



FAIRBANKS CITY COUNCIL
AGENDA NO. 2011-10
REGULAR MEETING May 23, 2011
FAIRBANKS CITY COUNCIL CHAMBERS
800 CUSHMAN STREET, FAIRBANKS, ALASKA

REGULAR MEETING

- I 7:00 P.M.
1. ROLL CALL
2. INVOCATION
3. FLAG SALUTATION
4. CITIZENS COMMENTS, oral communications to Council on any item not up for Public Hearing. Testimony is limited to five (5) minutes. Any person wishing to speak needs to complete the register located in the hallway. Normal standards of decorum and courtesy should be observed by all speakers. Remarks should be directed to the City Council as a body rather than to any particular Council Member or member of the staff. In consideration of others, kindly silence all cell phone, electronic and messaging devices.
5. APPROVAL OF AGENDA AND CONSENT AGENDA

(Approval of Consent Agenda passes all routine items indicated by an asterisk (*). Consent Agenda items are not considered separately unless a Council Member so requests. In the event of such a request, the item is returned to the General Agenda).
6. APPROVAL OF PREVIOUS MINUTES
 - *a) Regular Meeting Minutes of May 9, 2011.
7. SPECIAL ORDERS
8. MAYOR'S COMMENTS AND REPORT
9. UNFINISHED BUSINESS
 - a) Ordinance No. 5847 – An Ordinance Authorizing Lease of the “Chena Building” from the City to the Early College of Alaska, Inc. Introduced by Mayor Cleworth. **SECOND READING AND PUBLIC HEARING.**

10. NEW BUSINESS

- *a) Resolution No. 4472 – A Resolution to Apply for Funding from the Alaska Division of Homeland Security and Emergency Management for Fiscal Year 2012 Local Emergency Planning Committee (LEPC). Introduced by Mayor Cleworth.
- *b) Resolution No. 4473 – A Resolution Authorizing the City of Fairbanks to Request FY12 Funds from the Alaska Highway Safety Office for a Medium Duty Ambulance in the Amount of \$130,000. Introduced by Mayor Cleworth.
- *c) Ordinance No. 5848 – An Ordinance to Repeal Article VI of Chapter 14 Pawnbrokers. Introduced by Mayor Cleworth.
- *d) Ordinance No. 5849 – An Ordinance Amending FGC 82-1 to Prohibit the Addition of Fluoride in Community Water Systems. Introduced by Mayor Cleworth.
- *e) 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.

11. DISCUSSION ITEMS (INFORMATION AND REPORT)

- a) Committee Reports

12. COMMUNICATIONS TO COUNCIL

- a) Public Safety Commission's Request for Permission to Convene into an Executive Session.

13. COUNCIL MEMBERS' COMMENTS

14. CITY ATTORNEY'S REPORT

15. CITY CLERK'S REPORT

16. EXECUTIVE SESSION: PSEA Labor Negotiations

17. ADJOURNMENT



FAIRBANKS CITY COUNCIL
REGULAR MEETING MINUTES, MAY 9, 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
Clem Clooten, Electrical Inspector
Warren Cummings, Fire Chief
Paul Ewers, City Attorney
Debi Osterby, Deputy City Clerk
Ryan Rickels, IT Director
Michael J. Schmetzer, City Engineer
Tony C. Shumate, Director Personnel/Purchasing/RM

INVOCATION

The Invocation was given by Deputy City Clerk Debi Osterby.

FLAG SALUTATION

Mayor Cleworth led the Flag Salutation.

CITIZEN'S COMMENTS

Victor Buberger, PO Box 58192, Fairbanks, AK. Mr. Buberger spoke of the recent arrest of a young man riding an ice sheet on the Chena River.

Tori Foote, PO Box 80768, Fairbanks, AK. Ms. Foote spoke in favor of Ordinance No. 5847.

Tim Sovde, 402 Bonnifield, Fairbanks, AK. Mr. Sovde spoke of the recent arrest of a young man riding an ice sheet on the Chena River. He suggested making the police chief position an elected position. He spoke of the fluoride issue before the Council and asked the Council to act on it.

David Lerman, 126 2nd Ave., Fairbanks, AK. Mr. Lerman spoke of renovations to Smith Apartments and expressed his hope that the Polaris Building would also be renovated. He spoke of his website Renovation Fairbanks, air pollution in Fairbanks, and heated bus stops. Mr. Lerman asked the Council to condemn the property located at 124 Second Avenue.

APPROVAL OF AGENDA AND CONSENT AGENDA

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

Mayor Cleworth, added Resolution No. 4471 to the Agenda, under New Business.

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

Deputy City Clerk Osterby read the Consent Agenda into the record.

APPROVAL OF PREVIOUS MINUTES

a) Meeting Minutes of April 25, 2010.

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 Application for a New Liquor License.

License Type: Restaurant Eating Place
D.B.A.*: **Asiana Restaurant**, License #5051
Licensee/Applicant: Young Mi Jin
Physical Location: 2001 Airport Way

Mr. Matherly, seconded by **Mr. Roberts**, moved to WAIVE Protest of Application for New Liquor License.

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

Mayor Cleworth, based on Mr. Roberts' question, clarified that new license applications would be reviewed by the building department and that renewals and transfers no longer require those inspections.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO WAIVE PROTEST, AS FOLLOWS:

YEAS: Eberhart, Gatewood, Stiver, Bratcher, 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 Abatement Issue.

Notice to Recover Cost for Abatement Project.

Lot 14 Tract B, Bjerremark Subdivision, 806 20th Ave, Fairbanks, Alaska

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

Ms. Bratcher, seconded by **Ms. Stiver**, moved to ESTABLISH Abatement Costs at \$64, 373.85 as Submitted by Public Works.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO ESTABLISH COSTS AT \$64,373.85, AS FOLLOWS:

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

NAYS: None

Mayor Cleworth declared the MOTION CARRIED.

Mr. Matherly, seconded by **Ms. Bratcher**, moved to CREATE a Lien on the Property of \$64,373.85.

Mayor Cleworth confirmed that there is no structure on the named property.

Mr. Roberts informed the Council that the property is over-encumbered and questioned how that would work if it were to go up for sale.

Mr. Ewers indicated that the City would have to negotiate on any sale to recover what it could. He also indicated that the buyer would be forced to recognize that a lien existed and it would have to be paid prior to sale. Mr. Ewers explained options available should a sale be entertained.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO CREATE A LIEN ON THE PROPERTY OF \$64, 373.85, AS FOLLOWS:

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

NAYS: None

Mayor Cleworth declared the MOTION CARRIED.

MAYOR'S COMMENTS AND REPORT

Mayor Cleworth reported that Mr. Schmetzer would like to make a budget change by moving a Public Works employee to Engineering. He indicated that a budget amendment would come forward later.

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

Mayor Cleworth reported that he attended the Military Appreciation Banquet and thanked the Council Members that were present for their attendance and support. **Mayor Cleworth** informed the Council that he would be presenting an ordinance for first reading on the fluoride issue at the next regular meeting. **Mayor Cleworth** indicated that the Fluoride Task Force final report was provided to the Borough Assembly for review and input. **Mayor Cleworth** spoke of a recent ordinance passed in Anchorage regarding panhandling.

UNFINISHED BUSINESS

- a) Ordinance No. 5846 – An Ordinance to Present to the Qualified Voters of the City the Question of Approving Additional City Services Through Pre-Paying the Outstanding Bond Debt for the Police Station. Introduced by Mayor Cleworth. SECOND READING AND PUBLIC HEARING.

Mr. Roberts, seconded by **Ms. Stiver**, moved to ADOPT Ordinance No. 5846.

Mr. Roberts, seconded by **Ms. Stiver**, moved to SUBSTITUTE Ordinance No. 5846, As Amended.

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

Mayor Cleworth called for Public Testimony.

Mr. Sovde spoke in favor of paying off the debt, but questioned whether using that savings to pay for additional services was the way to go. He suggested providing refunds to home owners/ tax payers.

Mr. Lerman spoke to the annual savings realized by the debt repayment. He suggested using that kind of money to subsidize fees on deteriorated properties.

Hearing no more requests for public comment, **Mayor Cleworth** declared Public Testimony closed.

Based on Mr. Eberhart's question, **Mayor Cleworth** explained that because the charter has a tax cap in it, it allows for adding to revenues by voting in additional services. In order to use that charter provision, the language must be precise. Further, that the funds cannot be dedicated. The frustration is that the language makes it necessary to keep the wording somewhat ambiguous.

Mr. Roberts spoke in support of the ordinance. He stated that the intent is to keep taxes low and off the backs of the property owners. He stated that the Council is very mindful of that.

Based on Mr. Roberts' question, **Mayor Cleworth** explained that the City could not spend money to campaign a ballot issue, inhibiting its ability to help the electorate understand the tax cap and the cap within the cap. He stated that it is important to help educate the electorate on this very convoluted issue.

Mr. Eberhart indicated that the City has not raised property taxes in recent years, but the Borough has. He explained that the City's \$32 million budget and the release of the \$695,380 or approximately 2.2% of the budget provides a bit of wiggle room. He questioned whether rebating the money back to property owners was a prudent tradeoff.

Mayor Cleworth explained that the base rate is frozen at 4.9. Further, that because of the cap within the cap, things would remain the same. He explained that the mil rate would go down as assessments go up. Further, that the burden is less now than what it was years ago. **Mayor Cleworth** indicated that taxes would not go up with this payoff. Further, that paying off the debt would make the City almost debt free, a rarity in municipal government.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO ADOPT ORDINANCE NO. 5846, AS AMENDED, AS FOLLOWS:

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

NAYS: None

Mayor Cleworth declared the MOTION CARRIED and ORDINANCE NO. 5846, as Amended, ADOPTED.

NEW BUSINESS

- a) Ordinance No. 5847 – An Ordinance Authorizing Lease of the “Chena Building” from the City to the Early College of Alaska, Inc. Introduced by Mayor Cleworth.

ADVANCED on the CONSENT AGENDA.

- b) Resolution 4471 – A Resolution in Support of Hosting the Northwest Regional Managers Conference in 2013. Introduced by Mayor Cleworth.

Mr. Gatewood, seconded by **Mr. Roberts**, moved to APPROVE Resolution No. 4471.

Mr. Cole, based on Mr. Roberts' question, explained the Conference and festivities surrounding the event.

A ROLL CALL VOTE WAS TAKEN, ON THE MOTION TO APPROVE RESOLUTION NO. 4471, AS FOLLOWS:

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

NAYS: None

Mayor Cleworth declared the MOTION CARRIED and RESOLUTION NO. 4471 APPROVED.

DISCUSSION ITEMS (INFORMATION AND REPORT)

- a) Committee Reports

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

Arctic Winter Games Committee. **Mr. Matherly** provided a brief report.

FNSB Assembly Meeting. **Ms. Stiver** provided a brief report.

Mayor Cleworth reported on ongoing efforts by IT to completely renovate the City website.

COMMUNICATIONS TO COUNCIL

a) Proposed Findings and Conclusions – Board of Adjustment Appeal

Mr. Roberts, seconded by **Mr. Matherly**, moved to APPROVE the Proposed Findings and Conclusions.

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

YEAS: Gatewood, Roberts, Matherly, Stiver

NAYS: Bratcher, Eberhart

Mayor Cleworth declared the MOTION CARRIED.

b) Appointment to the Chena Riverfront Commission.

ACCEPTED on the CONSENT AGENDA.

c) Permanent Fund Review Board Meeting Minutes of February 3, 2011.

ACCEPTED on the CONSENT AGENDA.

COUNCIL MEMBERS' COMMENTS

Mr. Eberhart apologized for not being available at the last meeting. He thanked the Fluoride Task Force for its report. He informed the Council that the next Public Safety Commission meeting is May 10, 2011. **Mr. Eberhart** asked to be excused from the next Council meeting as he would be working out of town.

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

Ms. Bratcher commented on the Military Appreciation Banquet. **Ms. Bratcher** challenged the Council to put some thought into the area of an abatement. She cautioned on the number of dangerous areas in Fairbanks and the potential for continually funding expensive abatements. **Ms. Bratcher** spoke of the appeal process for denied chauffeur licenses and the frustration when the human element leaves so much wiggle room, opposed to the Board of Adjustment appeals which has a process that follows the law.

Mayor Cleworth asked the Council to propose an ordinance modifying the appeal process for chauffeur licenses.

Mr. Matherly commented on the Military Appreciation Banquet, the Senior Appreciation Day at the FNSB, and Clean-Up Day.

Mr. Gatewood commented on the proclamation to Joyce Hilliard from the School District on her retirement. He congratulated the Ice Dogs on their win and recognition for its national championship.

Mr. Roberts questioned the lobbyist report; specifically the FMATS request.

Mayor Cleworth provided an explanation for the capital project change from \$15 million to \$7 million for FMATS. He stated that the capital request was arbitrarily reduced by the legislature to \$3 million and later bumped to \$7 million. **Mayor Cleworth** stated that the City would need to get letters of intent, but is waiting until something happens in Juneau regarding the budget.

Mr. Roberts read from an e-mail regarding the funding of FMATS in the capital budget.

Ms. Stiver commented on the Military Appreciation Banquet and Senior Appreciation Day. **Ms. Stiver** asked for the costs associated with the demolition of the Polaris Building as well as a total dollar figure for funds recovered from abatements. She suggested bringing in AIDA to help explain the tax cap and financing options for the City.

CITY ATTORNEY'S REPORT

Mr. Ewers indicated he would have available a briefing memo on a new chauffeur's license appeal process by the next regular meeting so that discussions could be had regarding changing the Code should the Council make that decision.

Mayor Cleworth suggested having the policy available at a Finance Committee meeting for first review.

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 8:30 p.m.

JERRY CLEWORTH, MAYOR

ATTEST:

JANEY HOVENDEN, CMC, CITY CLERK
Transcribed by: DO

Introduced By: Mayor Jerry Cleworth
Date: May 9, 2011

ORDINANCE NO. 5847

**AN ORDINANCE AUTHORIZING LEASE OF THE "CHENA BUILDING"
FROM THE CITY TO THE EARLY COLLEGE OF ALASKA, INC**

WHEREAS, the City of Fairbanks is the owner of Lots 21 & 22, Block 13, Fairbanks Townsite, including the building thereon, located at 514 Second Avenue, known as the Chena Building, as shown on attached "Exhibit A", and

WHEREAS, the Chena Building has been leased to the University of Alaska since 1993, which lease will expire on June 30, 2011, at which time the University will vacate the premises, and

WHEREAS, the Early College of Alaska Inc has expressed a desire to occupy and lease the Chena Building beginning July 1, 2011, and

WHEREAS, the Early College of Alaska, Inc., is an existing registered non-profit and proposed charter school dedicated to students in grades 9-12, providing rigorous academic instruction to prepare students for college and providing early college attendance, and

WHEREAS, the City administration has reviewed said Chena Building space and determined that same is not required for municipal purposes and can be leased to others, and

WHEREAS, Fairbanks General Code of Ordinances Section 70-44 provides that the City may lease to a non-profit organization without public sale and for less than market value, whenever in the judgment of the City Council it is advantageous to do so, and

WHEREAS, it is the sense of the City Council that lease of the premises described above for the purposes stated is in the best interest of the community,

NOW THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, as follows:

SECTION 1. That a lease instrument substantially in the form shown on attached "Exhibit B" is hereby authorized by Council for the purposes herein stated, providing for a 5-year lease term, and including rent escalators.

SECTION 2. That execution of said lease is contingent upon the Early College of Alaska obtaining final approval of its proposed charter by the State of Alaska before June 15, 2011.

SECTION 2. That the Mayor is hereby authorized and directed to execute said lease on behalf of the City, and the City Clerk is authorized to attest and affix the City Seal to said instrument, the execution of which shall take place not less than thirty (30) days after the effective date of this ordinance, as prescribed by section 8.3 of the City Charter and Sec. 7-56 of the Fairbanks General Code.

SECTION 3. That the effective date of this ordinance shall be the 28th day of May, 2011.

JERRY CLEWORTH, Mayor

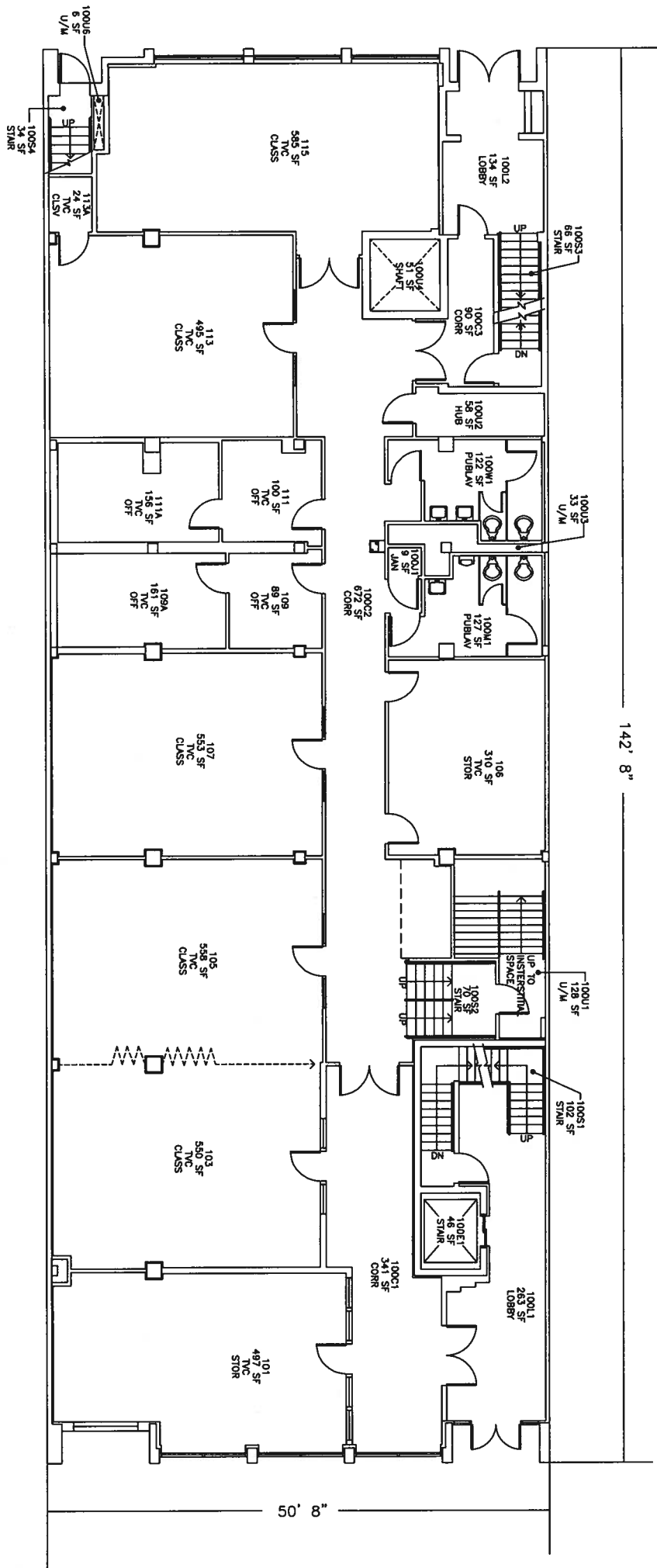
AYES:
NAYS:
ABSTAIN:
ABSENT:
ADOPTED:

ATTEST:

APPROVED AS TO FORM:

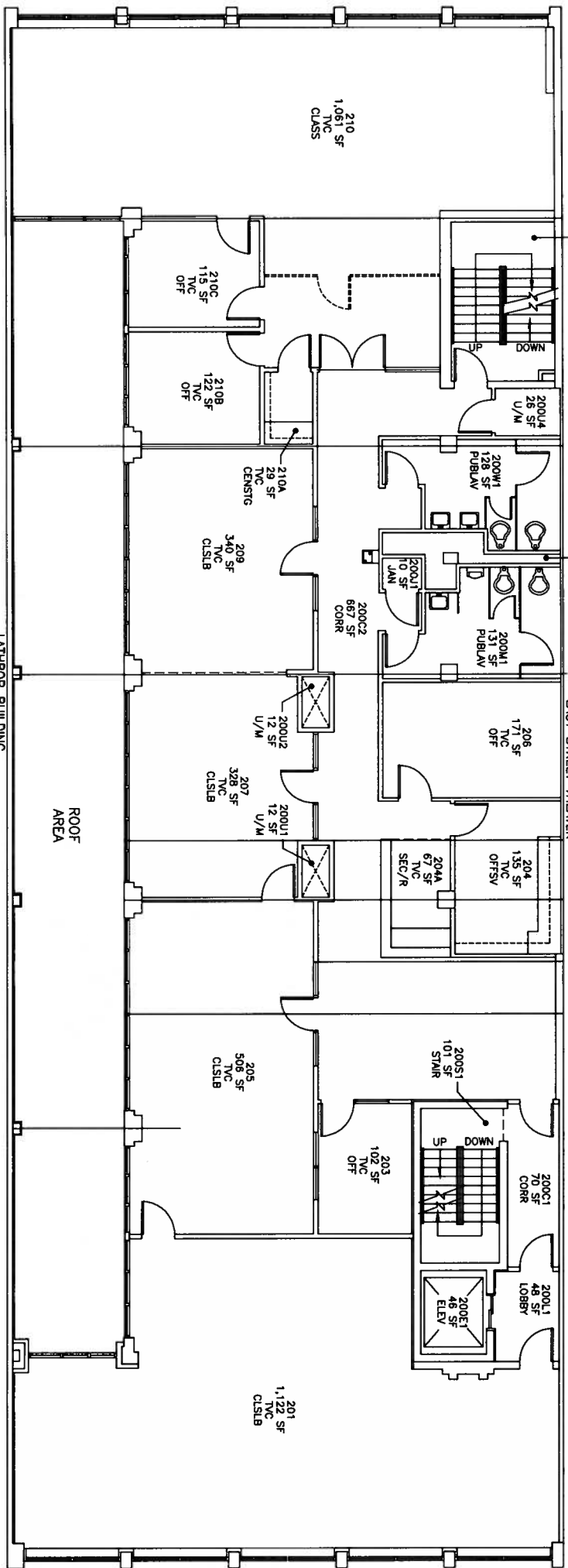
JANEY HOVENDEN, CMC, City Clerk

PAUL EWERS, City Attorney



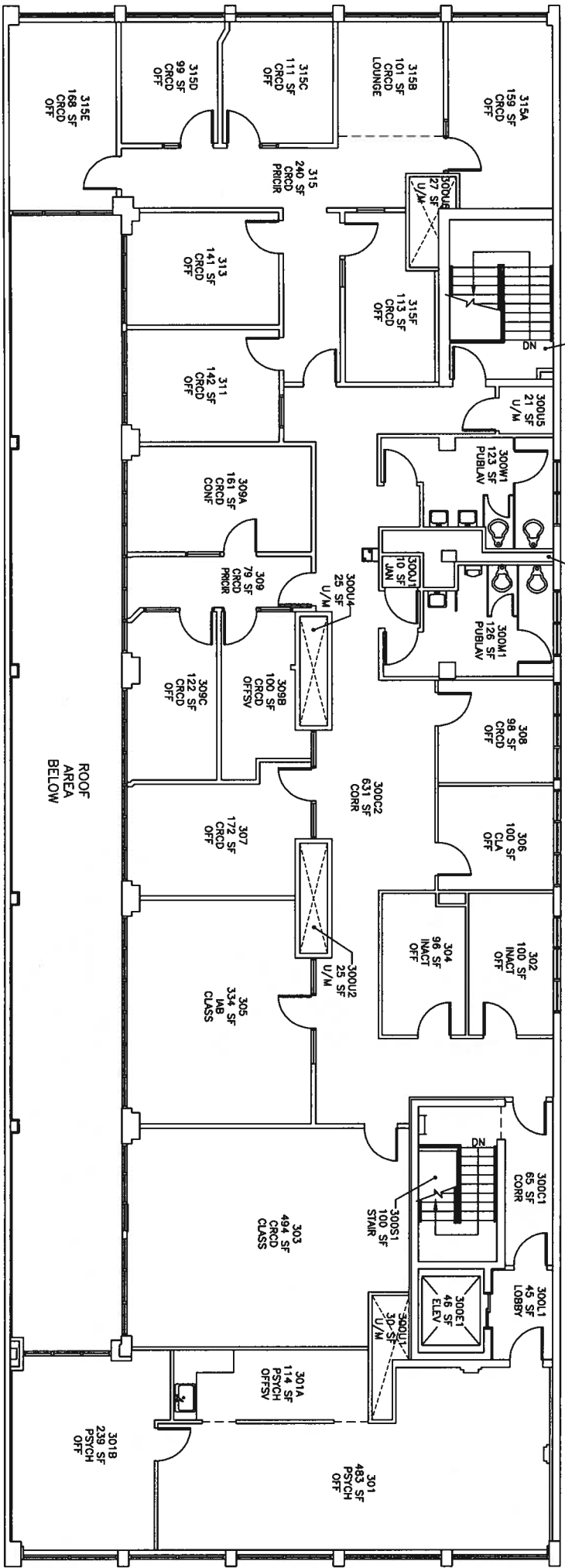
FIRST LEVEL

EXHIBIT 'A' 1 OF 3
ORDINANCE 5847



SECOND LEVEL

EXHIBIT 'A' 2 OF 3
ORDINANCE 5847



ROOF AREA BELOW

THIRD LEVEL

EXHIBIT 'A' 3 OF 3
ORDINANCE 5847

EXHIBIT 'B' TO ORDINANCE No. 5847
REAL ESTATE LEASE

THIS LEASE made this _____ day of _____, 2011, between THE CITY OF FAIRBANKS, a municipal corporation of the State of Alaska, with address of 800 Cushman Street, Fairbanks, Alaska 99701, hereinafter called "Lessor", and EARLY COLLEGE OF ALASKA, INC., its agents or employees, with address of PO Box 82562 Fairbanks, Alaska 99708, hereinafter called "Lessee";

WITNESSETH:

WHEREAS, the City of Fairbanks, by Ordinance No. 5847, authorized execution of this lease of City owned property identified below.

NOW THEREFORE, Lessor, in consideration of the rent hereinafter specified and of the mutual covenants and agreements herein expressed has leased and by these presents does lease that certain real property, including land and buildings, described as follows:

1. Lease of Premises. The Lessor leases to Lessee, and Lessee leases from Lessor, the real property located at Fairbanks, Alaska, more particularly described as follows:

- a. Land & Building

All of that certain building located at 514 Second Avenue, Fairbanks, Alaska, located on and including Lots 21 and 22, Block 13, Fairbanks Townsite, more commonly known as the "Chena Building", containing 19,500 square feet of above grade area and 7,200 square feet of basement area, more or less, hereinafter referred to as "premises", as indicated on attached Exhibit "B".

2. Parking. The following parking is made part of this Lease:

2.1 Parking Garage. Lessee shall have non-exclusive use of 36 parking spaces inside the Downtown Parking Garage, located at 201 Lacey Street. The Parking Garage is operated by the Fairbanks Parking Authority. Lessee shall observe the policies and regulations of the Parking Authority in use of the parking facility.

3. Term. The term of this Lease shall be for five (5) years, commencing on _____, 2011, and ending at midnight on _____ 2016.

4. Annual Funding Contingency. The Parties acknowledged that Lessee relies on and is subject to annual funding appropriation by the State of Alaska, which appropriation is not guaranteed. In the event funding is not appropriated, Lessee shall have the right to cancel this lease upon sixty days notice given to Lessor in writing.

5. Rent.

5.1 As compensation for use of the premises during the first year of this lease (months one through twelve, inclusive), Lessee shall pay:

- a. 100% of the utilities and maintenance expenses for the Premises, as set forth under Section 11, below; and
- b. The monthly cost of 36 spaces located in the Downtown Parking Garage and operated by the Parking Authority, at a monthly rate established by the Fairbanks Parking Authority, and as from time to time revised. Payment for said parking shall be made directly to the Parking Authority, 201 Lacey Street, Fairbanks, Alaska 99701.

5.2 As compensation for use of the premises during the second year (months thirteen through twenty-four, inclusive) of this lease, Lessee shall pay:

- a. 100% of the utilities and maintenance expenses for the Premises, as set forth under Section 11, below; and
- b. The monthly cost of 36 spaces located in the Downtown Parking Garage (payable to the Parking Authority), plus a monthly rent to the City in the amount of \$3,530.

5.3 As compensation for use of the premises during years three through five of this lease, Lessee shall pay:

- a. 100% of the utilities and maintenance expenses for the Premises, as set forth under Section 11, below, and;
- b. The monthly cost of 36 spaces located in the Downtown Parking Garage (payable to the Parking Authority), and;
- c. Revised rent: Within sixty (60) days prior to beginning of each of the third, fourth and fifth years, the Lessee shall meet with the City Mayor to review the rent for increase. Lessee shall disclose its financial capability and ability to fund such increase. If a rent increase cannot be mutually agreed, either party may terminate this lease upon sixty (60) days written notice to the other.

5.4 Other provisions of this section notwithstanding, if at any time during the term of this lease the Early College of Alaska student enrollment shall meet or exceed 150 students, Lessee shall immediately notify the Lessor, and be subject to rent review. This clause is intended to recognize that state educational funding increases when an enrollment of 150 students is achieved, and to recognize that the initial rent is below market rates. In no event shall the Lessee be required to pay a greater rent than fair market rent.

6. Renovation or Remodeling. Any Lessee renovations or modifications of the lease space shall first be submitted to the City Engineer for review and approval at his discretion. In addition, Building Department review and permitting may be required. Such review and approval shall not be required where renovations are of a cosmetic nature that do not involve safety, egress, or structural concerns. To the extent Lessee performs any major or structural repairs, including replacement of windows, energy efficiency upgrades, and the like, Lessor shall agree to an abatement of rent for the cost of such repairs, with the parties to agree as to whether the abatement shall be pro rata or lump sum.

7. Condition. Lessee has inspected the premises, is familiar with the physical condition and accepts the premises in its "as-is" condition.

8. Permitted Uses. Lessee shall use the premises for the nonprofit business of educational and development activities and necessary administrative office space.

8.1 Third Party Use. Lessee agrees to notify Lessor of any agreements made to allow agencies, groups, or organizations not affiliated with or necessary to implement the Permitted Use of Lessee to utilize the leased premises on an incidental basis. Lessor shall have the right to reject or restrict such agreements. In all events, such incidental third party use shall not exceed a period of ten days, unless otherwise approved under Section 14, Assignment and Sublease.

9. Prohibited Uses. Lessee shall not use or permit the use of the premises or any part thereof in violation of any applicable law, ordinance, or regulation.

10. Access and Security. Lessee shall control access and security at the premises, bearing responsibility for same.

11. Payment of Expenses Relating to the Premises.

11.1 Utilities. Lessee shall be responsible for payment of telephone, data and other cable services and other privately contracted services as required by the utility provider.

11.2 Maintenance. Lessee shall perform all routine interior maintenance associated with the leased premises proper, including but not limited to incidental replacement of light bulbs, window cleaning, routine repair of electrical and mechanical

systems within the lease area, and keeping the premises in a clean, safe condition. Lessee shall also maintain the sidewalks adjacent the leased premises, including snow removal. Lessee shall notify Lessor of hazards or safety concerns in the exterior common areas in a timely manner. In the event that Lessor performs maintenance or repair under this section, whether at its election or upon request of Lessee, Lessee shall repay Lessor for the actual costs of materials and labor expended for same.

Lessor shall perform exterior maintenance and major repair or replacement of infrastructure, including mechanical and electrical systems.

11.3 Janitorial and Garbage Collection. Janitorial and garbage service within the premises, if any, shall be provided by Lessee.

11.4 Taxes. Lessor is a municipality of the State of Alaska and is therefore exempt from property taxes. If taxes are levied against the leased premises by a governmental body so long as Lessor remains the owner of record, any such taxes shall be paid by Lessee. Should taxes be levied against the property at such time as the record owner of the leased fee estate is a taxable entity, such owner shall be responsible for payment of taxes.

12. Exculpation and Indemnity.

12.1 Exculpation of Lessor. Lessor shall not be liable to Lessee for any damage to Lessee or Lessee's property from any cause. Lessee shall bear all risk of loss as to all personal property of the Lessee, stored, or remaining on or near the premises, including without limitation, inventory, equipment, fixtures, and employees' personal effects.

12.2 Indemnity. Lessee shall defend and hold the Lessor harmless from all damages arising out of any damage or injury to any person or property occurring in, about, or on the premises, excluding exterior public areas.

12.3 Public Liability and Damage Insurance. Lessee at its sole cost shall at all times maintain public liability and damage insurance with a single combined liability limit of \$1,000,000 and insuring against all liability of Lessee and its authorized representatives arising out of and in connection with Lessee's use or occupancy of the premises, excluding exterior public areas. All public liability insurance and property damage insurance shall insure performance by Lessee of the indemnity provisions provided herein. Lessor shall be named as an additional insured.

13. Prevention of Waste and Nuisance. Lessee shall not use the premises in any manner that will constitute waste, nuisance, or unreasonable annoyance to Lessor or the owners or occupants of adjacent properties. Violation or breach under this section shall be determined at the sole discretion of the City Engineer.

14. Assignment and Sublease. Lessee shall not assign its rights under this Lease or sublet all or any portion of the premises without the prior written consent of Lessor. Consent shall be at the sole discretion of Lessor.

15. Liens. Lessee shall keep the premises free from any liens, including without limitation those liens arising out of any work performed, materials furnished, or obligations incurred by Lessee.

16. Consultation with Attorney. Lessee acknowledges that it has the right to review this Lease and all other documents relating to the Lease with its own attorney. Each party electing to have this Lease reviewed by an attorney shall bear the costs and expenses so incurred.

17. Destruction. If during the Lease term, the premises are totally or partially destroyed from any cause, rendering the premises totally or partially inaccessible or unusable, Lessee, at its election, may either terminate this Lease or restore the premises. Lessor shall have no duty to repair or restore the premises, but shall abate the rent pro rata to reflect the decreased usage or utility of the premises. If lessee elects to restore the premises, Lessee will have one hundred eighty (180) days in which to complete the repairs. If Lessee elects not to repair the premises, this agreement will be terminated at the earlier of the notice of election or within sixty (60) days of the casualty, without further recourse for lease payments for the remainder of the term.

18. Right of Entry. Lessor, its agents and authorized employees, shall have the right to enter the leased premises to examine the same and to make repairs as Lessor may deem necessary or desirable during Lessee's business hours. All such entry shall be preceded by 24 hours advance notice to Lessee, except that immediate entry shall be allowed in event of emergency, as determined by the City Engineer.

19. Default. Failure to occupy and operate the premises for thirty (30) consecutive days, or failure to perform any provision of this Lease shall constitute default by Lessee of this Lease. Upon Lessee's default, Lessor shall give Lessee ten (30) days notice to cure the default. No default notice shall be deemed a forfeiture or a termination of this Lease unless Lessor so elects in the notice.

20. Notice. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first class mail, addressed to the other party at the address set forth in the introductory paragraph of this Lease. Either party may change its address by notifying the other party of the change of address.

21. Effect of Prior Agreements. This lease supersedes and replaces any prior agreements between the Parties.

22. Attorney's Fees. If Lessor brings or maintains an action for enforcement of any of the covenants, terms or conditions of this Lease, Lessee shall pay all costs incurred by Lessor for such action including attorney's fees in the event Lessee is found to be at fault.

23. Right of First Refusal. In the event that Lessor elects to sell the subject property during the term of this lease, Lessee shall have the right to either purchase the property at Lessor's asking price, as may be established by Lessor at that time, or to meet any other bonafide offer received in response to Lessor's offer to sell.

24. Time of the Essence. Time is of the essence of each provision of this Lease.

25. Successors. This Lease shall be binding on and inure to the benefit of the parties and their successors.

26. Captions. The captions of this Lease shall have no interpretive effect.

27. Singular and Plural. When required by the context of this Lease, the singular shall include the plural.

28. Severability. The unenforceability, invalidity, or illegality of any provision shall not render the other provisions unenforceable, invalid, or illegal.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the date first written above.

LESSEE:
Early College of Alaska, Inc.

LESSOR:
City of Fairbanks

By: Steve Levey
Title: APC Chairperson

By: Jerry Cleworth
Title: Mayor

ATTEST:

APPROVED AS TO FORM:

Janey Hovenden, CMC
City Clerk

Paul Ewers
City Attorney

(City seal)

ACKNOWLEDGMENT

THIS IS TO CERTIFY that on this _____ day of _____, 2011, the undersigned, a Notary Public for the State of Alaska, duly commissioned and sworn as such, personally appeared JERRY CLEWORTH, and JANEY HOVENDEN, and that they acknowledged before me that they executed the same for and on behalf of The City of Fairbanks and under the authority of said municipal corporation so granted by the City Council, as their free and voluntary act and deed of said corporation.

IN WITNESS, I have set my hand and affixed my official seal on this _____ day of _____, 2011.

Notary Public
My Commission Expires:_____

ACKNOWLEDGMENT

THIS IS TO CERTIFY that on this _____ day of _____, 2011, the undersigned, a Notary Public for the State of Alaska, duly commissioned and sworn as such, personally appeared _____, to me known to be the person described in and who executed the foregoing instrument and acknowledged to me that she/ he signed the same freely and voluntarily for the uses and purposes therein mentioned.

IN WITNESS, I have set my hand and affixed my official seal on this _____ day of _____, 2011.

Notary Public
My Commission Expires:_____

Introduced By: Mayor Jerry Cleworth
Introduced: May 23, 2011

RESOLUTION NO. 4472

**A RESOLUTION TO APPLY FOR FUNDING FROM THE ALASKA
DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT
FOR FISCAL YEAR 2012 LOCAL EMERGENCY PLANNING
COMMITTEE (LEPC)**

WHEREAS, for a number of years, the City of Fairbanks has received funding for its participation in the Local Emergency Planning Committee ("LEPC"), which plans for response to emergencies relating to hazardous materials; and

WHEREAS, the City of Fairbanks has received funds which partially fund a Fire Department employee to support, sustain, and enhance the LEPC in order to perform its statutory responsibilities under state and federal law; and

WHEREAS, an additional \$23,100.00 is available to continue funding the City employee assigned to the LEPC with no required City matching funds.

NOW, THEREFORE, BE IT RESOLVED by the City Council that the Mayor is authorized to apply for a grant of up to \$23,100.00 from the Alaska Division of Homeland Security and Emergency Management for continuing the work of the LEPC.

PASSED AND APPROVED AND EFFECTIVE THIS ____ DAY OF MAY 2011.

Jerry Cleworth, City Mayor

AYES:
NAYS:
ABSENT:
APPROVED:

ATTEST:

APPROVED AS TO FORM:

Janey Hovenden, CMC, City Clerk

Paul J. Ewers, City Attorney

Introduced By: Mayor Jerry Cleworth
Introduced: May 23, 2011

RESOLUTION NO. 4473

**A RESOLUTION AUTHORIZING THE CITY OF FAIRBANKS TO REQUEST
FY12 FUNDS FROM THE ALASKA HIGHWAY SAFETY OFFICE FOR A
MEDIUM DUTY AMBULANCE IN THE AMOUNT OF \$130,000**

WHEREAS, the City of Fairbanks Fire Department desires to improve safety features of its front line ambulance by upgrading from a light duty ambulance to a medium duty ambulance; and

WHEREAS, this upgrade will extend the service life of our front line ambulance and reduce maintenance costs; and

WHEREAS the City Fire Department has the \$130,000 match in its capital account to match the \$130,000 grant request from the Alaska Highway Safety Office for a total estimated project cost of \$260,000.

NOW, THEREFORE, BE IT RESOLVED by the City Council that the Mayor is authorized to request funding through the State of Alaska's Highway Safety Office grant program for 2012, to be used to upgrade the City of Fairbanks Fire Department first line ambulance.

PASSED AND APPROVED AND EFFECTIVE THIS ____ DAY OF MAY 2011.

Jerry Cleworth, City Mayor

AYES:
NAYS:
ABSENT:
APPROVED:

ATTEST:

APPROVED AS TO FORM:

Janey Hovenden, CMC, City Clerk

Paul J. Ewers, City Attorney

Introduced by: Mayor Cleworth
Introduced: May 23, 2011

ORDINANCE NO. 5848

**AN ORDINANCE TO REPEAL ARTICLE VI OF CHAPTER 14
PAWNBROKERS**

WHEREAS, the State of Alaska enacted legislation relating to the registration and operation of pawnbrokers, the provisions of which take effect on July 1, 2011; and

WHEREAS, that legislation specifically stated that any ordinance of a municipality related to the regulation of pawnbrokers that does not comply with the provisions of state law is void; and

WHEREAS, the City currently only licenses two pawnbrokers under the provisions of FGC Sec. 14-211 – 14.221; and

WHEREAS, state law now provides for uniform licensing and regulation of pawnbrokers throughout the state,

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, as follows:

Section 1. Article VI of Chapter 14 of the Fairbanks General Code (Sections 14-211 through 14-221) is hereby repealed.

Section 2. That the effective date of this ordinance shall be the 1st day of July 2011.

Jerry Cleworth, Mayor

AYES:
NAYS:
ABSENT:
ADOPTED:

ATTEST:

APPROVED AS TO FORM:

JANEY HOVENDEN, CMC, City Clerk

PAUL EWERS, City Attorney

ORDINANCE NO. 5849

**AN ORDINANCE AMENDING FGC 82-1 TO PROHIBIT THE
ADDITION OF FLUORIDE TO COMMUNITY WATER SYSTEMS**

WHEREAS, City Code has required the addition of fluoride to the community water system since 1959; and

WHEREAS, in response to questions about the benefits and risks of fluoride, the City Council created the Fairbanks Fluoride Task Force to study the issue and make recommendations; and

WHEREAS, the members of the Fluoride Task Force had advanced degrees and knowledge in the fields of chemistry, geochemistry, microbiology, medicine and dentistry; and

WHEREAS, after an exhaustive inquiry and over a year of public hearings, research and analysis, the Task Force issued a report with recommendations as follows:

The Fairbanks Fluoride Task Force makes a set of four recommendations. We anticipate that the community's focus will be on Recommendation #1, but as a committee we feel strongly that Recommendations 2, 3, and 4 should be implemented along with Recommendation #1 as part of a cohesive plan to address dental health issues in our community.

1. Primarily because (1) the ground water used for Fairbanks public water contains an average of 0.3 ppm fluoride, and (2) higher concentrations of fluoride put non-nursing infants at risk, the task force recommends that supplemental fluoridation of the Fairbanks public water supply be terminated. The task force further recommends that the Fairbanks community be informed of possible dental health implications from not fluoridating the water.

Rationale: Not fluoridating Fairbanks water will reduce the fluoride content from 0.7 ppm to 0.3 ppm, which is the fluoride concentration of the raw water used by Golden Heart Utilities (GHU). This will reduce, but not eliminate, the risk of significant incidence and severity of fluorosis, especially fluorosis associated with the use of GHU water to prepare infant formula. Doing so will also address ethical concerns raised during the task force's public testimony. However, the effect of this reduction in fluoride concentration on the caries rate in the Fairbanks community, while most likely small, is unknown and unpredictable. Those who depend on 0.7 ppm fluoride in tap water for their dental health need to be informed of the possible adverse consequences to their dental health caused by reducing the fluoride content of Fairbanks tap water from 0.7 ppm to 0.3 ppm and of the measures that can be taken to address these possible adverse consequences.

The task force has made this recommendation to terminate fluoridation of GHU water with full knowledge of and respect for the positions of the American Dental Association (ADA), the Centers for Disease Control and Prevention (CDC; part of the U.S. Department of Health and Human Services), the World Health Organization, and the Alaska Department of Public Health in support of fluoridation of public water supplies. While the task force members agree that water fluoridation may be an important element of an effective dental health program in many communities, the majority of members are not convinced that it is necessary in Fairbanks because of the fluoride content of the city's ground water and the alternate sources of fluoride available in the community.

Five task force members, with various degrees of conviction, support this recommendation, while one member (Dr. Taylor) supports continuing fluoridation at 0.7 ppm.

2. The Fairbanks City Council's decision-making process on fluoridation should involve representatives of the Fairbanks North Star Borough government.

Rationale: At least 25% of area residents who receive GHU water reside outside the city limits.

3. Local dentists and physicians should be encouraged to provide their patients with up-to-date information on the benefits and risks associated with fluoride.

Rationale: If nothing else, the recent notice that the secretary of the U.S. Department of Health and Human Services has proposed a new recommendation on fluoridation of public water supplies indicates that the citizenry should be informed about the state of contemporary research findings and analysis related to the role of fluoride in dental health. All of the members of the task force went into this project with incomplete and in some cases incorrect information about the issue. We suspect that we are not unique in that respect.

4. The Fairbanks City Council should encourage the local school system to review and modify, as appropriate, its approach to promoting good dental health practices.

Rationale: The local schools have an excellent opportunity to help all families in the community to learn about and to implement good dental health practices, which can include optional opportunities at school for topical fluoride treatment (in the form of rinses and tooth brushing, for example) as well as techniques for minimizing unnecessary and/or unwanted exposure to fluoride.

WHEREAS, the Fairbanks North Star Borough Assembly has been notified of the Task Force report.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, as follows:

Section 1. Fairbanks General Code Sections 82-1 is amended as follows (new text in **underlined bold font**, deleted text in ~~strikeout font~~):

Sec. 82-1. City Community water systems fluoridated.

~~A source of fluoride ion, approved by the state department of health, shall be added to the water supply of the city under the rules and regulations of the state department of health, such addition to be administered by Golden Heart Utilities, Inc. in a manner approved by the environmental coordinator of the city~~

- a. **Water utilities that own or operate community water distribution systems in the City shall not add fluoride, in any form, to the water system.**
- b. **The operators of community water distribution systems within the City of Fairbanks shall provide a copy of the annual water quality report, called the Consumer Confidence Report, to the City. The report shall be filed with the City Clerk and available for public inspection.**

Section 2. A display advertisement shall be published providing information about the Fluoride Task Force recommendations, including information about where a full copy of the report can be obtained. In addition, information shall be sent to the Fairbanks North Star Borough School District.

Section 3. The City recognizes that the Golden Heart Utilities, the operator of the community water system providing water in the City, will need regulatory approval from the State of Alaska for the water treatment process changes before discontinuing fluoridation. It is expected that this approval can be obtained by the end of 2011. Therefore, while GHU is encouraged to implement the change as soon as possible, this ordinance shall be effective the 1st day of January 2012.

Jerry Cleworth, Mayor

AYES:
NAYS:
ABSTAIN:
ABSENT:
ADOPTION:

ATTEST:

APPROVED AS TO FORM:

Janey Hovenden, CMC, City Clerk

Paul Ewers, City Attorney

ORDINANCE NO. 5850

**AN ORDINANCE AUTHORIZING CONVEYANCE OF THE J.P. JONES
COMMUNITY DEVELOPMENT CENTER TO THE
INTERDENOMINATIONAL MINISTERIAL ALLIANCE OF FAIRBANKS**

WHEREAS, the City of Fairbanks is owner of the land and building located at 2400 Rickert Street, known as the J.P. Jones Community Development Center, situated on the Ease ½, Block 32, Bjerremark Subdivision, as shown on attached "Exhibit A", and;

WHEREAS, said property has historically required management, maintenance and repair by the City with no offsetting lease revenues; and

WHEREAS, the City desires to divest facilities which are not part of the City's core mission; and

WHEREAS, the facility has been leased to the Interdenominational Ministerial Alliance of Fairbanks since June, 1985, which lease expires January 31, 2014; and

WHEREAS, the Interdenominational Ministerial Alliance of Fairbanks has expressed a desire to assume ownership of the land and building; and

WHEREAS, Fairbanks General Code of Ordinances Section 70-44 provides that the City may sell, donate or exchange with the United States, the state, any political subdivision, or a nonprofit organization, city-owned real property without a public sale and for less than the fair market value, whenever in the judgment of the City Council it is advantageous to the City to make the conveyance; and

WHEREAS, it is the finding of the City Council that the J.P. Jones Community Development Center shall be conveyed to the Interdenominational Ministerial Alliance of Fairbanks, subject to certain conditions.

NOW THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, as follows:

SECTION 1. That the City Attorney is directed to prepare a Warranty Deed from the City of Fairbanks to the Interdenominational Ministerial Alliance of Fairbanks for purposes stated above.

SECTION 2. That said Warranty Deed shall restrict the use of the property to community services, events and programs primarily for the benefit of the south Fairbanks community; that the facility shall be operated on a non-profit basis and shall not be sold without the prior

approval of the City Council, and shall be operated in a manner that encourages equal opportunity use within the community, in perpetuity.

SECTION 3. That the guidelines and requirements of the Transfer Agreement attached as "Exhibit A" are hereby approved for these purposes.

SECTION 4. That the Mayor is hereby authorized and directed to execute said Deed on behalf of the City, and the City Clerk is authorized to attest and affix the City Seal to said instrument, the execution of which shall take place not less than thirty (30) days after the effective date of this ordinance, as prescribed by section 8.3 of the City Charter and Sec. 7-56 of the Fairbanks General Code.

SECTION 5. That the effective date of this ordinance shall be the 11th day of June, 2011.

JERRY CLEWORTH, Mayor

AYES:
NAYS:
ABSTAIN:
ABSENT:
ADOPTED:

ATTEST:

APPROVED AS TO FORM:

JANEY HOVENDEN, CMC, City Clerk

PAUL EWERS, City Attorney