

**CITY COUNCIL REGULAR MEETING
JUNE 19, 2013 @ 7:30 PM
LIBRARY MEETING ROOM
MINUTES**

A. CALL TO ORDER

Mayor James Kacsh called the Council Regular Meeting to order at 7:30 pm on June 19, 2013, in the Library Meeting Room.

B. INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor James Kacsh led the audience in the Pledge of Allegiance.

C. ROLL CALL

Present for roll call were *Mayor James Kacsh* and Council members *Kristin Carpenter, David Allison, Bret Bradford, David Reggiani* and *James Burton*. Council members *Tim Joyce* and *EJ Cheshier* were absent. Also present were Interim City Manager *Don Moore*, City Clerk *Susan Bourgeois* and a representative from Birch Horton Bittner & Cherot, the City Attorney, *Cortney Kitchen*.

D. APPROVAL OF REGULAR AGENDA

M/Reggiani S/Allison to approve the Regular Agenda.

Vote on main motion: 5 yeas, 0 nays, 2 absent (Cheshier, Joyce). Motion passes.

E. DISCLOSURES OF CONFLICTS OF INTEREST

Kristin Carpenter said she had a perceived conflict on agenda item 8 because she works for the CRWP which is doing the grant for the project mentioned there. *Mayor Kacsh* agreed that she was conflicted and asked her to refrain from discussing and voting upon that item when it was before Council.

F. COMMUNICATIONS BY AND PETITIONS FROM VISITORS

1. Guest Speaker – none

2. Audience comments regarding agenda items

Kristin Carpenter spoke in support of approving the resolution regarding accepting an easement for the Eyak Mountain Trail. She said when the item came up for approval she would like to assist with an amendment to the resolution that the Council might like to make concerning future protection for the landowner who is giving the easement – protection in that the granting of the easement would not impede her future replat of the affected lots.

3. Chairpersons and Representatives of Boards and Commissions

Harbor Commission Council Representative *Burton* said the last meeting was canceled for lack of a quorum.

HSB representative *Allison* said that the Board will have its regular quarterly meeting on the first Wednesday in July.

P&R representative *Kristin Carpenter* reported that there hadn't been a meeting since the last Council meeting.

P&Z representative *Reggiani* reported that they had a meeting and the easement request for the trail proposal before Council tonight had been discussed there as well as discussion concerning planning to update the comprehensive plan. The commission will be forwarding a recommendation to Council concerning that.

School Board representative *Bret Bradford* said he was not in attendance at last week's school board meeting but that it was chaired by *Dan Reum* and it was a record short meeting.

4. Superintendent's Report - *Theresa Keel* was not present.

G. APPROVAL OF CONSENT CALENDAR

Mayor James Kacsh informed Council that the consent calendar was before them.

Reggiani called out item 8. *Allison* called out item 7. *Bradford* called out item 6. *Mayor Kacsh* placed them as items 21a, 21b, and 21c respectively.

5. Resolution 06-13-34 A resolution of the City Council of the City of Cordova, authorizing the City Manager to enter into a 5 year lease of property legally described as a portion of USS 2679 and within the Cordova High School, to include approximately 1,203 square feet of classroom and office space known as "classroom #3" and the "multi-purpose room" of the Cordova High School's library with the University of Alaska, on behalf of the University of Alaska, Prince William Sound Community College's Cordova campus

~~6. Resolution 06-13-35 A resolution of the City Council of the City of Cordova, Alaska, approving new personnel classification and pay plan schedule~~

~~7. Resolution 06-13-36 A resolution of the City Council of the City of Cordova, Alaska, authorizing a 2.25% wage increase for all exempt (non-union) employees of the City of Cordova, except for the City Manager and the City Clerk, effective June 1, 2013~~

~~8. Resolution 06-13-37 A resolution of the City Council of the City of Cordova, Alaska, accepting a 10 foot wide conservation easement from Linden's Land Company, Inc., across portions of Lots 16 and 17, Block 46, and Lots 1-11, Block 45, Cordova Townsite in order to provide public access to the Eyak mountain trail~~

9. Approval of exception for Copper River Wild Salmon Festival, July 26-27

Vote on Consent Calendar: 5 yeas, 0 nays, 2 absent. Burton-yes; Bradford-yes; Joyce-absent; Cheshier-absent; Carpenter-yes; Reggiani-yes and Allison-yes. Consent Calendar was approved.

H. APPROVAL OF MINUTES

M/Reggiani S/Bradford to approve the Minutes.

10. Special Meeting Minutes 04-11-13

11. Board of Equalization Minutes 04-15-13

12. Regular Meeting Minutes 06-05-13

Vote on main motion: 5 yeas, 0 nays, 2 absent (Cheshier, Joyce). Motion passes.

I. CONSIDERATION OF BIDS - none

J. REPORTS OF OFFICERS

13. Mayor's Report

Mayor Kacsh said he had a written report in the packet. He said he is trying to start a conversation with the governor's office about the Cordova Center and he finally got a call back Monday from *Randy Ruaro*, in the Governor's office and they are interested in us putting together a package with pictures etc. of the project (i.e. Cordova Center). Council had a lengthy discussion regarding lobbying and *John Bitney* and the *Mayor* taking a trip to Kodiak this summer, etc.

14. Manager's Report – *Moore* said, Mr. Mayor and members of the Council. I did submit a written report albeit late, it didn't make the published packet; I sent it out electronically. I'd just like to mention a few of the things that aren't in there and things I have added since. One is the Mayor and Council member email accounts. We think it's important to bring the City email use into compliance with the Open Meetings Laws, public records laws, and I've attached a memorandum that we have worked up that outlines what we need to do to do this. The use of emails these days, personal emails, for official business and that sort of thing has come again under a lot of discussion lately and its getting involved in when the City or whatever government has a lawsuit, if there has been official business conducted by personal email that opens up those personal emails to subpoena and everything else. Probably the best known one in this state is the Palin incident where as I understand it, what came out of that finally was that you can conduct official business over personal emails but it does open those emails to court action if there is seizure or something like that and it makes them public record. The system we propose is fairly simple. We would assign every elected official an email address and we would direct the staff to only communicate official business to that email address. Now what you do with that once you get it, in fact you could set your system up to forward that to your personal account if you wanted to and that's up to you just keep in mind that if you answer back through your personal email account that would attach to the public records laws and that sort of thing. We will assign you a password and you can change that to whatever you want. We would just like to communicate through the official channels from the administrative side. *Carpenter* said so from now on all of our City emails

regarding Council will be coming to that email address? **Moore** said yes, it will come to that email address only. Like I say, if you want to forward it to another account that's fine, and that can be done automatically. **Reggiani** said, first off, I think what you said is that this is going to bring the City's email system into compliance, your opening statement, I am thinking that probably isn't what you meant because I don't think, that would imply that we are out of compliance. Well, **Moore** said, we are not really out of compliance, with anything. **Reggiani** said that's my understanding. For the record, I wanted that to be in the record; that the City is not out of compliance. **Moore** said, that's a good point, it's not really out of compliance, it's open to risk. **Reggiani** said, I'd like to suggest we have a discussion with counsel, with our legal counsel, and I don't know which one we are working with on this one; if it's **Holly** or somebody else. **Cortney Kitchen** was present and said I am prepared to answer questions. **Reggiani** said I think we need to kick it back, one, I am not in favor of this, I don't see that we are at the point of going through the server and then having it forwarded to a personal email I don't really know how that does anything. Like you said it would open up the personal email to public record. Quite frankly don't need another email account to keep track of or lose things in. I have already turned back my envelope to the Clerk and asked that I am going to have to accept that but at the same time we have all these last minute handouts before a meeting, those need to go to an email account that I am on, and checking all of the time I certainly didn't reply to any of those so I am not really sure it matters where it went. If it left the server then there's a record if you sent it to me, and if I'm not sending it back, they can subpoena my account and look at so I don't think there's any risk if I don't do any official business. Of recent, I have been with the City Clerk's contract so maybe that goes through legal counsel instead of through a personal email account. So anyway, I want to kick it back and maybe have a discussion with our attorney about it other than the one who's present, a little more familiar with the risks and all of that. **Moore** said that is fine as long as you know that if we are directed to send official business to your email account that is definitely going to open it up to whatever action might occur. **Reggiani** said, but again, I don't see a compliance issue there. We are doing it that way now and having another email account being forwarded to our email account is just going to, I don't see that doing anything. **Moore** said, I am not suggesting that you forward to your email account, I'm saying that if you do that, you can do that, there's nothing to prevent that, I just want to make sure that the staff doesn't send official business to anywhere other than official channels. **Reggiani** said, then I will request it in paper and be put in my inbox. **Carpenter** said you can set up a forward, **Reggiani** said I know you can, I don't see the point in that because it is on the record if they send it from a personal email account because it's leaving their outbox. **Reggiani** said, I just think we need to have the discussion and talk about it a little more. I don't know if I am the only one on Council who feels this way. **Bradford** said I'm with you **Dave**, I've been getting packets and meeting notifications and correspondence for I don't know, fifteen or twenty years, from **Susan**, oh no four years, but my point is that I give that email address with the understanding that if there's a subpoena or some court appeal going on, they can have my computer, my email address, I don't care. That's just part of the deal so I'd just as soon leave it the way it is personal, I don't see how the City would be at risk by sending you what they should send you to my email address. To follow that up, for me to get another email account, I guess I would need to see why it, what the City's risk is there. **Moore** said, part of my job is to give you my advice and my advice is that you do official business through official channels, you know this is going to be a legacy when you leave the Council too if there are issues that you might be working on now that don't become some kind of conflict until after you are no longer a Councilman yet your past email account is still subject to some kind of action. **Mayor Kacsh** said I was also going to mention I don't think the risk is necessarily the City's as much as it is us as volunteers. The City is not really putting anything out there; the risk is actually to us. Whereas, our personal stuff could be at risk by using our personal emails for official business. So down the road if something were to happen, it's just a liability if something were to happen. That's what they're trying to protect, you, as a volunteer. **Reggiani** said he appreciates that, I guess I don't really understand, what official work we are doing outside of the City server because if the City sends me an email, it came from the City so there is a record of that. If I reply to that, if I reply to **Susan** there's going to be a record of her receiving it so I guess, out of network, I don't know – I'm not doing any official business out of network. He said what he is trying to do here is express his feelings and circle back at a later time to

talk about it again when it's an agenda item. **Mayor Kacsh** said we can put that on the next agenda. **Allison** said he agreed and it warrants a discussion and this probably isn't the time to debate the issue. **Mayor Kacsh** – we can talk about that, we can put it on the next agenda; where we can have a good discussion about it with a little more information. **Burton** said, I guess I'm the only one that likes it. **Moore** said we'll hold off on that until we've had the chance to discuss it.

Moore said he also attached to his report a couple of letters that were sent to the contractors on the Cordova Center and a letter he wrote to the PWSSC concerning their request for leases/purchases on four different City properties. **Moore** said a draft has gone back and forth between himself and the prospective City Manager, **Randy Robertson**. He has a final version and has handed that to Council as well. With the dry weather, the water levels have been a concern, however, we are ok because the warm weather has also meant a great deal of melt and we are doing fine. **Moore** understands that when canneries ramp up for pinks there could be more of a strain on the water supply.

M/Reggiani S/Bradford to recess for 5 minutes at 8:15 pm. Meeting was reconvened at 8:20 pm. Council member **Cheshier** arrived at the meeting via teleconference.

15. City Clerk's Report – **Bourgeois** said that property tax bills would be in the mail July 1. They are ready to go in the new software system – Caselle. She mentioned a staff meeting she had attended to discuss provisions in the new Title 4 – personnel policies and procedures manual that had been written by the City Attorneys. She said it was very productive and they hoped to have a few more meetings such as that one.

K. CORRESPONDENCE

- 16.** Email from James Mykland in re North Fill and Cordova Center
- 17.** Letter from Governor Parnell in re Cordova Capital Priorities 06-05-13
- 18.** Alaska Municipal League annual membership dues statement 05-20-13
- 19.** Letter from Senator Stevens to Mayor in re Fish Follies invitation

L. ORDINANCES AND RESOLUTIONS

20. Ordinance 1109 An ordinance of the City Council of the City of Cordova, Alaska, amending Cordova Municipal Code Title 11 entitled “port and harbor facilities” to update all provisions, to improve readability and clarity, to comply with federal and state law, and to revise the auction procedures for impoundment of nuisances and the disposal of vessels – 2nd reading

M/Reggiani S/Burton to adopt Ordinance 1109 an ordinance of the City Council of the City of Cordova, Alaska, amending Cordova Municipal Code Title 11 entitled “port and harbor facilities” to update all provisions, to improve readability and clarity, to comply with federal and state law, and to revise the auction procedures for impoundment of nuisances and the disposal of vessels.

Moore said this was reviewed by staff (planner and harbor master) and back to the attorney and then to Council. The one question Council had at the first reading was whether to remove the penalties from Code and put them in the fee schedule annually. The attorney opined that the penalties should remain in the code. Fees are for the fee schedule not penalties. There was discussion regarding whether a dollar a day penalty was enough to deter. Council decided to keep it as it was (i.e. \$31/month penalty).

Vote on the motion: 6 yeas, 0 nays, 1 absent: Carpenter-yes; Bradford-yes; Joyce-absent; Cheshier-yes; Burton-yes; Reggiani-yes and Allison-yes.

21. Resolution 06-13-38 A resolution of the City Council of the City of Cordova, Alaska, appointing an Acting City Manager

Mayor Kacsh said that Council will need to appoint someone to be acting manager until the new manager arrives. His suggestion to Council was to appoint **Moe Zamarron**. **Bradford** asked when **Robertson** would be here. **Moore** said that his start date will be August 5. **Moore** said he thinks there are a number of City employees in this room who could do the job. He said it should be entirely a Council decision. He said that **Moe** as the public works director is involved in things that the public sees everyday (i.e. baler, landfill, water etc.). He thinks he would be an excellent choice.

M/Reggiani S/Carpenter to approve Resolution 06-13-38 a resolution of the City Council of the City of Cordova, Alaska, appointing *Moe Zamarron* as Acting City Manager. He added – to insert *Moe Zamarron* in the blanks in the resolution.

Vote on motion: 6 yeas, 0 nays, 1 absent (Joyce). Motion passes.

Item 21a. or original agenda item 6. Resolution 06-13-35 A resolution of the City Council of the City of Cordova, Alaska, approving new personnel classification and pay plan schedule

M/Carpenter S/Burton to approve Resolution 06-13-35 a resolution of the City Council of the City of Cordova, Alaska, approving new personnel classification and pay plan schedule.

Moore said that code does say that the Manager should review the classification plan at least annually and he did so and believes that four positions stood out as not in the appropriate place in the classification. He did both an internal review (comparing their duties to other department heads/ # of people supervised, City infrastructure under their control, etc.) and an external review/comparison to other similar sized and similarly complex communities in Alaska to arrive at a new place for these four positions in the classification and pay plan schedule.

Allison said he has no problem with the increases, but he sees where the memo says it will be handled and absorbed in the budget yet the fiscal note says an appropriation is necessary – so which is it? It was determined that the fiscal note was the error and it was to be absorbed in the different funds and budgets.

Reggiani said he is supportive but his concern is that this should be accomplished at budget time and such increases should be aligned when budgets are approved. *Moore* agreed wholeheartedly and will advise *Mr. Robertson* to do exactly that for future budget cycles.

Vote on motion: 6 yeas, 0 nays, 1 absent (Joyce). Motion passes.

Item 21b. or original agenda item 7. Resolution 06-13-36 A resolution of the City Council of the City of Cordova, Alaska, authorizing a 2.25% wage increase for all exempt (non-union) employees of the City of Cordova, except for the City Manager and the City Clerk, effective June 1, 2013

M/Allison S/Reggiani to approve Resolution 06-13-36 a resolution of the City Council of the City of Cordova, Alaska, authorizing a 2.25% wage increase for all exempt (non-union) employees of the City of Cordova, except for the City Manager and the City Clerk, effective June 1, 2013

Moore said this has been done frequently that when the union employees receive an increase, then the exempts do as well – he included the cost which he is asking for an appropriation to accomplish.

Vote on the motion: 6 yeas, 0 nays, 1 absent: Cheshier-yes; Allison-yes; Bradford-yes; Joyce-absent; Carpenter-yes; Burton-yes and Reggiani-yes.

Item 21c. or original agenda item 8. Resolution 06-13-37 A resolution of the City Council of the City of Cordova, Alaska, accepting a 10 foot wide conservation easement from Linden’s Land Company, Inc., across portions of Lots 16 and 17, Block 46, and Lots 1 – 11, Block 45, Cordova Townsite in order to provide public access to the Eyak mountain trail

M/Reggiani S/Burton to approve Resolution 06-13-37 a resolution of the City Council of the City of Cordova, Alaska, accepting a 10 foot wide conservation easement from Linden’s Land Company, Inc., across portions of Lots 16 and 17, Block 46, and Lots 1 – 11, Block 45, Cordova Townsite in order to provide public access to the Eyak mountain trail

M/Reggiani S/Allison to amend by inserting a seventh whereas that says... “Linden’s Land Company and the City recognize that the conservation easement is not intended to impede or interfere with future re-platting of the property or vacation of rights of way subject to the conservation easement”

Reggiani asked the *City Planner* if she has reviewed the amendment and it works. *Sam Greenwood* stated that it works and is legal and makes sense.

Vote on motion to amend: 5 yeas, 0 nays, 1 absent (Joyce), 1 conflicted (Carpenter). Motion passes.

Vote on main motion: 5 yeas, 0 nays, 1 absent (Joyce), 1 conflicted (Carpenter). Motion passes.

M. UNFINISHED BUSINESS

22. Approval of Safe Routes to School conceptual design

M/Allison S/Reggiani to approve the Safe Routes to School conceptual design for sidewalks and crosswalks as outlined in the USKH 3/23/2011 drawings and to direct staff to continue with the process to develop the Safe Routes to School on Third Street.

Allison said the record is clear, planning and staff has handled it and the project needs to move forward.

Vote on motion: 6 yeas, 0 nays, 1 absent (Joyce). Motion passes.

23. Council approval of City Clerk's Draft Employment Agreement

(may be discussed in executive session)

M/Reggiani S/Bradford to approve the City Clerk's employment agreement as outlined in the packet starting on page 71.

Bourgeois said she has sent the Council several edits to the contract that she is suggesting. She asked if Council wanted to address them one at a time. *Mayor Kacsh* said, yes, that is fine. *Bourgeois* said that she had spoken with *Amy (Limeres)* the City Attorney who works with personnel contracts to edit a few things just for form, grammar, etc. Otherwise *Bourgeois* went on to say that she asked for a salary increase equal to the 2.25% that Council just gave the union and exempt employees. *Bourgeois* also asked for a salary increase to be built into the contract equal to any increase given to exempts over the course of the contract. *Bourgeois* stated that an important concern to her was the leave accrual and carry-over. *Bourgeois* asked for accrual to remain at 240 hours/year but asked that the carry-over be increased to 480 hours and that at year-end anything above 480 be cashed-out instead of forfeited. Along with that *Bourgeois* wanted **all** annual leave to be cashed out at separation. *Bourgeois* stated that she had arrived at these numbers and provisions by researching many other municipalities' codes and personnel policies. *Bourgeois* said that she felt that her request falls somewhere in the middle of what is offered at other places. *Bourgeois* stated that she had the misfortune of having annual leave wiped off the book in the amount of 90+ hours at the end of 2011 and she believed that that was never Council's intention to make someone feel the loss of money going out the door to the tune of 90+ hours of salary. *Bourgeois* said that her suggestion of cash out above the max allowed at year end would remedy that. *Bourgeois* asked if there were questions or concerns – she hoped they could negotiate her contract at this point.

Reggiani said he certainly had no questions for the Clerk; he wanted to know if that was the extent of the counteroffer.

Bourgeois responded in the affirmative.

M/Reggiani S/Burton to go into executive session to discuss matters the immediate knowledge of which would clearly have an adverse effect on the finances of the government specifically to seek advice from counsel.

Allison said he would prefer to postpone until after Council comments.

M/Reggiani S/Burton to postpone the executive session until before item 29.

Vote on motion: 6 yeas, 0 nays, 1 absent (Joyce). Motion passes.

24. Health Care Housing grant update

Mayor Kacsh said that *Bitney* is working on a grant for us and he may need Council direction in the near future so this will come before us again.

N. NEW & MISCELLANEOUS BUSINESS

25. Approval of City Manager contract for employment with Randy Robertson

(draft contract will be brought to the meeting – may be discussed in executive session)

M/Reggiani S/Allison to postpone this item to a special meeting early next week as the manager suggested.

Vote on motion: 6 yeas, 0 nays, 1 absent (Joyce). Motion passes.

26. Redistricting – discussion/update – *Mayor Kacsh* said that the last date to redraw and look at new maps is June 21. We have a few options. There was a concurrence of Council to have *Bitney* at an upcoming meeting to hear his opinions and have a good discussion with him about this.

27. Pending Agenda and Calendar

June 24 – noon meeting for the Manager’s contract and Bitney to discuss redistricting and lobbying efforts out of session. June 26 – noon meeting for the City Manager’s exit interview/report to Council.

O. AUDIENCE PARTICIPATION

Paul Trumblee said – you guys do a great job.

P. COUNCIL COMMENTS

27. Council Comments

Burton thanked Don for an incredible job; had good comments for the road crews – happy about that.

Allison also thanked Don for the work he has put in; he wondered about the timeline for the Acting City Manager, seemed like there were no dates in there. *Moore* said he’d be mentoring *Moe* until midnight on the 28th of June. *Allison* thanked the exempts he said it was only a pittance that we gave them – but they are appreciated. He thanked all of City staff – we have a great crew.

Reggiani thanks to everyone – especially *Don*.

Bradford thanked *Don* as well – inherited a mess and has pulled it off – he’s made a big difference in our town.

Carpenter echoed all the comments – *Don* has been a great “steady at the helm” presence – calm, etc. Also, she is happy to hear about the things going on in Public Works – water leaks being fixed and recycling, etc.

Mayor Kacsh also expressed his gratitude to *Moore* – an invaluable asset.

Q. EXECUTIVE SESSION

Item 28 a. original agenda item 23. Council approval of City Clerk’s Draft Employment Agreement

M/Reggiani S/Bradford to go into executive session for matters the immediate knowledge of which would clearly have an adverse effect on the finances of the government, specifically reviewing the counteroffer from the City Clerk on her employment agreement.

Vote on motion: 6 yeas, 0 nays, 1 absent (Joyce). Motion passes.

Council entered the executive session at 9:32 pm and reconvened the regular meeting at 10:37 pm.

Reggiani stated that in the executive session, Council reviewed the counteroffer and directed the City Attorney to write a summary of the items that were agreed to and those that were not agreed to and to communicate those with the City Clerk tomorrow. Then, the contract will be on the special meeting agenda on Monday.

29. Attorney advice regarding PWSSC land disposal

M/Allison S/Bradford to go into an executive session to discuss matters that are attorney client privileged in re negotiations, specifically land dealings with the PWSSC.

Vote on motion: 6 yeas, 0 nays, 1 absent (Joyce). Motion passes.

Council entered executive session at 10:38 pm; Council came out of executive session at 10:54 pm.

30. Cordova Center Finances – Attorney advice/update

M/Bradford S/Allison to go into an executive session to discuss matters the immediate knowledge of which would clearly have an adverse effect upon the finances of the government, specifically Cordova Center finances.

Vote on motion: 6 yeas, 0 nays, 1 absent (Joyce). Motion passes.

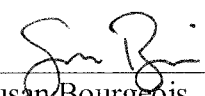
Council entered executive session at 10:54 pm; Council came out of executive session at 10:58 pm.

Mayor Kacsh said we are out of executive session and no action was taken.

R. ADJOURNMENT

M/Reggiani S/Bradford to adjourn the regular meeting at 10:59 pm; with no objection, the meeting was adjourned.

Approved: July 17, 2013

Attest: 
Susan Bourgeois, City Clerk

