

Mayor

Clay Koplin

Council Members

James Burton

Tim Joyce

Tom Bailer

Robert Beedle

Josh Hallquist

David Allison

James Wiese

City Manager

Randy Robertson

City Clerk

Susan Bourgeois

Deputy Clerk

Tina Hammer

Student Council

John Appleton

August Jewell

Special City Council Meeting
June 22, 2016 @ 12:00 pm
Cordova Center Community Rooms A & B
Agenda

A. Call to order

B. Roll call

Mayor Clay Koplin, Council members James Burton, Tim Joyce, Tom Bailer, Robert Beedle, Josh Hallquist, David Allison and James Wiese

C. Approval of agenda..... (voice vote)

D. Disclosures of conflicts of interest

E. Communications by and petitions from visitors

- 1. Audience Comments regarding agenda items

F. New Business

- 2. Resolution 06-16-24..... (voice vote)(page 1)

A resolution of the City Council of the City of Cordova, Alaska, opposing siting and timing of US Navy training exercises that pose risks to fish and fisheries in the gulf of Alaska

- 3. Resolution 06-16-25..... (voice vote)(page 5)

A resolution of the City Council of the City of Cordova, Alaska, authorizing amendment to the FY16 budget and authorizing expenditure of an amount not to exceed \$ _____ to provide the required match for the Alaska transportation alternatives program (ATAP) grant for ADA accessible sidewalks on Adams Street

- 4. Resolution 06-16-26..... (voice vote)(page 8)

A resolution of the City Council of the City of Cordova, Alaska, authorizing creation of a City Manager assessment committee to assist with the selection process of a new City Manager and make recommendations to the City Council on final interviewees

- 5. Council direction to City Manager regarding disposition of Polar Bear..... (voice vote)(page 10)

G. Audience participation

H. Council comments

I. Adjournment

Executive Sessions: Subjects which may be discussed are: (1) Matters the immediate knowledge of which would clearly have an adverse effect upon the finances of the government; (2) Subjects that tend to prejudice the reputation and character of any person; provided that the person may request a public discussion; (3) Matters which by law, municipal charter or code are required to be confidential; (4) Matters involving consideration of governmental records that by law are not subject to public disclosure.

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Full City Council agendas and packets available online at www.cityofcordova.net



City Council Memorandum

DATE: May 25, 2016

TO: Honorable Mayor and City Council

FROM: Emily Stolarcyk, Program Manager - Eyak Preservation Council

SUBJECT: Supplemental Information/ Overview of Resolution addressing the US Navy's 2017 trainings in the the Gulf of Alaska

**PRESERVING WILD
SALMON HABITAT &
INDIGENOUS CULTURE**

Board of Directors

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Alan Trist

Thank you for the opportunity to provide context and information to support the Resolution addressing the US Navy's 2017 training plans in the Gulf of Alaska. This is an updated version of Resolution 05-15-25 passed by Cordova City Council on May 6th, 2015.

On March 31st, 2016, US Navy representatives speaking at ComFish in Kodiak, AK stated that the Navy had pre-selected training dates for 2017 in the Gulf of Alaska. Their dates are May 1 – 12, 2017. These dates are problematic and pose risks to our commercial and subsistence fisheries. As a community, we need to engage the Navy and support an alternative time of their 'Northern Edge' training exercises.

The Eyak Preservation Council supports a well-trained Navy and is not asking for the exercises to be discontinued. We are asking that the Navy work with local communities to find the best time and location for training the poses the least amount of risk to the valuable habitat within the Gulf of Alaska.

Some additional points for consideration:

- The Navy does not currently have a Letter of Authorization (LOA) or a permit from the National Marine Fisheries Service (NMFS) for the 2017 trainings. Selecting dates before securing a LOA is a serious breach of protocol and legality by the US Navy.
- In the 43 years that the Navy has conducted trainings in the GOA, never once has a training occurred in May. Trainings from 1973 – 2002 happened in the winter months, 2004 – 2015 happened in June. May is one of the prime months for species migration into the GOA. The Navy has not conducted any additional research to prove that training in May will not harm or have negative effects on migrating fish and marine mammals.
- The Navy and NMFS recently lost a federal lawsuit about Naval exercises and permit processes regarding the Navy's activities in their Hawaii/Southern California ranges. As a result, the Navy is now restricted from training in Biologically Important Areas (BIA's) during certain times of the year because of the species present. The resolution asks that the same protections awarded to Hawaii/SoCalifornia be extended to the Gulf of Alaska.
- The Navy has previously identified that both September and October are acceptable months in which 'Northern Edge' can be conducted.



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- Our environment is changing. Warm water species are being observed in our waters for the first time. The Navy has not conducted any research nor presented any information about the safety and/or long term impacts their trainings pose to our marine environments including Essential Fish Habitat. In these changing times, it is our responsibly to take every measure to safeguard the future of our fisheries. Allowing the Navy to train in May could have a number of unintended consequences and unfavorable impacts to our fisheries including:
 - Immediate decline in catch due to direct physical injury and mortality from weapons and sonar;
 - Delays in fish runs as a result of scadding effects from sonar (observed after 2015 trainings in Bristol Bay and other fisheries);
 - Exposure and contamination of fish from Navy-sourced expended materials such as cyanide, mercury and lead;
 - Failure to (or an increase in the time needed to) reach the next developmental stage of juvenile fish populations.

In summary, allowing the Navy to conduct their training exercise ‘Northern Edge’ in May puts our fishing industry at undue risk. The Navy is already changing their activities in other Pacific ranges. The Navy needs to hear from communities now, well in advance of their trainings, in order to make the necessary changes to their schedule.

Please contact me with additional questions and/ or concerns.

Thank you,

Emily Stolarcyk

**CITY OF CORDOVA, ALASKA
RESOLUTION 06-16-24**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CORDOVA, ALASKA
OPPOSING SITING AND TIMING OF U.S. NAVY TRAINING EXERCISES THAT
POSE RISKS TO FISH AND FISHERIES IN THE GULF OF ALASKA**

WHEREAS, the City of Cordova is the governing body with the full power and authority as recognized by the citizens of Cordova, to act for its members, and has the responsibility to provide government for the good health and welfare of its citizens; and

WHEREAS, the U.S. Navy has plans to conduct training activities utilizing explosives, live ordnance, and sonar in the Gulf of Alaska in 2017 that will have impacts on marine life and habitat vital to the interests of the City of Cordova and its citizens; and

WHEREAS, these trainings will impact the waters of the Gulf of Alaska by annually releasing up to approximately 352,000 pounds of expended materials including up to 10,500 pounds of hazardous materials including cyanide, chromium, lead, tungsten, nickel, cadmium, barium chromate, chlorides, phosphorus, titanium compounds, lead oxide, potassium perchlorate, lead chromate, ammonium perchlorate, fulminate of mercury, and lead azide into waters designated by NOAA as Essential Fish Habitat for a multitude of species that support the economic development in Alaskan coastal communities and harvest of wild Alaskan salmon and other fish for global markets; and

WHEREAS, the training area and vicinity is a highly productive region for many marine fish and shellfish populations and supports some of the most productive fisheries in the United States, and an important spawning area for many fish, and the training is scheduled to take place during the summer season when many fish populations are migrating and spawning (at least 383 species belonging to 84 families of marine and anadromous fish have been reported from the predominant ecosystems found in the training area); and

WHEREAS, the port of Cordova is often ranked in the top 15 U.S. ports for quantity of seafood landed and dollar value of seafood harvests (Fisheries of the U.S., NOAA), illustrating coastal Alaska's reliance on the fish and wildlife resources in the Gulf of Alaska for their subsistence harvest and the livelihoods supported by commercial fishing; and

WHEREAS, the City of Cordova supports all cultural, traditional and subsistence activities historically and continually practiced by Native and non-Native peoples in the Gulf of Alaska; and

WHEREAS, the City of Cordova finds no scientific information or traditional knowledge demonstrating that the U.S. Navy's training activities can take place without negatively affecting salmon, marine mammal, bird and other marine habitats.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Cordova, Alaska does hereby request that the U.S. Navy refrain from using live ordnance or sonar in any

Marine Protected Area, including NOAA Fisheries Marine Protected Areas, State Marine Protected Areas and Habitat Areas of Particular Concern; and

BE IT FURTHER RESOLVED that the City Council of the City of Cordova, Alaska hereby requests that the U.S. Navy relocate its training area to the far southeast corner of the current designated training area, off the Continental Shelf areas of the Gulf of Alaska, and away from seamounts; and

BE IT FURTHER RESOLVED that the City Council of the City of Cordova, Alaska requests that the U.S. Navy conduct its training exercises after the middle of September and before the Spring, so as not to impact migrating salmon and other species.

PASSED AND APPROVED THIS 22nd DAY OF JUNE, 2016

Clay Koplín, Mayor

ATTEST:

Susan Bourgeois, CMC, City Clerk

Memorandum

To: City Council
From: City Manager/Planning Staff
Date: 6/20/2016
Re: Resolution 06-16-25

PART I – BACKGROUND

During budget preparation in the fall of 2015 and in general financial discussions throughout the year City Council has encouraged staff to look for alternative funding sources for projects. After receiving notice of this grant from John Bitney, the criteria was reviewed and it was determined that sidewalks on Adams Street would meet the requirements.

The Alaska Transportation Alternative Program (ATAP) grant provides funding for projects defined as alternative transportation. This grant is replacing Safe Routes to School, Recreational Trails Programs, and other alternative transportation grants. Rural (under 5000 population) and urban categories delineate the allocation of the funding. There is also potential funding in a category labeled “any area”, which is available to all applicants. There is \$3.7 million in the rural category and \$9.9 million in the “any area” category.

For this grant cycle, ATAP is only considering shovel-ready projects. Shovel-ready projects are defined as having completed drawings, specifications, and bid documents. Projects must meet ADA requirements to be eligible for this grant. Paving streets is not an eligible project, although replacement of the pavement removed for sidewalk creation is reimbursable under the grant. Improving water quality through storm drain improvements is also eligible. Points are awarded on criteria defined by the ATAP; criteria include ADA sidewalks, ADA connectivity and increasing pedestrian safety. The grant project would include ADA accessible 5 foot wide sidewalks on both sides of Adams, ADA ramps on the corners of Browning and First Street and across the street on First Street (between CVW and Cordova Center), ramp access at all four corners of Adams and First Street which meet Public Rights-of-Way Accessibility Guidelines, and drainage improvements on Adams.

The City is in the middle of a road paving project funded by bond money approved by the voters. In preparation for that project, a survey of Adams was completed in case it could have been included. The engineers who did that work are now finalizing the plans and specs for ADA sidewalks and ramp access points as described above (Adams/First and Browning/First).

The grant will be awarded on July 30, 2016. Final paperwork between the State and the recipient will occur in August 2016 and implementation can begin as early as September. The invitation to bid, award of contract and possible purchase of needed materials by winning contractor could all occur within FY16.

At the June 1, 2016 regular meeting a brief on the grant and the required 20% match was provided to Council. Included in this packet are the 75% drawings, specifications, and cost estimate from the engineers. The drawings and specifications meet ADA requirements. The cross slope of the crosswalk between Adams and First (between old Library and Shoreside service station) is above the ADA required cross slope; (i.e. too steep). In order to meet the ADA requirements a ramp will be placed at the corner of Browning and Main Street, the cross slope of the street at this point meets the ADA requirements.

Staff realizes that the cost estimates provided here are 75% completed and the match cost may go up or down upon finalization. However, due to the short turn around, the final documents will not be available until June 30, which is the date the grant is due. Points are awarded based upon having matching funds available with the highest number of points given to proposals that have a higher than 20% match allocated. The engineers have given a high confidence level that unless an unforeseen issue arises, the 75% estimates herein provided are good to $\pm 5 - 10\%$.

Some Council options:

1. City council agrees to match 25% (or a different amount over 20%) in order to gain the most points possible in the grant scoring
2. City council agrees to match 20% up to \$500,000 total project cost; maximum match would be \$100,000
3. City council could come up with a different option for a match and amend the resolution accordingly

PART II – STAFF RECOMMENDATION

Staff recommends authorizing the match amount by approving the attached resolution. Adams Street is the primary access to First Street from Mount Eccles Elementary School. Students have regularly-scheduled library visits, field trips to the museum, Discovery Room programs in the education room and many children participate in after-school activities also held in the Cordova Center building. ADA sidewalks on Adams Street will connect the ADA sidewalks from Upper Adams and Third Street to First Street. The cross slope issue on First Street at the bottom of Adams forces the project to make the ADA accessibility at the Browning/First Street intersection instead. Fortunately, that enhances the accessibility of the entirety of First Street, allowing ADA accessibility all the way from Lake Avenue, up Third Street, down Adams, right on First – all the way as far as PWSAC or if one crosses at Browning, all the way to Serendipitea.

Relocated and new businesses and the Cordova Center are bringing additional pedestrian traffic to this end of the downtown area. New sidewalks in conjunction with the Copper River Watershed-funded project to improve the snow dump site (behind old Library/Museum), will greatly improve the aesthetics of this central business district area. The potential opportunity to have both projects completed simultaneously allows the City and Copper River Watershed to work together and maximize funding. The beautification of this area stimulated by sidewalks and new and renovated buildings could encourage further business development on First Street which would lead to further enhancement of Cordova's economy.

PART III- SUGGESTED MOTION

“I move to approve Resolution 06-16-25”

**CITY OF CORDOVA, ALASKA
RESOLUTION 06-16-25**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CORDOVA, ALASKA,
AUTHORIZING AMENDMENT TO THE FY16 BUDGET AND AUTHORIZING
EXPENDITURE OF AN AMOUNT NOT TO EXCEED \$_____ TO PROVIDE THE
REQUIRED MATCH FOR THE ALASKA TRANSPORTATION ALTERNATIVES
PROGRAM (ATAP) GRANT FOR ADA ACCESSIBLE SIDEWALKS ON ADAMS STREET**

WHEREAS, the City Council of the City of Cordova, Alaska has adopted the City Operating Budget and appropriated funds for FY16 for the period of January 1, 2016 to December 31, 2016; and

WHEREAS, the City of Cordova is committed to seeking/developing safe routes for our citizens and continually improving the quality of life for Cordovans; and

WHEREAS, currently, visitors, school children and residents walking for either recreation, educational or business purposes must walk on the road shoulder of Adams Avenue which is immediately adjacent to motorized traffic and can be at times unsafe; and

WHEREAS, there is significant need for a safe walking route between Second Street and First Street for the school children who use this route to access the City library and museum in the Cordova Center and all other destinations on First Street in the Central Business District; and

WHEREAS, safe and accessible sidewalks in Cordova, can help address the growing health concern of childhood and adult obesity in our society by providing those interested in walking and/or jogging as an excellent means of rigorous physical activity; and

WHEREAS, adding sidewalks on Adams Street along with the concurrent improvements to the adjacent snow dump site, funded by the Copper River Watershed Project, will significantly enhance the aesthetics of this central downtown area of schools and businesses and City infrastructure; and

WHEREAS, the funding source for this grant match will be the general fund reserve, line item #101-901-57339.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cordova, Alaska that amendment to the FY16 Budget is hereby authorized and expenditure of an amount not to exceed \$_____ to be used to provide the required match for the Alaska Transportation Alternatives Program (ATAP) grant for ADA Accessible sidewalks on Adams Street is also hereby authorized.

PASSED AND APPROVED THIS 22th DAY OF JUNE, 2016

Clay Koplín, Mayor

ATTEST:

Susan Bourgeois, CMC, City Clerk

**CITY OF CORDOVA, ALASKA
RESOLUTION 06-16-26**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CORDOVA, ALASKA,
AUTHORIZING CREATION OF A CITY MANAGER ASSESSMENT COMMITTEE
TO ASSIST WITH THE SELECTION PROCESS OF A NEW CITY MANAGER AND
MAKE RECOMMENDATIONS TO THE CITY COUNCIL ON FINAL
INTERVIEWEES**

WHEREAS, the City of Cordova needs to hire a new city manager; and

WHEREAS, the City Council supports establishing a committee of local citizens and City Council members to assist with the selection process and to make recommendations on final interviewees; and

WHEREAS, the City Manager Assessment Committee shall remain in force until such time Council deems the Committee is no longer needed.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Cordova, Alaska, hereby authorizes the creation of a City Manager Assessment Committee to assist with the selection process of a new city manager and to make recommendations to the City Council on final interviewees.

PASSED AND APPROVED THIS 22nd DAY OF JUNE, 2016.

Clay Koplín, Mayor

ATTEST:

Susan Bourgeois, CMC, City Clerk

Mayor Koplin's City Manager Committee Selections:

Jim Kacsh (confirmed)

Darrel Olsen (confirmed)

Bret Bradford (confirmed)

Alex Russin (confirmed)

Kelsey Appleton (confirmed)

Emma Roemhildt (confirmed)

Rich Rogers (confirmed)

Will Osborne (confirmed)

A MEMO FROM SUSAN BOURGEOIS, CMC, CITY CLERK

DATE: June 20, 2016
TO: Mayor and City Council, Public
SUBJECT: M/V Polar Bear Disposition

City Attorney Holly Wells wrote the attached letter to the owner of the M/V Polar Bear on June 3, 2016. Mr. Smith wrote the attached email on June 7, 2016. *Mayor Koplín* asked for these items on this special meeting agenda. The Cordova Municipal Code provisions that the Attorney's letter references are below.

5.16.400 - Waste or injury to land prohibited—Penalty for violation.

It shall be unlawful for any person to commit waste or other injury upon city-owned tide and contiguous submerged land and the person so offending shall, in addition to being civilly liable for any damages caused, upon conviction be punished in accordance with [Chapter 1.28](#) of this code.

(Prior code § 13.917).

1.28.080 - Penalties and remedies.

- A. Except as otherwise provided in a specific code chapter or section, the penalty for a single violation of a provision of this code shall be a fine not to exceed one thousand dollars and imprisonment for not more than ninety days.
- B. The city or an aggrieved person may institute a civil action against a person who violates a provision of this code. In addition to injunctive and compensatory relief, a civil penalty not to exceed one thousand dollars may be imposed for each violation. An action to enjoin a violation may be brought notwithstanding the availability of any other remedy. On application for injunctive relief and a finding of a violation or a threatened violation, the superior court shall grant the injunction. Each day that a violation of an ordinance continues constitutes a separate violation.

(Ord. 1014 § 1, 2008; Ord. 862, 2000; Ord. 688 § 1(part), 1991).

RECOMMENDED MOTION: Council recommendation to staff for action regarding the M/V Polar Bear.

REQUIRED ACTION: Majority voice vote.



Birch Horton Bittner & Cherot

a professional corporation

Holly C. Wells

Respond to Anchorage Office
T 907.263.7247 • F 907.276.3680
hwells@bhb.com

June 3, 2016

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Mike C. Smith
P.O. Box 1976
Cordova, Alaska 99574

RE: City of Cordova
M/V Polar Bear
Our File No.: 401,777.245

Dear Mr. Smith:

I am the City Attorney for the City of Cordova ("City"), and I am writing about the vessel you own named "M/V Polar Bear." As you know, both the State of Alaska and the City have contacted you regarding the grounding of the vessel on tidelands near the City harbor breakwater. The State has approved the conveyance of this tideland area to the City, and after the approval of the conveyance the City has assumed management authority for the tideland area under AS 38.05.825(c). Thus, any permission that the State may have given for the location of the vessel on this tideland area has been superseded by the City's assumption of management authority.

The City considers the continued presence of the vessel on City-managed tidelands to be a trespass, which is subject to prosecution under Cordova Municipal Code 5.16.400. Each violation of this provision is subject to a penalty of up to \$1,000, and each day during which the violation continues constitutes a separate violation.

You must remove the vessel from City-managed tidelands no later than July 6, 2016. If the vessel is not removed, the penalty described above will begin to accrue from that date. Please also be aware that the vessel may not be berthed in the City harbor, or moored on any other City-owned or managed tidelands. Thank you for your attention to this matter.

Sincerely,

BIRCH HORTON BITTNER & CHEROT

[Handwritten signature of Holly C. Wells]
Holly C. Wells

HCW:psc

----- Forwarded Message -----

From: mike smith <mike99574@yahoo.com>

To: CouncilSeatA@cityofcordova.net, CouncilSeatB@cityofcordova.net

Cc: CouncilSeatC@cityofcordova.net, CouncilSeatD@cityofcordova.net

Sent: Tue, 07 Jun 2016 14:05:13 -0400 (EDT)

Subject: Fw:

--- On Tue, 6/7/16, mike smith <mike99574@yahoo.com> wrote:

> From: mike smith <mike99574@yahoo.com>

> Subject:

> To: alenamearine@aol.com

> Date: Tuesday, June 7, 2016, 9:58 AM

> Hopefully you have received my

> forward of the letter from the city attorney concerning the Polar

> Bear. The source for this "city" action is the retiring manager as

> attested to by himself. I had hoped that he would spare us all this

> waste of time and effort. Does he dislikes you folks as much as he

> dislikes me?

>

> I'm not sure what the procedure would be but I am asking that the

> "city" back off until actual residents can consider the situation.

>

> Obviously I have a personal interest but there are good and sufficient

> reasons with no dependence on that.

> -the residents in this city are supposed consider and generally direct

> their affairs their affairs and the mgr is supposed to professionally

> implement their wishes.

> -since the council has not yet considered the PB the mgr is premature

> at the very least.

> -the mgr is also setting legal precedents, distorting port policies

> and incurring legal costs and simply leaving a mess behind by

> initiating pointless legal wrangling and fostering pointless ill will.

>

> The immediate legal quandary for the "city" is that a) the letter

> itself is a problem and b) a legal opinion by the city attorney on

> legal worth of their own work may also be a problem.

> In consideration of the letter:

> -it is not clear how the ordinance cited applies. How violated, how

> any determination was made ...etc are all nonsense unless it does

> apply somehow -The MANAGER HAS NO AUTHORITY to proceed as he has. The

> city hires a harbor master as the professional to deal with that part

> of business (standard for a port city) because specific expertise is

> needed. For some decisions it is the harbor master who is the man in

> authority. Relevant example:

- > transient moorage (versus reserved) "...shall be open to all members
- > of the public." For some reasons (e.g. safety) the HARBOR MASTER may
- > exclude a vessel from a particular place/situation. Otherwise.....
- > -My understanding is that a port may for some good cause (e.g.
- > contagion on board) restrict a vessel. Banning a vessel as stated in
- > the letter requires a serious legal specialist. Otherwise.....
- > -It is the MANAGER who is in clear violation of city ordinance.