



FAIRBANKS CITY COUNCIL  
REGULAR MEETING MINUTES, JUNE 6, 2011  
FAIRBANKS CITY COUNCIL CHAMBERS  
800 CUSHMAN STREET, FAIRBANKS, ALASKA

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The City Council reconvened at 7:00 p.m. on the above date, after a Work Session on the Status of Property Clean-ups and Abatements, 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: Clem Clooten, Building Official  
Patrick B. Cole, Chief of Staff  
Warren Cummings, Fire Chief  
Paul Ewers, City Attorney  
Janey Hovenden, City Clerk  
Stephanie Johnson, Dispatch Center Manager  
Carmen Randle, Controller  
Ryan Rickels, IT Director  
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**

Victor Buberger, PO Box 58192, Fairbanks. Mr. Buberger asked the Council for an update on the use of the \$350,000 grant monies obtained for cold cases.

Vicky Hansen, 2525 17<sup>th</sup> Ave., Fairbanks. Ms. Hansen expressed her concern for the number of property cleanups needed in Fairbanks. She explained that surrounding property values decline.

## APPROVAL OF AGENDA AND CONSENT AGENDA

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

**Ms. Stiver** pulled Resolution No. 4474 from the Consent Agenda. **Mr. Roberts** pulled Ordinance No. 5851 from the Consent Agenda

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

City Clerk Hovenden read the Consent Agenda into the record.

## SPECIAL ORDERS

a) The Fairbanks City Council, sitting as a committee of the whole, heard interested citizens concerned with the Appeal of Denied Application for Chauffeur License.

i. Applicant: Jacob S. Bennett

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

**Mayor Cleworth** called for Public Testimony.

Applicant Bennett provided a brief explanation for the reason for his appeal.

Mr. Buberger asked the Council to review the Code and make changes to include leniency.

Ms. Donna Gilbert reminded the Council that there are laws that regulate this type of request and those laws should be followed.

Mr. Turney encouraged the Council to approve the request. He asked the Council to reduce the 10 year window to a five year window for like situations.

Ms. Pamela Samash encouraged the Council to give Mr. Bennett a second chance and grant the appeal.

**Mayor Cleworth** declared public testimony closed.

**Ms. Stiver** indicated she would continue to vote no on these types of requests until the Code is changed.

**Mr. Eberhart** indicated that the Council has changed how it looks at appeals. He confirmed that revisiting the Ordinance is the key to future actions. He stated that, in comparison, marijuana convictions for possession have been treated more leniently in the past and he would vote in favor of granting the appeal.

**Mr. Roberts** echoed Mr. Eberhart's comments.

**Mr. Matherly** echoed Mr. Eberhart's comments. He also acknowledged Ms. Gilbert's comments as a valid consideration.

**Mr. Eberhart** added that personal use of marijuana is a much different than convictions for the sale of marijuana, two separate and distinct convictions which would weigh on his decision.

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

YEAS: Eberhart, Gatewood, Bratcher, Matherly, Roberts

NAYS: Stiver

**Mayor Cleworth** declared the MOTION CARRIED.

- ii. Applicant Stephen T. Lee

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

No action taken.

#### **MAYOR'S COMMENTS AND REPORT**

**Mayor Cleworth** informed the Council that he received an e-mail from Golden Heart Utilities informing the City that it received approval to discontinue fluoridation, but was not yet sure how to adjust the pH and would look to DEC to help with that issue. **Mayor Cleworth** shared that the two officers assigned to work in the local schools under grant monies are both now on foot patrol in the downtown area. Further, that he has received positive feedback for those efforts. **Mayor Cleworth** invited folks to look at the bleacher renovation work after the meeting as the work is complete. He thanked the Council for approving the work identified as abatements. **Mayor Cleworth** indicated that the City did not get the cold case grant monies as mentioned by Mr. Buberger during public testimony.

#### **UNFINISHED BUSINESS**

- a) ORDINANCE NO. 5848 – An Ordinance to Repeal Article VI of Chapter 14 Pawnbrokers. Introduced by Mayor Cleworth. SECOND READING AND PUBLIC HEARING.

**Mr. Matherly**, seconded by **Ms. Bratcher**, moved to ADOPT Ordinance No. 5848.

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

**Ms. Bratcher** reminded the Council that this ordinance was simply a way to get in line with State law.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO ADOPT ORDINANCE NO. 5848, AS FOLLOWS:

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

NAYS: None

**Mayor Cleworth** declared the MOTION CARRIED and ORDINANCE NO. 5848 ADOPTED.

- b) ORDINANCE NO. 5849 – An Ordinance Amending FGC 82-1 to Prohibit the Addition of Fluoride in Community Water Systems. Introduced by Mayor Cleworth. SECOND READING AND PUBLIC HEARING.

**Ms. Stiver**, seconded by **Mr. Gatewood**, moved to ADOPT Ordinance No. 5849.

**Mayor Cleworth** called for Public Testimony.

Dan Kupiszewski, 3451 Shanly St, Fairbanks. Mr. Kupiszewski spoke in support of removal of fluoride in the water supply.

Donna Gilbert, 2223 So. Cushman, Fairbanks. Ms. Gilbert spoke in support of removal of fluoride in the water supply.

Coert Olmsted, 771 Pelican St., Fairbanks. Mr. Olmsted spoke in support of removal of fluoride in the water supply.

Robin Barrett, 108 Duke Way, Fairbanks. Mr. Barrett spoke in support of removal of fluoride in the water supply.

Sean McGuire, Fairbanks. Mr. McGuire spoke in support of removal of fluoride in the water supply.

Pamela Samash, 1617 Bridgewater Rd., Fairbanks. Ms. Samash spoke in support of removal of fluoride in the water supply.

Sylvia Schultz, 1070 Molly Rd., Fairbanks. Ms. Schultz spoke in support of Ordinance No. 5849.

Michael Prax, 1015 Meadow Rue, North Pole. Mr. Prax spoke in support of Ordinance No. 5849.

Sally Stewart, 1224 Rangeview Dr., North Pole. Ms. Stewart spoke in support of removal of fluoride in the water supply.

Nancy Kuhn, 2060 Amy Dyan Rd., Fairbanks. Ms. Kuhn spoke in support of Ordinance No. 5849.

Flyn Ludington, 553 Grandview Ct., Fairbanks. Ms. Ludington spoke in support of removal of fluoride in the water supply.

Don Ross, 2532 Roland Rd., Fairbanks. Mr. Ross spoke in support of removal of fluoride in the water supply.

Frank Turney, 201 7<sup>th</sup> Ave., Fairbanks. Mr. Turney spoke in support of Ordinance No. 5849.

Victor Buberger, PO Box 58192, Fairbanks. Mr. Buberger spoke in support of Ordinance No. 5849.

Stacy Fritz, 270 Litvins, Fairbanks. Ms. Fritz spoke in support of removal of fluoride in the water supply.

Ryan Tinsley, 270 Litvins, Fairbanks. Mr. Tinsley spoke in support of removal of fluoride in the water supply.

Larry Paquin, 966 Goldmine Trail, Fairbanks. Mr. Paquin spoke in support of removal of fluoride in the water supply.

Anna Gadoon, 570 McFadden, Fairbanks. Ms. Gadoon spoke in support of removal of fluoride in the water supply.

Ed Davis, 3110 Bunchberry Rd., Fairbanks. Mr. Davis spoke in support of removal of fluoride in the water supply.

David Koester, 3751 Old Nenana Hwy, Fairbanks. Mr. Koester spoke in support of Ordinance No. 5849.

Phil Osborn, 1451 Flat Mountain Rd., Fairbanks. Mr. Osborn spoke in support of Ordinance No. 5849.

Martha Rich, 1451 Flat Mountain Rd., Fairbanks. Ms. Rich spoke in support of Ordinance No. 5849.

Richard Hayden, 2930 Saxon Ave., Fairbanks. Mr. Hayden stated that there is no health benefit to ingesting fluoride.

Fran Mauer, 791 Red Pole Lane, North Pole. Mr. Mauer spoke in support of removal of fluoride in the water supply.

Mark Sicoli, 180 Hamilton Way, Fairbanks. Mr. Sicoli spoke in support of Ordinance No. 5849.

Douglas Yates, Box 221, Ester. Mr. Yates spoke in support of removal of fluoride in the water supply.

**Mayor Cleworth** declared public testimony closed.

**Ms. Stiver**, seconded by **Mr. Gatewood**, moved to AMEND Ordinance No. 5849 by Making the Effective Date for Removal of Fluoride, July 1, 2011.

**Mayor Cleworth** explained that removal of fluoride would have an effect on the ph balance of the water.

**Mr. Matherly** explained that the original date set was to allow GHU time to remove the fluoride.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO AMEND ORDINANCE NO. 5849, AS FOLLOWS:

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

NAYS: None

**Mayor Cleworth** declared the MOTION CARRIED.

**Ms. Bratcher** indicated that most of what was heard during public testimony was not substantiated in the Task Force report. She stated that the recommendations in the report included a buy-in by the School District which the Council has no authority to require. Further, that the Borough has not responded. **Ms. Bratcher** indicated that she is not comfortable overriding the position taken by the American Dental Association, the Center for Disease Control, the US Department of Health, and the Alaska Department of Public Health. She stated that she appreciates the work put into the report, but cannot support removing fluoride.

**Ms. Stiver** indicated that she shared the report with the Borough and it has decided not to comment. She indicated that Health and Social Services does have services for those who have concerns about fluoride and wish to supplement topical applications. She indicated that the Council must provide safe and clean water to the community. **Ms. Stiver** stated that there must be some personal responsibility to getting fluoride.

**Mr. Gatewood** spoke to the recommendations provided in the report and the problem that they do not carry any teeth, with the exception of recommendation number one. He admitted that he does not personally have a problem with fluoride, but that there is a strong case for removal. **Mr. Gatewood** thanked the Task Force for the commendable work and that the recommendation that was provided should be respected.

**Mr. Eberhart** shared that he received calls and e-mails in support of removal and advocates for leaving it in. He commended the Mayor for forming the Task Force and thanked the members for the hard work. **Mr. Eberhart** stated that the Task Force did what was asked of them and that it should be respected.

**Mr. Matherly** indicated that forcing fluoride consumption may not be the best choice. He indicated that the Task Force was charged with a job and that job was done, its decision should be respected. **Mr. Matherly** said it should be up to the person to administer fluoride, not the City of Fairbanks.

**Mr. Roberts** concurred with the opinions as stated. He thanked the Task Force for the work and would follow the recommendation.

**Mayor Cleworth** thanked the Task Force for the excellent job and hard work. He stated it was a challenge to find professionals not already biased and willing to serve.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO ADOPT ORDINANCE NO. 5849, As Amended, AS FOLLOWS:

YEAS: Roberts, Matherly, Gatewood, Eberhart, Stiver

NAYS: Bratcher

**Mayor Cleworth** declared the MOTION CARRIED and ORDINANCE NO. 5849, As Amended, ADOPTED.

- c) ORDINANCE NO. 5850 – An Ordinance Authorizing Conveyance of the J.P. Jones Community Development Center to the Interdenominational Ministerial Alliance of Fairbanks. Introduced by Mayor Cleworth. SECOND READING AND PUBLIC HEARING.

**Mr. Matherly**, seconded by **Ms. Bratcher**, moved to ADOPT Ordinance No. 5850.

**Mayor Cleworth** identified the changes in the amended version.

**Mr. Gatewood**, seconded by **Mr. Matherly**, moved to SUBSTITUTE Ordinance No. 5850.

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

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

Based on Mr. Gatewood's questions, **Mayor Cleworth** provided an explanation for the change in language based on grant conditions.

Mr. Schmetzer provided a brief explanation for the changes. He explained that the City has committed to support IMA for the remainder of 2011.

**Mayor Cleworth** shared with the Council the numerous conversations he has had with IMA representatives in preparation for this conveyance.

**Mr. Gatewood** expressed his surprise that there were no representatives present from IMA.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO ADOPT ORDINANCE NO. 5850, AS AMENDED, AS FOLLOWS:

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

NAYS: None

**Mayor Cleworth** declared the MOTION CARRIED and ORDINANCE NO. 5850, As Amended, ADOPTED.

## NEW BUSINESS

- a) RESOLUTION NO. 4474 – A Resolution Fixing the Rate of Tax Levy for Municipal Purposes for the 2011 Real Property Tax of the City of Fairbanks, Alaska. Introduced by Mayor Cleworth.

**Mr. Gatewood**, seconded by **Ms. Bratcher**, moved to APPROVE Resolution No. 4474.

**Mr. Roberts**, seconded by **Mr. Gatewood**, moved to SUBSTITUTE Resolution No. 4474, As Amended.

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

Based on Mr. Roberts' question, **Mayor Cleworth** indicated that there would not be a 2011 impact, but it would be realized in 2012. He explained that the changes are because of bonds, judgments, claims, and insurance premiums, and are constantly changing.

A ROLL CALL VOTE WAS TAKEN, ON THE MOTION TO APPROVE RESOLUTION NO. 4474, AS AMENDED, AS FOLLOWS:

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

NAYS: None

**Mayor Cleworth** declared the MOTION CARRIED and RESOLUTION NO. 4474, As Amended, APPROVED.

- b) ORDINANCE NO. 5851 – An Ordinance to Approve the Monetary Terms of the Arbitrator's Opinion and Award in the Matter of the City of Fairbanks and the Public Safety Employees Association Local 803. Introduced by Council Members Eberhart and Matherly.

**Mr. Matherly**, seconded by **Mr. Eberhart**, moved to ADVANCE Ordinance No. 5851.

**Mr. Eberhart** explained that the draft ordinance has been in the works for quite some time. He stated that he had hoped that the parties would get together to address the monetary terms, but that had not yet happened. He stated that on certain monetary and non-monetary terms, an impasse was reached. **Mr. Eberhart** stated that Class I employees do not have the right to strike and the only remedy is arbitration. The parties then agreed on arbitration. The contract states that when an impasse stalls negotiations, arbitration is required. Further, State law provides that an arbitrator's decision is final and binding on both parties and is enforceable and should be implemented no later than 30 days after a final decision is rendered. The decision has been reached, but the administration has not brought the decision forward to the Council. **Mr. Eberhart** further explained that there are now two unfair labor practice charges filed against the City. **Mr. Eberhart** stated that the ordinance is an attempt to fund the monetary terms. Further, that the City is in a very good financial position with a healthy general fund, a year end expected surplus, and additional revenue sharing forthcoming. He asked that the Council advance the ordinance for additional discussion and to allow for public comment. He invited the Police Chief to address the morale, retention, and recruitment issues at FPD because of the stall.



**Mr. Matherly** agreed with Mr. Eberhart's comments and confirmed that arbitration is over and the Council should have the opportunity to discuss the issue. He stated his concern for PSEA employees to continue to work without a contract.

**Mr. Roberts** indicated that the issue is the long term solvency of the City and the award and how those two conflict with each other. The ordinance provides for all of the monetary awards, but asks for nothing in exchange. He stated that he could not support advancement until actual costs are identified.

**Ms. Bratcher** stated that a lot of the information council members are asking for has been provided by the Chief. She stated that a series of miscommunications has got us to this point.

Based on Ms. Stiver's question, **Mayor Cleworth** explained that the arbitrator's decision is public.

Mr. Ewers explained that council members cannot speak openly about negotiations. Council members can only speak to the ordinance before it and the arbitrator's decision which is public.

**Ms. Stiver** stated that the City is in good shape and the ill will that is caused by not funding is problematic.

**Mr. Eberhart** explained that negotiations were had, but reached impasse. Each council member is sworn by oath to follow State law and that the law provides that the decision is final, binding, and shall be implemented. He stated that it appears that some folks may not be happy with the decision and are therefore not supporting the ordinance. **Mr. Eberhart** stated that the decision was reasonable. He reviewed a number of points made by the arbitrator which included a number of "wins" for the City.

Chief Zager stated that implementing the arbitrator's decision would have wide ranging benefits. He explained that the department is down 5 1/2 positions which is 1/5 of the staff. Chief Zager explained that policing is bound by procedure and rules so it is extremely frustrating that the City is not following the rules. He stated that in the spirit of resolve, he has realized that the subjective argument as to whether the City will award the decision, is not winnable. He explained that he has redirected his efforts by showing how the department can mitigate the extra costs providing the City with the protection of staying within budget. Chief Zager indicated that the award needs to be made so that he can get back to work and be able to recruit people.

**Mr. Eberhart** asked the Council to advance the ordinance so that further discussions can be had.

In response to handing out the Chief's Menu of Cost Cutting Options, **Mayor Cleworth** declared that each recommendation is a degradation of the services already provided.

Chief Zager stated that the Mayor is correct, but the options provided are simply a balancing of the lesser of two evils. Chief Zager explained the cost cutting options to mitigate the cost of the arbitrator's award (copies provided).

**Mr. Eberhart** hoped that the City would not have to implement the options when money is available. He stated that the award could be funded quite easily. The City must follow the rules.

**Mayor Cleworth** stated that the Finance Department has worked the numbers (copies provided of the Fiscal Impact Analysis).

Pat Cole provided an explanation on the fiscal impact should the award be granted.

**Mayor Cleworth** explained that the City must have a balanced budget by year end. He explained that general fund money from prior years can be used to balance a short fall, but struggles with doing that. He explained that there are still pending negotiations with the fire fighters which could impact the budget.

Mr. Cole explained that the City could be in a worse situation, but had Anchorage not been considered the decision may have been more in line with what the City could afford. Further that the bottom line is that the contract is very complex and the award has been disclosed. He indicated that cutting services to pay for the award is not the answer. He indicated that the grant funding is not sustainable.

Ms. Randle commented on the sustainability of funding in the future.

**Ms. Bratcher** commented on the laws of arbitration and awards.

Mr. Ewers stated that there is only one issue left, to fund or not to fund.

**Mr. Eberhart** stated that the issue is to fund the award. In order to attract the best police force we need to fund the award. He indicated that there are other payouts that don't have to be addressed now.

**Mr. Roberts** indicated he is looking at the funding as more of a long term problem. There are two points of view for funding, a snap shot of the solvency of the City and a long term look at funding the award. He explained that there are dark days ahead and funding this award with a fire fighter's contract on the horizon could be destructive.

**Mr. Gatewood** stated that he would vote to advance. He does not blame the Class I employees for getting what is expected.

**Mr. Bratcher** explained that the group of people are critical to the City.

**Ms. Stiver** indicated that the issue needs more time for discussion. She stated that doing nothing is not the right thing to do. She is conflicted with the law and the prudent thing to do.

**Mayor Cleworth** indicated that the ordinance would only fund one year. He explained that the PERA system and the Class I assignment does not work, but it is not amendable. He stated that the "wins" that were referred to by Mr. Eberhart are not wins for the City. He explained that his issue is the ethics behind making the decision. **Mayor Cleworth** indicated that the ordinance brings these issues into the public arena and should be had during executive session.

**Ms. Stiver** stated that the public should know more about the process and the complexities with negotiating multiple contracts.

**Mr. Eberhart** commented on the fiscal impact analysis as provided by Mr. Cole.

**Mayor Cleworth** explained that there are minimum general fund requirements and more importantly, making sure that the budget balances. The payoff of debt is to free up money so that increases can be funded next year.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO ADVANCE ORDINANCE NO. 5851, AS FOLLOWS:

YEAS: Matherly, Gatewood, Eberhart, Stiver

NAYS: Roberts, Bratcher

**Mayor Cleworth** declared the MOTION CARRIED and ORDINANCE NO. 5851 ADVANCED.

### **DISCUSSION ITEMS**

a) Committee Reports

Public Safety Commission. Mr. Eberhart provided a brief report.

### **COUNCIL MEMBERS' COMMENTS**

**Mr. Eberhart** commented on the debate about funding the contract.

**Ms. Bratcher** questioned the public comment period for chauffeur appeals. **Ms. Bratcher** informed the Council that she would be attending the American Council of Young Political Leaders.

**Mr. Matherly** thanked the Council and the public for attending.

**Mr. Gatewood** thanked the public for their comments and the healthy debate regarding the arbitrator's decision. He said it was important to advance the ordinance to encourage additional discussion.

**Mr. Roberts** shared that each council member has a distinct point of view and appreciates each and every comment. He thanked the Council for the attention given to the fluoride issue.

**Ms. Stiver** shared her concern for the way in which the City handles e-mail responses via the web. **Ms. Stiver** asked that the City Attorney to review all chauffeur applications; specifically the criminal record/conviction that prompted the appeal and provide the Council with an interpretation. She thanked the public for their comments regarding the fluoride issue.

**Mayor Cleworth** stated that a draft ordinance addressing the appeal process for chauffeur licenses would be provided at the next finance meeting.

Mr. Ewers explained the review process underway for the possible Code changes and other cleanup items he is addressing simultaneously.

**Mr. Matherly**, seconded by **Ms. Bratcher**, moved to go into Executive Session for the purpose of discussing the A Street Apartments claim.

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

**Mayor Cleworth** called for a ten minute recess.

**EXECUTIVE SESSION**

a) A Street Apartments Claim


The City Council met in Executive Session and direction was given to staff.

**ADJOURNMENT**

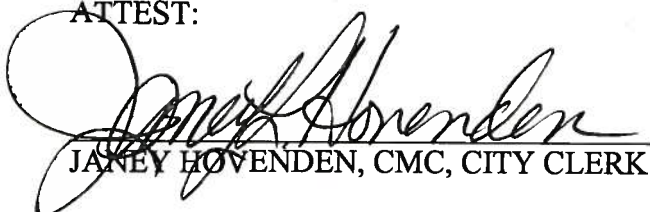
**Mr. Matherly**, seconded by **Ms. Stiver**, moved to ADJOURN the meeting.

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

**Mayor Cleworth** declared the Meeting adjourned at 11:20 p.m.

  
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JERRY CLEWORTH, MAYOR

ATTEST:

  
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JANEY HOVENDEN, CMC, CITY CLERK

Transcribed by: DO