



FAIRBANKS CITY COUNCIL  
REGULAR MEETING MINUTES, FEBRUARY 14, 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 Comprehensive Economic Development Strategy, 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 - Telephonic  
Chad Roberts, Seat B  
Bernard Gatewood, Seat C  
Jim Matherly, Seat D  
John Eberhart, Seat F

Absent: Emily Bratcher, Seat E - Excused

Also Present: Clem Clooten, Electrical Inspector  
Patrick B. Cole, Chief of Staff  
Warren Cummings, Fire Chief  
Paul Ewers, City Attorney  
Janey Hovenden, City Clerk  
Stephanie Johnson, Dispatch Ctr Manager  
Michael J. Schmetzer, City Engineer  
Steve Shuttleworth, Building Official  
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

Helen Renfrew, 4097 Yvonne Street, Fairbanks. Ms. Renfrew provided a brief report on the work performed in support of AFN by the Fairbanks Convention & Visitors Bureau.

Victor Buberger, PO Box Fairbanks. Mr. Buberger spoke about recent winter deaths, wet houses for the homeless, and Mr. Turney's health.

David Lerman, 126 2<sup>nd</sup> Avenue, #16, Fairbanks. Mr. Lerman spoke to a lot that needs to be condemned, bus shelters, the Polaris Building, and air quality.

Lisa Peger. 3873 Peger Road, Fairbanks. Ms. Peger spoke about energy saving with Nanotech Energy Solutions.

### APPROVAL OF AGENDA AND CONSENT AGENDA

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

Mr. Gatewood pulled Resolution Nos. 4458 and 4459 from the Consent Agenda.

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

City Clerk Hovenden read the Consent Agenda into the record.

### APPROVAL OF PREVIOUS MINUTES

a) Meeting Minutes of December 13, 2010.

PASSED and APPROVED on the CONSENT AGENDA.

b) Meeting Minutes of January 10, 2011.

PASSED and APPROVED on the CONSENT AGENDA.

### MAYOR'S COMMENTS AND REPORT

Mayor Cleworth provided the Council a memorandum and the PSEA Arbitration Award and a cost analysis. Mayor Cleworth congratulated the Finance Department for receiving the Municipal Accounting Award. Mayor Cleworth forwarded a request for concurrence by GHU regarding the wastewater treatment facility. Mayor Cleworth shared that resources are being developed to respond to the need for assistance for local inebriates and the homeless.

Based on the invitation from Mayor Cleworth, Chief Cummings reported on the various service areas for fire protection within the Borough.

Mayor Cleworth explained that there are businesses south of Van Horn Road, outside City limits, that are looking into buying fire protection from the University as a cost savings measure. He explained that the City's mil rate is 4.9 and the University's mil rate is only 2.7, which allows the University to provide that service cheaper. He spoke of changing the rate for those that just have fire protection, but deferred that discussion to a Finance Committee meeting.

Chief Cummings shared that he spoke with Mr. van den Berg to discuss expansion of the area that the Community Service Patrol covers.

Based on the invitation from Mayor Cleworth, Chief Zager reported that the First National Bank was robbed earlier in the day by an armed individual. He provided a brief report of the incident.

### UNFINISHED BUSINESS

- a) ORDINANCE NO. 5828 – An Ordinance to Amend FGC Section 46-5 Disposal of Firearms Held as Evidence. Introduced by Mayor Cleworth. SECOND READING AND PUBLIC HEARING.

**Mr. Roberts**, seconded by **Mr. Gatewood**, moved to ADOPT Ordinance No. 5828.

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

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO ADOPT ORDINANCE NO. 5828, AS FOLLOWS:

YEAS: Eberhart, Gatewood, Stiver, Matherly, Roberts  
NAYS: None  
**Mayor Cleworth** declared the MOTION CARRIED and  
ORDINANCE NO. 5828 ADOPTED.

- b) ORDINANCE NO. 5829 – An Ordinance to Amend FGC Sections 10-276 and 10-277, Adopting the 2011 National Electrical Code with Local Amendments, and Setting an Effective Date. Introduced by Mayor Cleworth. SECOND READING AND PUBLIC HEARING.

**Mr. Gatewood**, seconded by **Mr. Matherly**, moved to ADOPT Ordinance No. 5829.

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

Mr. Shuttleworth provided a brief report on the amendments.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO ADOPT ORDINANCE NO. 5829, AS FOLLOWS:

YEAS: Gatewood, Roberts, Eberhart, Matherly, Stiver  
NAYS: None  
**Mayor Cleworth** declared the MOTION CARRIED and  
ORDINANCE NO. 5829 ADOPTED.

- c) ORDINANCE NO. 5830 – An Ordinance to Amend FGC Sections 10-136 and 10-137, Adopting the 2009 Uniform Plumbing Code with Amendments and Setting an Effective Date. Introduced by Mayor Cleworth. SECOND READING AND PUBLIC HEARING.

**Mr. Gatewood**, seconded by **Mr. Roberts**, moved to ADOPT Ordinance No. 5830.

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

Mr. Shuttleworth provided a brief report on the amendments.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO ADOPT ORDINANCE NO. 5830, AS FOLLOWS:

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

Mayor Cleworth declared the MOTION CARRIED and  
ORDINANCE NO. 5830 ADOPTED.

**NEW BUSINESS**

a) RESOLUTION NO. 4456 – A Resolution Encouraging the Alaska Legislature to Transfer Parcels of Alaska Railroad Land, Subject to any Existing Leases, to the Fairbanks North Star Borough Through a Land Exchange or Other Method. Introduced by Mayor Cleworth.

PASSED and APPROVED on the CONSENT AGENDA.

b) RESOLUTION NO. 4457 – A Resolution Amending the Schedule of Fees and Charges for Services by Adjusting Refuse Collection Rates. Introduced by Mayor Cleworth.

PASSED and APPROVED on the CONSENT AGENDA.

c) RESOLUTION NO. 4458 – A Resolution to Apply for and Accept Funding from the National Institute of Justice for the Solving Cold Cases with DNA Grant. Introduced by Mayor Cleworth.

Mr. Gatewood, seconded by Mr. Matherly, moved to APPROVE Resolution No. 4458.

Based on Mr. Gatewood's question, Chief Zager reported that the City did not receive funding for the previous cold case grant it applied for. He briefly reported on the grant requirements and uses.

A ROLL CALL VOTE WAS TAKEN, ON THE MOTION TO APPROVE RESOLUTION NO. 4458, AS FOLLOWS:

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

Mayor Cleworth declared the MOTION CARRIED and  
RESOLUTION NO. 4458 APPROVED.

d) RESOLUTION NO. 4459 – A Resolution to Apply for and Accept Funding from the Alaska Department of Natural Resources for a Historic Preservation Fund Grant. Introduced by Mayor Cleworth.

Mr. Matherly, seconded by Mr. Roberts, moved to APPROVE Resolution No. 4459.

Based on Mr. Gatewood's question, **Mayor Cleworth** explained the intended use for the grant funds and in-kind matches.

A ROLL CALL VOTE WAS TAKEN, ON THE MOTION TO APPROVE RESOLUTION NO. 4459, AS FOLLOWS:

YEAS: Stiver, Matherly, Gatewood, Eberhart, Roberts  
NAYS: None  
**Mayor Cleworth** declared the MOTION CARRIED and  
RESOLUTION NO. 4459 APPROVED.

e) ORDINANCE NO. 5831 – An Ordinance to Revise FGC Section 10-401, Adopting the 2009 International Residential Code with Amendments, and Setting an Effective Date. Introduced by Mayor Cleworth.

ADVANCED on the CONSENT AGENDA.

f) ORDINANCE NO. 5832 – An Ordinance to Amend FGC Section 10-456, by Adopting the 2009 International Energy Conservation Code with Amendments, and Setting an Effective Date. Introduced by Mayor Cleworth.

ADVANCED on the CONSENT AGENDA.

#### DISCUSSION ITEMS

a) Committee Reports

Permanent Fund Advisory Committee. **Mr. Gatewood** reported on the February 3, 2011 meeting.

FMATS. **Mr. Roberts** reported that the Policy Committee would meet on Wednesday at 10:00 am.

#### COMMUNICATIONS TO COUNCIL

a) A Street Apartments Referral of Claim to Fact Finding Commission.

Mr. Ewers provided background on the issue for the Council, see Memorandum dated February 8, 2011. He indicated that the matter would be referred to the Fact Finding Commission (FFC) for a binding decision.

**Mayor Cleworth** provided a brief history on the claim and the two offers presented by the City to the owners, as well as a report on the flooding that occurred during a rain storm in July, 2010. **Mayor Cleworth** stated that the Fact Finding Commission had only been called to act one other time.

**Mr. Eberhart** questioned whether the FFC could act as a body that could issue a binding finding, as the Code did not allow for that.

**Mayor Cleworth** indicated that he could not recall the specifics of the other referral to the FFC but that it was some years ago.

**Mr. Eberhart** indicated that the FFC is only a fact gathering commission and not a body authorized to offer dispute resolution.

**Mayor Cleworth** reiterated that it would be more efficient to have the FFC issue a binding decision so that the claim could not be appealed and then left up to the Council to decide.

**Mr. Eberhart** offered other options for the claim process.

**Mayor Cleworth** indicated that taking this approach would be a cost savings for the City.

**Mr. Roberts** reiterated Mr. Eberhart's concerns.

**Mayor Cleworth** stated that the City could only make an offer up to \$10,000 before it must be referred to the Council.

**Mr. Eberhart** questioned what type of insurance the FFC had in the event it is sued.

**Mr. Ewers** explained that the FFC would make a decision much like a jury would, fact finding in nature.

**Mr. Eberhart** stated that the City is asking the FFC to go beyond fact finding and actually make a decision, a binding decision.

**Mr. Ewers** stated that the City would have a duty to indemnify the members on the FFC.

**Mr. Roberts**, seconded by **Mr. Gatewood**, moved to REFER the Claim of A Street Apartments, LLC to the Fact Finding Commission and to be Bound by the Commission's Findings, Conditioned on A Street Apartments, LLC Signing a Written Agreement Specifying that the Decision of the Commission Will be Final and Binding on A Street Apartments, LLC and its Owners.

**Mr. Eberhart** expressed his concern over how the decision could set precedence for future claims.

**Mayor Cleworth** stated that FFC was not initially created to handle these types of claims.

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

YEAS: Roberts, Stiver, Matherly, Gatewood

NAYS: Eberhart

**Mayor Cleworth** declared the MOTION CARRIED.



b) Request for Council Approval of Indemnity for Hoffman and Johnson.

Mr. Ewers provided background on the issue for the Council, proposing that the defense in the Hutton/Whorton case be consolidated, see Memorandum dated February 8, 2011.

Mr. Matherly, seconded by Mr. Roberts, moved to INDEMNIFY Hoffman and Johnson for all Potential Liability in the Hutton/Whorton v. City of Fairbanks Lawsuit.

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

YEAS: Gatewood, Stiver, Matherly, Roberts

NAYS: Eberhart

Mayor Cleworth declared the MOTION CARRIED.

c) Appointments to the Code Review & Appeals Commission.

PASSED and APPROVED on the CONSENT AGENDA.

d) Building Official New Construction Code Overview.

ACCEPTED on the CONSENT AGENDA.

e) Chena Riverfront Commission Meeting Minutes of December 6, 2010.

ACCEPTED on the CONSENT AGENDA.

f) Public Safety Commission Meeting Minutes of November 9, 2010.

ACCEPTED on the CONSENT AGENDA.

g) Public Safety Commission Meeting Minutes of January 11, 2011.

ACCEPTED on the CONSENT AGENDA.

h) Code Review Commission Meeting Minutes of January 12, 2011.

ACCEPTED on the CONSENT AGENDA.

i) Code Review Commission Meeting Minutes of January 19, 2011.

ACCEPTED on the CONSENT AGENDA.

j) Code Review Commission Meeting Minutes of January 26, 2011.

ACCEPTED on the CONSENT AGENDA.

**COUNCIL MEMBERS' COMMENTS**

Ms. Stiver expressed her concern that the Fact Finding Commission act in a binding fashion.

Mr. Gatewood indicated that the referral to the Fact Finding Commission would be a good first run at testing whether commissions should be allowed to act in a binding fashion.

Mr. Roberts indicated that he was looking forward to spring.

Mr. Eberhart commented on the homeless and chronic inebriate problem in Fairbanks. He explained that a damp shelter had been looked at as a possibility in Fairbanks and hoped to see that effort move forward this year.

Mr. Matherly commented on the Arctic Winter Games in Fairbanks in 2014.

Mr. Ewers noted that the Regulatory Commission of Alaska met on Aurora Energy's Petition regarding deregulation of steam heat. He indicated he would have an update at the next meeting.

Mr. Roberts, seconded by Mr. Gatewood, moved to go into Executive Session for the purpose of discussing labor negotiations.

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

Mayor Cleworth called for a five minute recess.

#### EXECUTIVE SESSION

- a) Labor Contract Negotiations – AFL-CIO

The City Council met in Executive Session to discuss labor negotiations and no action was taken.

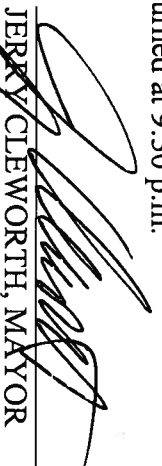
#### ADJOURNMENT


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

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

Mayor Cleworth declared the Meeting adjourned at 9:30 p.m.

ATTEST:

  
JERRI CLEWORTH, MAYOR

  
JANEY GROVENDEN, CMC, CITY CLERK

Transcribed by: DO