introduced by Mayor Cleworth. SECOND READING AND PUBLIC HEARING.

Mr. Gatewood, seconded by **Mr. Eberhart**, moved to ADOPT Ordinance No. 5854.

Frank Turney – Mr. Turney asked what the estimated value of the building was.

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

Mr. Eberhart stated his opinion that the City is not a good landlord. He quoted Ordinance No. 5854, giving the estimated value of \$450,000 for the Chena Building. He asked Mr. Ewers for some information on how the value was appraised. He spoke in support of Ordinance No. 5854, referencing a letter of like support from the Downtown Association.

Mr. Roberts spoke in favor of Ordinance No. 5854 as well.

Ms. Stiver asked if the recent occupants of the building would have the opportunity to retrieve their computer equipment before it was sold.

Mayor Cleworth stated that they would, according to the lease's performance requirements. **Mayor Cleworth**, in response to Mr. Turney's question, provided a brief history of the Chena Building, beginning with the City's acquisition of the property from the Fairbanks Development Authority. He summarized the FGC governing the sale of all City property. He referenced the Lathrop Building as a ballpark comparison for the value of the Chena Building and asked **Mr. Roberts** if that was an accurate assessment.

Mr. Roberts replied that, according to his recollection, the Lathrop Building was sold for a lesser dollar amount.

A ROLL CALL VOTE WAS TAKEN, ON THE MOTION TO ADOPT ORDINANCE NO. 5854, AS FOLLOWS:

YEAS: Stiver, Matherly, Gatewood, Eberhart, Roberts

NAYS: None

Mayor Cleworth declared the MOTION CARRIED and ORDINANCE NO. 5854 ADOPTED.

NEW BUSINESS

RESOLUTION NO. 4482 – A Resolution Authorizing the City of Fairbanks to Apply for a Grant from the State of Alaska Department of Environmental Conservation Municipal Matching Grant Program in the Amount of \$2,775, 360 for Rehabilitation of the City-owned Peger Road Wastewater Treatment Plant Sludge Dewatering Facility. Introduced by Mayor Cleworth.

Ms. Stiver, seconded by **Mr. Eberhart**, moved to APPROVE Resolution No. 4482.

Mr. Roberts asked why Resolution No. 4482 was hand-carried and why the Council had no previous knowledge of it if it goes hand-in-hand with the loan.

Mayor Cleworth explained that the original resolution was for the loan only; then the grant suddenly became available. He stated that this would be a "win-win" situation for the City, because of the savings to the utility can be passed on to the City and the public.

Tiffany Van Horn – Ms. Van Horn explained that the loan application was done in February and grant funding must be applied for on or before August 1, 2011. She stated that an ADEC

representative had just recently informed Golden Heart Utilities that there was grant funding available for the project.

Mr. Roberts referenced Resolution No. 4481, as Amended, that was approved at the July 18, 2011 Council Meeting. He stated that he “went to bat” for GHU against the resolution and wondered if the grant dollars referenced in Resolution No. 4482 would keep utility rates from increasing.

Ms. Van Horn stated that the utility rate increases are based on the test year 2010 for already-incurred expenses. She added that the grant dollars would, however, offset future rate increases.

A ROLL CALL VOTE WAS TAKEN, ON THE MOTION TO APPROVE RESOLUTION NO. 4482, AS FOLLOWS:

YEAS: Eberhart, Roberts, Stiver, Matherly, Gatewood

NAYS: None

Mayor Cleworth declared the MOTION CARRIED and RESOLUTION NO. 4482, APPROVED.

DISCUSSION ITEMS

Committee Reports

Permanent Fund Review Board. **Mr. Gatewood** provided a brief report.

FMATS Policy Committee. **Mr. Roberts** provided a brief report.

Mayor Cleworth spoke to the future of the Permanent Fund.

COUNCIL MEMBERS' COMMENTS

Ms. Stiver stated that, with the help of Mr. Ewers, she will revise Ordinance No. 5853 and present it at the next regular meeting. She spoke of the morning’s meeting with Tom Barrett from Alyeska Pipeline and gave a brief history of the pipeline’s beginning. She stated that the federal government is too involved in the development of such projects.

Mr. Roberts stated that the meeting with Tom Barrett was eye-opening and thought-provoking. He mentioned the success of the Golden Days Festivities in Fairbanks. **Mr. Roberts** commended the organizers of the Red Green Regatta, which benefits the Presbyterian Hospitality House. He also applauded those who were responsible for traffic control.

Mr. Gatewood mentioned the many activities in the Fairbanks area including Golden Days Events, the Governor’s Picnic, the Fairbanks Summer Arts Festival, the recent WEIO Games, and the upcoming Tanana Valley State Fair.

Mr. Eberhart also spoke of the success of local events in Fairbanks. He reminded the public that candidate filing for the 2011 Municipal Election will open on August 1, 2011.

Mr. Matherly spoke of his children's participation in the Golden Days Parade.

Mayor Cleworth spoke about modern government, the national economy and how it negatively effects large-scale development in the U.S. He expressed his appreciation for a speaker named Michael Baldwin who spoke about the Tenth Amendment of the U.S. Constitution at the Governor's Picnic over the weekend.

Mr. Matherly, seconded by **Ms. Stiver**, moved to go into Executive Session for the purpose of discussing the Fairbanks Firefighters 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 Firefighters Association

The City Council met in Executive Session to discuss labor negotiations for the Fairbanks Firefighters Association and no action was taken.

Mayor Cleworth quoted section 42-1 of the FGC and stated his intent to amend by adding language that would allow the Council to hire an outside negotiator for labor contracts, if necessary. He mentioned another possible change to the labor relations code regarding communication between the City and the unions.

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 10:05 p.m.



JERRY CLEWORTH, MAYOR

ATTEST:



JANEY HOVENDEN, CMC, CITY CLERK

Transcribed by: DS