

City of Kodiak Regular Council Meeting Agenda for March 14, 2019
7:30 p.m., at 710 Mill Bay Road, Assembly Chambers (Room 232)

- I. Call to Order/Roll Call**
Invocation/Pledge of Allegiance

- II. Previous Minutes**
Approval of Minutes of the February 28, 2019, Regular Council Meeting 1

- III. Persons to Be Heard**
 - a. Public Comments (limited to 3 minutes) (486-3231)

- IV. Unfinished Business**
 - a. Executive Session for the City Manager’s Annual Performance Review 5
(Clerk’s Note: this may be done at this time on the agenda, or a motion may be made to Suspend the Rules and move this to follow Audience Comments at the end of the agenda.)

- V. New Business**
 - a. First Reading, Ordinance No. 1384, Repealing and Re-enacting Chapter 2.36 of the Kodiak City Code Pertaining to Management of Records and Amending Chapters 13.04, 13.16, 18.28, and 18.36..... 6
 - b. Resolution No. 2019–06, Adopting the Federal Fiscal Year 2019 Supported Federal Issues List and Fiscal Year 2020 Federal Projects Capital List33
 - c. Reappointment of Wayne Donaldson to the City of Kodiak Seat on the Prince William Sound Regional Citizens’ Advisory Council40

- VI. Staff Reports**
 - a. City Manager
 - b. City Clerk

- VII. Mayor’s Comments**

- VIII. Council Comments**

- IX. Audience Comments** (limited to 3 minutes) (486-3231)

- X. Executive Session**
 - a. Legal Advice re Chiesa v. City of Kodiak44

- XI. Adjournment**

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**MINUTES OF THE REGULAR COUNCIL MEETING
OF THE CITY OF KODIAK
HELD THURSDAY, FEBRUARY 28, 2019
IN THE BOROUGH ASSEMBLY CHAMBERS**

I. MEETING CALLED TO ORDER/INVOCATION/PLEDGE OF ALLEGIANCE

Mayor Pat Branson called the meeting to order at 7:31 p.m. Councilmembers Laura B. Arboleda, Randall C. Bishop, Richard H. Walker, and John B. Whiddon were present and constituted a quorum. Councilmembers Charles E. Davidson and Terry J. Haines were absent. City Manager Mike Tvenge, City Clerk Debra Marlar, and Assistant Clerk Annika Woods were also present.

Salvation Army Major Dave Davis gave the invocation and the Pledge of Allegiance was recited.

II. PREVIOUS MINUTES

Councilmember Whiddon MOVED to approve the minutes of the February 14, 2019, regular meeting as presented.

The roll call vote was Councilmembers Arboleda, Bishop, Walker and Whiddon in favor. Councilmembers Davidson and Haines were absent. The motion passed.

III. PERSONS TO BE HEARD

a. Public Comments

Lawrence Anderson, Senior Citizens of Kodiak, Inc. Board of Director and local Kodiak resident, gave a quarterly report detailing the various services provided to seniors. He stated the Kodiak Senior Center is the only program in the state that delivers meals to homes seven days a week. The Senior Center is also the lead agency for Kodiak Area Transit System. He shared the Senior Center is one of the seven centers in the country to be nationally accredited by the National Institute on Aging and National Institute of Senior Centers. He thanked the City for its continued support.

IV. UNFINISHED BUSINESS

None

V. NEW BUSINESS

a. Authorization of Contract Amendment No. 2 to the Professional Services Contract With Jacobs for WWTP Upgrade, Phase I Condition and Process Assessment, Project No. 7522/18-04

Preliminary WWTP Effluent Disinfection Feasibility Study and Condition and Process Assessments are complete. The next step in engineering for the WWTP Upgrade Project is to design the effluent disinfection system mandated by the current APDES Discharge Permit. It has been determined that Ultraviolet (UV) method of disinfection is the best option. The work will be performed under the existing contract and will be administered under Contract Amendment No. 2.

Councilmember Walker MOVED to authorize Contract Amendment No. 2 to the Professional Services Contract with Jacobs for WWTP Upgrade, Phase I Condition and Process Assessment, Project No. 7522/18-04 in the amount of \$468,000 with funds from Project No. 7522 and authorize the City Manager to sign documents on behalf of the City.

The roll call vote was Councilmembers Arboleda, Bishop, Walker and Whiddon in favor. Councilmembers Davidson and Haines were absent. The motion passed.

b. Authorization of Professional Services Agreement With Dianne Blumer for State Legislative Lobbying Services.

A Request for Proposal (RFP) for State legislative lobbying services was issued on January 17, 2019. The RFP was published in the Kodiak Daily Mirror, Anchorage Daily News, and Juneau Empire. Four proposals were received by the deadline. The Lobbyist Review Committee met on February 15, 2019, and reviewed the proposals and selected two candidates for an interview. The Lobbyist Review Committee met on February 21, 2019, and interviewed the two candidates. The committee recommended Dianne Blumer to be the City's state lobbyist.

Councilmember Arboleda MOVED to authorize Professional Services Agreement No. 241767 with Dianne Blumer, dba Blumer & Associates from March 1 through December 31, 2019, in the amount of \$36,050 with funds coming from the General Fund Legislative Professional Services account and authorize the City Manager to sign the documents on behalf of the City.

The roll call vote was Councilmembers Arboleda, Bishop, Walker, and Whiddon in favor. Councilmembers Davidson and Haines were absent. The motion passed.

VI. STAFF REPORTS

a. City Manager

Manager Mike Tvenge shared Gorman Rupp Company is in production of lift stations 3 and 4. This project began last summer, completing the bypass system compatible with the new pumps; installation of the new lift stations is scheduled for June and is expected to be completed in July. These two sewer lift stations are located adjacent to Marine Way near the bridge and Father Herman Street. Brechan Construction LLC is the local general contractor doing the ground work and will also be involved in the install. Gorman Rupp will be here for the startup test.

He said a Kodiak tsunami operations workshop will occur at Best Western Hotel Harbor Room March 12-14, 8 am to 4 pm, with the goal of strengthening community preparedness for tsunami events. Alaska Division of Homeland Security and Emergency Management is sponsoring. He encouraged the community to attend.

Manager Tvenge shared that Alstar Communications, accompanied by Chief of Police Putney and Lieutenant Dela Fuente, toured the tsunami sirens along the Kodiak road system. They also met with several local contractors, Aksala Communications, and Kodiak Electric Association. These organizations provided input to assist with a siren replacement report we expect to have late next month. The information provided in the report will be used to solicit request for proposals to upgrade our emergency warning system.

b. City Clerk

City Clerk Debra Marlar stated the next work session is Tuesday, March 12 at the Kodiak Public Library, and the next regular meeting is Thursday, March 14 in the Borough Assembly Chambers.

VII. MAYOR'S COMMENTS

Mayor Branson said she attended AML with Councilmembers Whiddon and Davidson and met with Governor Dunleavy. The governor said he is "all ears" to hear what the residents think of the proposed budget. Mayor Branson announced a town hall meeting will be held Saturday, March 30 at the end of Comfish. She said the community is encouraged to attend to offer solutions and respond to governor's budget.

VIII. COUNCIL COMMENTS

Councilmember Walker said he was glad to hear the lift stations are being manufactured. He stated the Waste Water Treatment Plant update is government mandated, and the City doesn't have an option in investing in it. He said the change also affects other communities besides Kodiak. He stated the UV system is one of the best available. He thanked Mayor Branson for talking to the Governor at AML and setting up the forum during Comfish to ensure good attendance. He commented that a lot of people expressed concern about the Near Island Plan at the Council work session, and he appreciated their comments. He provided insight that he would like to explore additional plans that foster economic development.

Councilmember Arboleda thanked City staff for what they do and encouraged everyone to sanitize their hands during the flu season.

Councilmember Whiddon thanked Lawrence Anderson for his attendance. He stated the quarterly report Mr. Anderson presented illustrates how important the senior center is for the community. He thanked Mr. Anderson and the board for everything they do to make seniors' quality of life better. Councilmember Whiddon shared that a Fisheries Work Group meeting was held yesterday and gave an update on the topics discussed. He reminded everyone of the next Fisheries Work Group meeting, which is March 27. He thanked everyone who came to discuss the Near Island Development Plan during the work session on Tuesday. He said while no decision had been made, it seemed pretty clear what the public wanted. He stated Near Island is one of the jewels of Kodiak.

Councilmember Bishop reminded everyone that the next discussion of The Near Island Development Plan is March 26 during the City Council work session at the Kodiak Public Library. He thanked everyone who showed up to give public comment. He stated outside entities do not have the emotional connection to Near Island like Kodiak residents do.

IX. AUDIENCE COMMENTS

None

X. ADJOURNMENT

Councilmember Whiddon MOVED to adjourn the meeting.

The roll call vote was Councilmembers Arboleda, Bishop, Walker and Whiddon in favor. Councilmembers Davidson and Haines were absent. The motion passed.

The meeting adjourned at 7:59 p.m.

CITY OF KODIAK

MAYOR

ATTEST:


CITY CLERK

Minutes Approved:

UNFINISHED BUSINESS

MEMORANDUM TO COUNCIL

To: Mayor Branson and City Councilmembers

From: Mike Tvenge, City Manager 

Date: March 14, 2019

Agenda Item: **IV. a. City Manager's Annual Performance Review**

SUMMARY: Annually, the City Council reviews the performance of the City Manager. In accordance with the Open Meetings Act, the City Manager does not object to the evaluation being done in executive session. The motion to enter into executive session for this review was originally made and postponed at the December 13, 2018, regular meeting.

*Clerk's Note: The motion to enter into executive session to perform the Manager's annual review was made at the December 13, 2018, regular meeting and then postponed until more Councilmembers were present. The motion is currently on the floor. **If** the Council desires to conduct the Manager's review later in the agenda, the following motion is suggested:*

Move to suspend the rules and perform the Manager's annual performance review following Executive Session item a.

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NEW BUSINESS

MEMORANDUM TO COUNCIL

To: Mayor Branson and City Councilmembers
From: Mike Tvenge, City Manager and Debra Marlar, City Clerk ^{DM}
Thru: Michelle Shuravloff-Nelson, Records Manager ^{MS}
Date: March 14, 2019

Agenda Item: V. a. **First Reading, Ordinance No. 1384, Repealing and Re-enacting Chapter 2.36 of the Kodiak City Code Pertaining to Management of Records and Amending Chapters 13.04, 13.16, 18.28, and 18.36**

SUMMARY: Ordinance No. 1384 repeals and re-enacts the records management ordinance, and it amends chapters 13.04 (Water System Regulations), 13.16 (Sewer Regulations), 18.28 (Port and Harbor Facilities) and 18.36 (Kodiak Municipal Airport). Over the last five years a substantial increase in public records requests has occurred. The Clerk's office and City Manager's office have worked with the City Attorney to develop this draft ordinance, which was prepared by our City Attorney, Brooks Chandler. His memo outlining the revisions are included (Attachment B). The focus of the revisions were to assure that the ordinance covered applicable state law for records, and that there is a balance between public access and an individual's right to privacy. Staff recommends Council pass Ordinance No. 1384 in the first reading.

PREVIOUS COUNCIL ACTION:

- 1975, Ordinance No. 432 amended KCC 2.36 by providing for the retention, disposal, and microfilming of public records
- 1990, Ordinance No. 887 amended KCC 2.26 by the addition of a section on confidentiality of personnel records
- 2003, Ordinance No. 1160 enacted KCC 2.36.030 through 2.36.030, which clarified public access to law enforcement records
- 2006, Ordinance No. 1203 repealed KCC 2.36 Public Records and enacted KCC 2.36 Management of Records
- 2009, Ordinance No. 1254 amended KCC 2.36 to prohibit public access to City harbor and utility customer records
- January 10, 2013, Ordinance No. 1303 was passed in the first reading
- January 24, 2013, Ordinance No. 1303 was postponed in the second reading
- April 23, 2013, the City's Attorney discussed Ordinance No. 1303 with the Council at the work session
- May 9, 2013, Council adopted Ordinance No. 1303, during their regular Council meeting.
- February 12, 2019, Council reviewed the draft records ordinance.

- February 26, 2019, Council received an introduction of the draft ordinance from Brooks Chandler, City Attorney.

DISCUSSION: This ordinance will help the City staff effectively communicate with the public and identify which records are available and are not available for public disclosure. Mr. Chandler also indicates in his memo that some decisions were policy decisions for Council, which, were further discussed and determined on February 26, 2019.

ALTERNATIVES:

- 1) Pass Ordinance No. 1384 in the first reading and advance to second reading and public hearing, which is staff's recommendation.
- 2) The Council may amend or postpone Ordinance No. 1384.

LEGAL: The City Attorney drafted Ordinance No. 1384. He made further revisions as directed at the February 26, 2019, work session, which were included in the ordinance presented.

CITY CLERK'S COMMENTS AND RECOMMENDATION: Our Records Manager has worked for months with our City Attorney to remedy inadequacies in the City's records code. Ordinance No. 1384 incorporates state law provisions that are only generally referenced in current code and makes specific and public the way current code provisions and the state public records statute are administered. I recommend the ordinance be passed in the first reading and advanced to second reading and public hearing at the next meeting.

CITY MANAGER'S COMMENTS AND RECOMMENDATION: I appreciate the initiative shown by our Records Manager to update and clarify language throughout several chapters of city code. The intent of these efforts will allow the Clerk's office to respond to public information requests with a clearer understanding by both parties of each record release. All ordinances need periodic review to determine the applicability to Alaska Statute.

NOTES/ATTACHMENTS:

- Attachment A: Ordinance No. 1384
- Attachment B: Attorney memo re: ordinance dated January 11, 2019
- Attachment C: Current Kodiak City Code Management of Records

PROPOSED MOTION:

Move to pass Ordinance No. 1384 in the first reading and advance to second reading and public hearing at the next regular or special Council meeting.

**CITY OF KODIAK
ORDINANCE NUMBER 1384**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KODIAK REPEALING AND RE-ENACTING CHAPTER 2.36 OF THE KODIAK CITY CODE PERTAINING TO MANAGEMENT OF RECORDS AND AMENDING CHAPTERS 13.04,13.16, 18.28 AND 18.36

WHEREAS, Chapter 2.36 of the Kodiak City Code governs requests for public records maintained by the City of Kodiak; and

WHEREAS, Chapter 2.36 was last updated in 2013; and

WHEREAS, available technology has significantly increased the number of records maintained by the City and the form in which such records are maintained since 2013 and;

WHEREAS, the number of requests for copies of public records submitted to the City Clerk’s office has tripled since 2013 and;

WHEREAS, responding to requests for public records frequently requires balancing the individual right to privacy reflected in Article I, Section 22 of the Alaska Constitution with the state policy promoting access to public records reflected in Chapter 40.25 of the Alaska Statutes and;

WHEREAS, it is in the public interest to specify in greater detail the circumstances and procedures to be applied in both managing and providing access to public records maintained by the City of Kodiak

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Kodiak, Alaska, as follows:

Section 1: Section 2 of this ordinance is of a permanent and general nature and shall be included in the Kodiak City Code.

Section 2: Chapter 2.36 of the Kodiak City Code is hereby repealed in its entirety and re-enacted to read as follows:

**Chapter 2.36
MANAGEMENT OF RECORDS**

Sections

- 2.36.010 Definition of city records
- 2.36.020 Ownership of city records
- 2.36.030 City record management roles and responsibilities
- 2.36.040 Disposition of city records
- 2.36.050 [Reserved]
- 2.36.060 Access to public records
- 2.36.070 Administration of access to public records
- 2.36.080 Electronic Services

2.36.010 Definition of city records

(a) “City records” means any document, paper, book, letter, drawing, map, plat, photograph, video recording, electronic record, or other item, regardless of physical form or characteristic, developed or received under law or in connection with the transaction of official business and preserved by the city, as evidence of the organization, function, policies, decisions, procedures, operations, or other activities of the city or because of the informational value in them.

City records do not include, and this chapter does not apply to, individual personal information contained in a city record or proprietary, trademark or copyrighted material received by the city from third parties or developed for the city by third parties including software programs, library and museum material developed or acquired and preserved solely for reference, historical, or exhibition purposes, materials maintained by any non-profit association, reference documents, or transitory documents. In this section:

(1) “Reference document” means a writing or image that is acquired or created solely for the purpose of creating or incorporation into a record, and includes, without limitation, notes, calculations, and working papers other than drafts required to be retained according to the records retention schedule.

(2) “Transitory document” means:

(i) a writing or image that after its immediate use has no value as evidence of the organization, function, policies, decisions, procedures, operations, or other activities of the city, and includes without limitation transmittals, suspense copies when a reply has been received, routine requests for information, and routine appointment and scheduling requests.; and

(ii) all documents not required to be retained for any period of time according to the record retention schedule.

(c) “Electronic records” means records that are created or stored in an electronic or magnetic storage medium, and that are retrieved or read by a computer or other electronic device.

(d) “Personal Information” means:

(i) an individual’s passport number, driver’s license number, state identification number, bank account number, credit card number, debit card number, other payment card number, financial account information, or information from a financial application; or

(ii) a combination of an individual’s

(a) name; and

(b) medical information, insurance policy number, employment information, or employment history

2.36.020 Ownership of city records

No city official or employee has, by virtue of his or her position, any personal or property right in city records.

2.36.030 City record management roles and responsibilities

Ordinance No. 1384

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(a) Accountability. The overall accountability for the city's records management program lies with the city clerk.

(b) Responsibilities.

(1) City council.

(i) Approve all city records retention schedules and any amendments thereto.

(ii) Review the records management framework and identify any suggested changes thereto. The records management framework includes guiding principles and directives, policies and procedures, standards and best practices, core competencies, the training program, and the strategic plan.

(2) City manager. Ensure that all departments comply with the records retention schedule and records management framework.

(3) City clerk.

(i) Approve all changes to the records management framework.

(ii) Approve all records disposition requests based on records retention schedules approved by the city council.

(iii) Appraise and identify records of enduring value, i.e., historical records, during the preparation and submission of records retention schedules.

(iv) Assess compliance of city departments with the records management framework and report the status of the records management program to the city council annually.

(v) Identify the city's vital records and develop and implement related policies and procedures.

(vi) Plan and allocate central storage facilities for the city's inactive records (i.e., city records center).

(vii) Develop and implement policies, standards, and procedures for the transfer of archival/historical records during the final records disposition process from individual departments to the city clerk's custody.

(4) Department heads.

(i) Implement records management within the department according to the record retention schedule, and standards, policies, and best practices as outlined in the records management framework, including creating departmental electronic records in new software systems only as approved by the records retention schedule.

(ii) Designate a departmental records management coordinator who shall represent the department on matters related to records management.

(5) City employees. Retain and organize city records of transactions undertaken in business processes according to the city's records management program.

2.36.040 Disposition of city records

(a) Record retention program.

(1) The city clerk shall prepare a record retention program and record retention schedule specifying the records to be:

(i) Retained permanently;

(ii) Destroyed;

(iii) Microfilmed or electronically scanned and imaged according to industry standards.

(2) The records retention schedule shall be adopted by resolution.

(b) Disposal.

(1) The city clerk shall approve all records disposition requests based on the current records retention schedule approved by the city council.

(2) The city clerk or the city clerk's designee shall certify the disposal of city records by means determined to be appropriate by the city clerk.

(3) Upon disposal of city records, the city clerk shall file in the city clerk's office a descriptive list of the records disposed of and a record of the disposal itself. The city clerk shall transmit copies of the list and record of disposal to the city council, and the filing in the office of the city clerk of the list and record of disposal shall constitute a filing and preservation by the council of these documents.

(4) The city clerk shall include in the annual records management report to the city council a description of all record disposal activities taken during the year.

2.36.060 Access to city records

(a) Open to inspection. All city records shall be open to public inspection under reasonable rules during regular office hours, except as provided in subsections (b) through (l) of this section.

(b) Confidential or privileged public records. Public records containing information which is accorded confidential or privileged status under this code, AS 40.25.120(a) or under state or federal law. Confidential or privileged public records include but are not limited to:

- (1) records or portions of records which if released would constitute an unwarranted invasion of an individual right to privacy set forth in Article 1 Section 22 of the Alaska Constitution.
 - (2) records or portions of records which, if released would violate rights of crime victims set forth in Article 1, Section 24 of the Alaska Constitution.
 - (3) records or portions of records which contain protected health information as defined by the Health Insurance Portability and Accountability Act (“HIPAA”) privacy rule including records related to the provision of emergency medical services and patient transportation unless the party making the request for the records has provided the city with written authorization from the patient or a qualified protective order that satisfies the requirements of 45 CFR 164.512(e)(1)(v).
 - (4) records or portions of records which qualify for the deliberative process exemption from disclosure established by the Alaska Supreme Court including, but not limited to, drafts of decisional documents.
 - (5) records or portions of records which are an attorney-client communication of the city attorney unless the attorney client privileged is waived by the city manager, city clerk or the city council.
 - (6) records or portions of records which are the work product of the city attorney unless the attorney work product privilege is waived by the city manager, city clerk or the city council.
 - (7) records or portions of records which contain the residence or business addresses or telephone numbers of a victim of a crime or a witness to a crime or which if released would violate the rights of a victim of a crime or a witness to a crime set forth in AS 12.61.110.
 - (8) images made confidential by AS 18.65.903(b).
 - (9) records or portions of records that identify a minor release of which would violate the privacy rights of the minor set forth in AS 47.10.090, 47.10.093, 47.10.340 and 47.10.396.
 - (10) personal information contained in driver records required to be confidential as set forth in AS 28.10.505.
 - (11) records or portions of records pertaining to juveniles unless disclosure is authorized by law including AS 47.10.093(c).
 - (12) records of vital statistics or adoption proceedings
 - (13) medical records
 - (14) public health records related to individual medical records
 - (15) records of fire department investigations while the investigation is ongoing.
- (d) Inspection of city records involved in litigation.

(1) City records sought by a party involved in civil or criminal litigation, including administrative adjudications, with the city, the State of Alaska or a public agency of the city or State of Alaska shall be disclosed in accordance with the rules of procedure applicable in a court or administrative adjudication. Rules of procedure applicable to civil litigation in court include Alaska Rules of Civil Procedure 26 and 34. Rules of procedure applicable to criminal court proceedings include Alaska Rules of Criminal Procedure 16 and 17.

(2) In this subsection, “involved in litigation” means a party to litigation or a party representing a party to litigation, including a person who is obtaining records for the party.

(e) Law enforcement records. Public records including video and audio recordings compiled or maintained for law enforcement purposes are open to inspection and disclosure, except that such disclosure shall not be made if disclosure of the records:

(1) Could reasonably be expected to interfere with enforcement proceedings including records relating to ongoing, open investigations unless required to be released to a crime victim by Article I, Section 24 of the Alaska Constitution;

(2) Would deprive a person of a right to a fair trial or impartial adjudication;

(3) Could reasonably be expected to constitute an unwarranted invasion of the personal privacy of a suspect, defendant, victim, or witness. In evaluating whether release would constitute an unwarranted invasion of personal privacy the city clerk in consultation with the police chief as necessary may consider:

i) whether the information contained in the record was secured pursuant to a search warrant or arrest warrant.

ii) the rights of victims and witnesses set forth in AS 12.61.110 including the right to keep residence or business addresses or telephone numbers of a victim of a crime or a witness to a crime private and the right of victims and witnesses of certain crimes to keep their identity private

iii) the rights of crime victims set forth in Article I, Section 22 of the Alaska Constitution including the right to be treated with dignity, respect and fairness during all phases of the criminal and juvenile justice process

iv) whether the person identified as a suspect was charged or convicted of a violation

v) whether the person requesting the record is a crime victim

vi) whether the suspect, defendant, victim or witness is a minor

vii) whether the information contained in the record was speculative, unsubstantiated, defamatory or irrelevant to a law enforcement investigation

viii) whether the law enforcement agency elicited the information in exchange for a promise of confidentiality

ix) if charges were dismissed or not brought; (i) the length of time that has transpired since conclusion of the investigation; (ii) the severity of the allegations; (iii) the probable

truthfulness of the allegations; (iv) whether the suspect is or was a public figure; and (v) whether the allegations involved a potential breach of the public trust

x) the right of citizens to question, investigate and monitor a public law enforcement agency

(4) Could reasonably be expected to disclose the identity of a confidential source;

(5) Would disclose confidential techniques and procedures for law enforcement investigations or prosecutions;

(6) Would disclose guidelines for law enforcement investigations or prosecutions if the disclosure could reasonably be expected to risk circumvention of the law;

(7) Could reasonably be expected to endanger the life or physical safety of an individual;

(8) Are criminal history records obtained from state or federal criminal justice databases such as the Alaska Public Safety Information Network unless disclosure is specifically authorized by law including AS 12.62.160;

(f) Identity of complainants.

(1) The name, address, telephone number, or other identifying information about complainants in actions to enforce building, environmental, or other city ordinances or regulations and state statutes or regulations are not open to public inspection.

(2) This subsection does not prohibit disclosure of the contents of the complaint, so long as the complainant is not identifiable.

(3) This subsection does not prohibit the disclosure of the name of the complainant when such disclosure becomes necessary to the fair and just disposition of the charge or complaint in enforcement proceedings.

(g) Personnel records.

(1) Personnel records, including employment applications and examination materials, and records pertaining to employment disciplinary investigations and actions are confidential and are not open to public inspection except as provided in this section or by court order.

(2) The following information is available for public inspection, subject to reasonable regulations on the time and manner of inspection:

(i) The names and position titles of all city employees;

(ii) The position held by a city employee;

(iii) Prior positions held by a city employee;

- (iv) Whether a city employee is in the classified or exempt service;
- (v) The date of appointment and separation of a city employee;
- (vi) The compensation authorized for a city employee.

(3) A city employee has the right to examine the employee's own personnel files and may authorize others to examine those files.

(4) An applicant for city employment who appeals an examination score may review written examination questions relating to the examination unless the questions are to be used in future examinations.

(5) Notwithstanding subsection (g)(1) of this section, employment applications for the positions of city manager and police chief shall be open to public inspection. For purposes of this subsection an employment application consists of; 1) all documents submitted by the applicant for the position being advertised and; 2) all documents submitted with an application for the current city position or previous held by the applicant, if any.

(h) Accident Records. Accident reports or portions thereof are subject to disclosure after completion of any law enforcement investigation or proceeding to persons involved in the accident or whose property was involved in the accident or their authorized agent (such as their insurer or attorney) unless excepted from disclosure under subsection (d) (litigation with city or state); or (b)(iii) (medical records) or (b)(vii) (crime victim or witness). Accident reports are otherwise considered within the scope of an individual's constitutional right to privacy.

(i) Individual Privacy Rights. The city council finds that individuals regardless of age who are outside on or adjacent to a public space including a city facility or a public street do not have a reasonable expectation of privacy. Video images of persons outside on or adjacent to a public space including a city facility or a public street are ordinarily subject to disclosure in response to a public records request unless excepted from disclosure; 1) by reason of the rights of crime victims to be treated with dignity, respect and fairness set forth in Article 1, Section 24 of the Alaska Constitution or; 2) under another subsection of this section including subsection (e) (law enforcement records).

(j) Redactions. When some of the information in a public record is not subject to disclosure such information shall be redacted after a request for the document has been received. The person requesting the record shall be provided a copy of to the redacted record.

(k) Manipulation of Information or Creation of Record. Nothing in this section obligates the city to create a city record by assembling electronic information. Any request for a city record which requires a record to be created by assembling electronic information or extracting information from city records may be denied.

2.36.070 Administration of access to public records

(a) Requests for access to public records may be made directly to the concerned department(s) or to the city clerk's office on city approved records request forms. Requests for records may be approved by either the city clerk or the designated records manager of the concerned department. The city clerk is the city official designated to review any denial of access to public records. The city clerk or the clerk's designee shall, consistent with the orderly conduct of City business, make a good faith and reasonable effort to

locate records that are adequately identified in the request. The City will provide a reasonably prompt response to each request within the ten (10) business day time limit set for state agencies by 2 AAC 96.325(a).

(b) If a request is denied or the requested records cannot be identified or promptly located with good faith and reasonable effort, a brief written explanation will be given.

(c) The council by resolution from time to time shall prescribe the standard unit charge for copies of public records.

(d) If the production of records for one requester in a calendar month exceeds five person-hours, the city shall require the requester to pay all the personnel costs required during the month to complete the search and copying tasks.

(e) The fee to search for and duplicate a public record shall consist of:

(1) Actual costs for copying the record in the requested format, including costs for paper, tapes, microfiche, disks, or other media;

(2) Costs incurred by the city to duplicate the record, including computer processing time;

(3) Salary and benefits costs for the city employees performing the work, including computer programming work required to extract or copy the records, as provided in AS 40.25.110.

(f) If the time required for production of public records for one requester in a calendar month is less than five hours no fee shall be charged.

(g) If the person is unable to pay a required fee, and signs an affidavit to the effect that he or she is unable to do so, the City Manager may waive the fee.

2.36.080 Electronic Services

(a) The City has elected not to provide electronic services and products involving public records to the public except for; (1) providing copies of requested records by electronic mail; and (2) copying requested public records onto a CD, DVD or flash drive device.

(b) The public may access records the city links to or posts on the city internet site without submitting a public records request and without payment of any portion of the costs incurred by the city in making the records available on or through the city internet site.

Section 3: Amendment of Section 13.04.030. Section 13.04.030 of the Kodiak Code of Ordinances is hereby amended by adoption of new subsections (c) and (d) to read as follows:

13.04.030 Water accounts—delinquency—penalty-confidentiality of customer records

(a) All accounts for water will be kept in the name of the owner, who will be liable for payment of all city of Kodiak water utility accounts, and must be paid on or before the fifteenth day of each current month. All accounts not paid by the fifteenth day of each month are defined as delinquent accounts and subject to the penalty for delinquency.

(b) All accounts for water will be kept in the name of the owner, and must be paid on or before the fifteenth day of each current month. Accounts that have not been paid by the twentieth day of each month will be placed on the delinquent list and will be subject to being disconnected. All disconnected water service shall be charged in accordance with the required fee(s) established by resolution or motion of the city council. "Disconnect" shall mean a physical or interrupted service disconnection or an administrative disconnect, which is a finance department shut-off notice transmitted to the public works department for interruption of service to delinquent accounts.3.08.220 Returns confidential

(c) Except in connection with official investigations or proceedings of the city, whether judicial or administrative, involving delinquent accounts, or as otherwise authorized by subsection (d) of this section, no officer, employee, or agent of the city may divulge any information disclosed in customer account records kept under this chapter. The prohibition of this section shall not prohibit the preparation and use of statistical summaries of customer data that do not disclose customer identities.

(d) Notwithstanding the foregoing subsection (c) of this section, the following information, but not personal information, shall be made available to the public upon request: whether or not an individual or business is a customer; whether or not a customer is current in paying for water, the amount delinquent, and how long an account has been delinquent. The city manager or his or her designee may from time to time publish the names of customers on the delinquent list and the amount of the delinquency; provided, that the name of a customer who has signed a confession of judgment for delinquent charges, penalties, and interest, and a stipulation to postpone execution against such judgment, and who is current in the payments to be made and all other obligations arising as a result of such stipulation as of the date on which the names are submitted to the publisher, will not be published

Section 4: Amendment of Section 13.16.150. Section 13.16.150 of the Kodiak Code of Ordinances is hereby amended by adoption of new subsections (b) and (c) to read as follows:

13.16.150 Billing and payment -confidentiality of records

(a) Sewer service accounts shall be maintained in the name of the property owner and each account shall be billed monthly after the service has been rendered. Accounts shall be paid on or before the fifteenth day of the month during which the charges are billed. Accounts not paid by the close of business on the fifteenth day are delinquent.

(b) Except in connection with official investigations or proceedings of the city, whether judicial or administrative, involving delinquent accounts, or as otherwise authorized by subsection (c) of this section, no officer, employee, or agent of the city may divulge any information disclosed in customer account records kept under this chapter. The prohibition of this section shall not prohibit the preparation and use of statistical summaries of customer data that do not disclose customer identities.

(c) Notwithstanding the foregoing subsection (b) of this section, the following information, but not personal information, shall be made available to the public upon request: whether or not an individual or business is a customer; whether or not a customer is current in paying for water, the amount delinquent, and how long an account has been delinquent. The city manager or his or her designee may from time to time publish the names of customers on the delinquent list and the

amount of the delinquency; provided, that the name of a customer who has signed a confession of judgment for delinquent charges, penalties, and interest, and a stipulation to postpone execution against such judgment, and who is current in the payments to be made and all other obligations arising as a result of such stipulation as of the date on which the names are submitted to the publisher, will not be published

Section 5: Amendment of Chapter 18.28. Chapter 18.28 of the Kodiak Code of Ordinances is hereby amended by adoption of a new subsection 18.28.430 to read as follows:

18.28.430 Billing and payment -confidentiality of records

(a) Port and harbor accounts shall be maintained in the name of the vessel owner. Unless otherwise specified in the port tariff, accounts shall be paid on or before the fifteenth day of the month during which the charges are billed. Accounts not paid by the close of business on the fifteenth day are delinquent.

(b) Except in connection with official investigations or proceedings of the city, whether judicial or administrative, involving delinquent accounts, or as otherwise authorized by subsection (c) of this section, no officer, employee, or agent of the city may divulge any information disclosed in customer account records kept under this chapter. The prohibition of this section shall not prohibit the preparation and use of statistical summaries of customer data that do not disclose customer identities.

(c) Notwithstanding the foregoing subsection (b) of this section, the following information, but not personal information, shall be made available to the public upon request: whether or not an individual or business is a customer; whether or not a customer is current in paying for port or harbor charges, the amount delinquent, and how long an account has been delinquent. The city manager or his or her designee may from time to time publish the names of customers on the delinquent list and the amount of the delinquency; provided, that the name of a customer who has signed a confession of judgment for delinquent charges, penalties, and interest, and a stipulation to postpone execution against such judgment, and who is current in the payments to be made and all other obligations arising as a result of such stipulation as of the date on which the names are submitted to the publisher, will not be published.

Section 6: Amendment of Chapter 18.36. Chapter 18.36 of the Kodiak Code of Ordinances is hereby amended by adoption of new sections 18.36.200 to read as follows:

18.36.200 Billing and payment -confidentiality of records

(a) Accounts shall be maintained in the name of the airport user and each account shall be billed monthly. Accounts shall be paid on or before the fifteenth day of the month during which the charges are billed. Accounts not paid by the close of business on the fifteenth day are delinquent.

(b) Except in connection with official investigations or proceedings of the city, whether judicial or administrative, involving delinquent accounts, or as otherwise authorized by subsection (c) of this section, no officer, employee, or agent of the city may divulge any information disclosed in account records kept under this chapter. The prohibition of this section shall not prohibit the preparation and use of statistical summaries of customer data that do not disclose customer identities.

(c) Notwithstanding the foregoing subsection (b) of this section, the following information, but not personal information, shall be made available to the public upon request: whether or not an individual or business is a customer; whether or not a customer is current in paying for airport fees, the amount delinquent, and how long an account has been delinquent. The city manager or his or her designee may from time to time publish the names of customers on the delinquent list and the amount of the delinquency; provided, that the name of a customer who has signed a confession of judgment for delinquent charges, penalties, and interest, and a stipulation to postpone execution against such judgment, and who is current in the payments to be made and all other obligations arising as a result of such stipulation as of the date on which the names are submitted to the publisher, will not be published

Section 7: Effective Date. This ordinance shall be effective one month after final passage and publication.

CITY OF KODIAK

MAYOR

ATTEST:

CITY CLERK

First Reading:
Second Reading:
Effective Date:

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MEMORANDUM

To: Deborah Marlar
Kodiak City Clerk



From: Brooks Chandler

Date: January 11, 2019

Re: Records Management Ordinance

This memorandum is intended to summarize the changes to the Kodiak City Code proposed in the draft records management ordinance and to provide additional explanation to assist the City Council and the public as the ordinance is considered. In general, the changes are designed to reflect existing practices and legal rules applicable to requests for public records in a more precise and detailed manner than contained in the existing Chapter 2.36. The ordinance also contains some policy choices inherent in balancing the right of the public to access information about the functioning of the City against rights of privacy contained in the Alaska Constitution and state statutes. We have separately prepared a redline showing how the language in the proposed ordinance differs from the current language of Chapter 2.36. The memorandum is organized on a section by section basis. The draft ordinance leaves the remaining numbering the same in order to make comparisons between the new ordinance and existing code easier. When the ordinance is codified it is possible the numbering will change.

2.36.010 Definition of city records

(a) City Records - The changes delete outdated references to storage media all of which fit under the definition of “electronic record” and uses the more current words “photograph” and “video recording”. This is not a substantive change.

(b) This subsection of city code currently identifies records that are not available for public inspection because they are not “city records”. The proposed changes add a specific reference to “individual personal information”. This term is defined in subsection (d) of this

section discussed below. A specific exception for copyright, trademark or proprietary material received from third parties is included. A typical example of this is a customized piece of software like a city-specific GIS system or city-specific payroll processing software. The intent is to prevent the City from being sued by whoever developed the software if it is made available in response to a records request. Copyright and trademark are objective terms. Either something has been copyrighted or it has not. “Proprietary” is more subjective. This could apply to software or a technical process included in a response to an RFP for a public works project that had not been copyrighted or trademarked but had been developed by a specific company for use in its own projects.

“reference document” - the definition has been narrowed to exclude fewer materials.

“transitory document” - the definition has been made more specific to include records identified in the records retention schedule as not needing to be preserved at all. This is a more precise way of understanding what documents are meant by the phrase “preserved by the city” used in the definition of “city record”. The reference to “elected officials’ correspondence” has been deleted. This is not an accurate description of the law. Emails (and correspondence) of elected officials which discuss public business are public records subject to disclosure.

“electronic records” - this definition is the same as used in state statute.

“personal information” - this definition derives from AS 45.48.090(7). This is more specific than the definition contained in AS 40.25.350.

2.36.020 Ownership of city records - The deleted sentence was not strictly accurate. Some records that come into the city’s possession might be copies of something owned by another person. The city might own the copy but not the original.

2.36.030 City record management roles and responsibilities - The changes use more precise and consistent wording than existing code provision.

2.36.040 Disposition of city records - Minor changes not substantive to improve wording of this code section.

2.36.050 Annual Records Management Report to Council - the requirement for an annual report is in 2.36.030(b)(3)(iv) so this duplicative language is deleted

2.36.060 Access to city records

(a) the language in this section was moved to 2.36.010 the definitional section.

(b) relettered as (a). Slight wording change to specify regular office hours and “reasonable” rules for examining city records.

(c) relettered as (b). Extensive changes to this section are intended to be much more specific about what are considered “confidential and privileged” records. The generic reference to state law has been supplemented with a specific reference to a section of the state public records statute AS 40.25.120(a). An alternative approach for this ordinance is to cut and paste these state law exceptions. We did not do that because a fair number of the exceptions would not regularly be relevant to requests for city records. As for the specifics:

(1) references the section of the Alaska Constitution which elevates the right of privacy to an individual constitutional right. As such, this right is subject to being fleshed out by decisions of the Alaska Supreme Court. This means the parameters of the right to privacy can change over time making it impossible to anticipate and describe every scenario in this ordinance.

(2) same concept as (1). This section of the Alaska Constitution was added by the voters.

(3) specific reference to the federal statute and regulation relevant to records containing medical information. The most common request to which this would apply are requests for ambulance transport records.

(4) deliberative process exemption. This is a court made exception to disclosure. The case explicitly holding this exemption applies to local government is Fuller v. Homer, 75 P.3rd 1059 (Alaska 2003). Because this is a court made exception it is not possible to set forth in detail in this ordinance all situations where it will apply. In general it would apply to internal city communications about an issue on which a decision is required up until the point the decision is actually made (even if the request is made long after the decision has been made). The legal concept accepted by the Alaska Supreme Court is that city staff participating in those discussions will provide more forthright opinions about what to do if they do not have to “worry” that what they say will be released to the public. One could debate the merits of this legal rule but it is the law of the land in Alaska. It is theoretically possible for the city council to decide as a matter of local policy that the City will waive this privilege. The privilege also could be waived on a request by request basis.

(5) attorney-client communications. This is also a court made privilege. Not every communication by a municipal attorney is privileged. This memorandum is an example of a communication that is not privileged. It is not possible to describe in an ordinance all situations to which the privilege applies.

(6) attorney work product. Similar considerations to those discussed above apply to this privilege.

(7) crime victim rights – This is governed by the referenced state law.

(8) AS 18.65.903(b) - this is a state law relating to images obtained by drones used in law enforcement activity.

(9) minor privacy rights - the referenced state statutes must be followed. This is the information made confidential under state law: 1) the name and picture of a child involved in a CINA (child in need of aid) court case; 2) all information and records about a child involved in a CINA case; 3) records relating to a minor participating in a state licensed program for runaways, or who stayed at a state licensed shelter for runaways. The most likely instances where this exception would come into play involves contact between the police department and the minor or the minor's family.

(10) confidential driving records - under state law the release of "personal information" contained in driving records is restricted. This impacts the frequent requests received for accident reports. State law limits who may see the "personal information" in such records. Those with a "need to know" (such as an insurance company for a person involved in an accident) can see the personal information but a curious citizen or member of the news media may not. This usually will result in having to provide a redacted record rather than not providing any record at all.

(11) records pertaining to juveniles - This is also contained in AS 40.25.120(a)(2). AS 47.10.093 contains a list of people authorized to be provided city records pertaining to juveniles. The list does not include persons without a specific "connection" to the juvenile (school, parent, medical provider, law enforcement, child support agency, person who has filed what is called a "report of harm" in order to follow up on the report). This state law will require denial of a request for such records by the news media or general public.

(12) vital statistics or adoptions. This is also contained in AS 40.25.120(a)(1).

(13)(14) medical records/public health records - this is from AS 40.25.120(a)(3).

(15) fire department investigations- this is not specifically addressed by state law except to the extent such an investigation has law enforcement implications. So it is a policy choice for the city council whether to include this exception.

(d) Litigation records - the changes limit the scope of this exception to match the Alaska Supreme Court decision that those involved in litigation with federal agencies or in private lawsuits can ask for city or state public records using a public records request rather than court rules.

(e) Law Enforcement records- this is another section with substantial changes. The ordinance specifically recognizes that audio and video recordings are frequently law enforcement records.

(1) enforcement proceedings – the added language recognizes the amendment to the Alaska Constitution (Art I, sec. 24) which allows crime victims "the right to obtain information about and be allowed to be present at all criminal or juvenile proceedings where the accused has the right to be present" and the right to be treated with "dignity, respect and fairness". This means crime victims will be able to receive law enforcement records other persons would not be allowed to receive in response to a public records request.

(2) this section identifies factors to consider in determining whether the release of requested information is an “unwarranted invasion of privacy”. This is a balancing test. The concept is to provide guidelines to the city clerk and the public as to what considerations will be balanced when responding to requests for law enforcement records. Here is the thinking behind the factors.

i) warrant - a warrant is issued only after a judge or magistrate has concluded there is probable cause to issue a warrant. Therefore someone has already balanced constitutional issues in authorizing the search for the information making it less likely to be an unwarranted invasion of privacy to release the record.

ii) AS 12.61.110 states “The residence and business addresses and telephone numbers of a victim of a crime or witness to a crime are confidential.” The city must comply with this state law.

iii) crime victims - discussed above.

iv) charged or not charged - if a person was not charged with a crime the release of law enforcement records identifying that person as a suspect are more likely an unwarranted invasion of privacy than if the person was charged with a crime. This can vary based on the circumstances.

v) crime victim - if the person asking for the record is a crime victim (and the record pertains to the crime) is it more likely the record will be released.

vi) minor - discussed above.

vii) speculative, defamatory etc. - this category of information is more likely to be an unwarranted invasion of privacy and therefore not released.

viii) promise of confidentiality - if someone was promised confidentiality it is more likely to be an unwarranted invasion of privacy to release the identity of that person in response to a request for law enforcement records.

ix) charges dismissed or not brought - this exception itself has identified subfactors to consider. In general release of older records about alleged misdemeanor criminal offenses of a private nature by ordinary citizens are more likely to be an unwarranted invasion of privacy. But release of more recent records of alleged serious offenses (like sexual assault) committed by, for example, someone that used to be the Mayor of Kodiak but now is a vice presidential candidate or Supreme Court nominee would be less likely to be an unwarranted invasion of privacy. The “probable truthfulness” of the allegations reflects the fact that sometimes charges are dismissed or not brought due to statutes of limitations, technical violations of court rules, death or unavailability of a witness rather than because the charges are not true. In such instances it is less likely release of law enforcement records pertaining to the allegations or charges would be an unwarranted invasion of privacy.

x) right of citizens to monitor a law enforcement agency - this has been recognized by the Alaska Supreme Court as an important right and will always weigh in favor of disclosure of law enforcement records even those implicating an individual's privacy rights.

These are factors to be considered not black and white rules. Including this level of detail in the ordinance provides guidance to those asking for documents, those whose rights to privacy are impacted by a request and to the city clerk and police chief. When responding to a request which involves privacy rights it is anticipated the city will identify what factors were considered and what role the consideration of the factors played in the conclusion about providing the requested law enforcement records.

4) disclose identity of confidential source - this is from AS 40.25.120(a)(6)(D).

5) disclose confidential techniques - this is from AS 40.25.120(a)(6)(E).

6) disclose guidelines for investigations - this is from AS 40.25.120(a)(6)(F).

7) endanger person - this is from AS 40.25.120(a)(6)(G).

8) criminal history records from state or federal databases - the city's use of and access to the state database APSIN is governed by state law and regulation. AS 12.62.160(b) severely limits the persons to whom this information can be released. It is not available to the general public. Similar restrictions apply to records generated from the federal criminal justice information database.

9) video recordings - the draft ordinance proposes a 30 day waiting period prior to release of video recordings not otherwise exempt from disclosure. The 30 days starts on the date of the video recording. For example, if a video was exempt from disclosure while a criminal investigation was ongoing but the investigation was completed with a decision not to file charges 7 days after the video was made the recording would not be released for an additional 23 days. This is not mandated by state law and is a policy decision for the city council. It recognizes the potential the recording could be relevant to an internal administrative investigation while avoiding using this as an excuse to unduly delay access to the video recording to the public.

(g) Personnel Records

(1) - the added language is not a substantive change it just makes specific the more general code language "personnel records". The reference to a court order recognizes that a court may issue a subpoena requiring production of personnel records.

(5) - no change has been made to this language, however, whether applications of employees for a lower city position who are subsequently promoted to the city manager or police chief position should be considered a public record is a current issue. This is a policy decision for the city council.

(h) Accident Reports - to the extent accident reports pertain to motor vehicle accidents the proposed language is consistent with the restrictions on disclosure of “personal information” contained in state law. (AS 28.10.505 referenced in proposed section 2.36.060(b)(10)). To the extent this section pertains to information in such reports other than “personal information” and pertains to non-motor vehicle accidents the provisions are not specifically mentioned in state law but are a policy decision for the city council requiring council to balance individual privacy against the public’s interest in access to city documents.

(i) Individual Privacy Rights - this subsection is intended to make the public aware of the current practice regarding requests for release of security camera footage. This is not a policy change.

(j) Redactions – this is also intended to make the public aware of the current practice. Just because some parts of a record may not be disclosed does not prevent other parts of the record from being disclosed.

(k) Creation of Record - this subsection also reflects the current practice.

2.36.070 Administration of access to public records - the new language adopts the deadline for a response followed by state agencies and puts into code the current practice of explaining (briefly) why records or portions of records requested are not being made available. Subsection (d) is from AS 40.25.110 (c). Subsection (f) specifies when records are made available at no charge and subsection (g) provides the option for the city manager to waive fees.

2.36.080 Electronic Services - this is an entirely new section specifying the city is deciding not to provide databases or to assemble information from multiple sources within an existing database. This is a policy choice allowed by AS 40.25.115. This dovetails with proposed KCC 2.36.060 (k) (city will not create a record). The language reflects current policy.

Section 3 - this allows the city to make information regarding delinquent water bills public. This is a policy choice.

Section 4 - this allows the city to make information regarding delinquent sewer bills public. This is a policy choice.

In summary: 1) many of the changes incorporate specifically state law provisions that are only generally referenced in current code or reflect court decisions; 2) some of the changes make specific and public the way current code provisions and the state public records statute are administered; and 3) some of the changes (and some of the language not proposed to be changed) reflect policy choices.

We are happy to answer questions about any of the proposed changes or existing Chapter 2.36.

Chapter 2.36 MANAGEMENT OF RECORDS

Sections

- 2.36.010 Definition of city records**
- 2.36.020 Ownership of city records**
- 2.36.030 City record management roles and responsibilities**
- 2.36.040 Disposition of city records**
- 2.36.050 Annual records management report to council**
- 2.36.060 Access to public records**
- 2.36.070 Administration of access to public records**

For the resolution adopting the retention schedule, see Res. No. 08-26.

For ordinances regarding public records prior to the adoption of Ord. 1203, see Ord. 432 §1, 1975; Ord. 887, 1990; and Ord. 1160, 2003.

2.36.010 Definition of city records

(a) City records include any document, paper, book, letter, drawing, map, plat, photo, photographic file, motion picture film, microfilm, microphotograph, exhibit, magnetic or paper tape, punched card, electronic record, or other document of any other material, regardless of physical form or characteristic, developed or received under law or in connection with the transaction of official business and preserved or appropriate for preservation by the city, as evidence of the organization, function, policies, decisions, procedures, operations, or other activities of the city or because of the informational value in them.

(b) City records do not include, and this chapter does not apply to, library and museum material developed or acquired and preserved solely for reference, historical, or exhibition purposes, Kodiak Public Library Association materials, those items identified as reference materials by the city clerk, stocks of publications, and processed documents, reference documents, or transitory documents. In this section:

(1) "Reference document" means a writing or image that is acquired or created solely for the purpose of creating or incorporation into a record, and includes, without limitation, notes, calculations, and working papers.

(2) "Transitory document" means a writing or image that after its immediate use has no value as evidence of the organization, function, policies, decisions, procedures, operations, or other activities of the city, and includes without limitation transmittals, suspense copies when a reply has been received, routine requests for information, and routine appointment and scheduling requests.

(c) Elected officials' correspondence not received at City Hall is excluded from the provisions of this chapter. [Ord. 1303 §1, 2013; Ord. 1219 §1, 2007; Ord. 1203 §2, 2006]

2.36.020 Ownership of city records

All city records defined in KCC 2.36.010(a) are the sole property of the city. No city official or employee has, by virtue of his or her position, any personal or property right to city records. [Ord. 1203 §2, 2006]

2.36.030 City record management roles and responsibilities

(a) Accountability. The overall accountability for the city's records management program lies with the city clerk.

(b) Responsibilities.

(1) City council.

(i) Approve all city records retention schedules and any amendments thereto.

(ii) Endorse the records management framework. The records management framework includes guiding principles and directives, policies and procedures, standards and best practices, core competencies, the training program, and the strategic plan.

(2) City manager. Ensure that all departments comply with the records management framework.

(3) City clerk.

(i) Approve all changes to the records management framework.

(ii) Approve all records disposition requests based on records retention schedules approved by the city council.

(iii) Appraise and identify records of enduring value, i.e., historical records, during the preparation and submission of records retention schedules.

(iv) Assess compliance of city departments with the records management framework and report the status of the records management program to the city council annually.

(v) Identify the city's vital records and develop and implement related policies and procedures.

(vi) Plan and allocate central storage facilities for the city's inactive records (i.e., city records center).

(vii) Develop and implement policies, standards, and procedures for the transfer of archival/historical records during the final records disposition process from individual departments to the city clerk's custody.

(4) Department heads.

(i) Implement and ensure compliance with the records management program within the department according to the city standards, policies, and best practices as outlined in the records management framework.

(ii) Designate a departmental records management coordinator who shall represent the department on the city's records management advisory committee.

(5) City employees and contracted agents. Create, capture, and organize records of transactions undertaken in business processes according to the city's best practices and procedures. [Ord. 1203 §2, 2006]

2.36.040 Disposition of city records

(a) Record retention program.

(1) The city clerk shall prepare a record retention program and record retention schedule specifying the records to be:

(i) Retained permanently;

(ii) Destroyed;

(iii) Microfilmed or electronically scanned and imaged according to industry standards to ensure their legal admissibility.

(2) The records retention schedule shall be adopted by resolution.

(b) Disposal.

(1) The city clerk shall approve all records disposition requests based on the current records retention schedule approved by the city council.

(2) The city clerk or the city clerk's designee shall witness and certify the disposal of city records by means determined to be appropriate by the city clerk.

(3) Upon disposal of city records, the city clerk shall file in the city clerk's office a descriptive list of the records disposed of and a record of the disposal itself. The city clerk shall transmit copies of the list and record of disposal to the city council, and the filing in the office of the city clerk of the list and record of disposal shall constitute a filing and preservation by the council of these documents.

(4) The city clerk shall include in the annual records management report to the city council a description of all record disposal activities taken during the year. [Ord. 1219 §2, 2007; Ord. 1203 §2, 2006]

2.36.050 Annual records management report to council

The city clerk shall report the status of the management of city records to the city council annually. [Ord. 1203 §2, 2006]

2.36.060 Access to public records

(a) Definition of public records. Public records include books, papers, files, accounts, writings, including drafts and memorializations of conversations, and other items, regardless of format or physical characteristics, that are developed or received by the city, or by a private contractor for the city, and that are preserved for their informational value or as evidence of the organization or operation of the city; public records do not include proprietary software programs, reference documents, or transitory documents. In this section:

(1) "Reference document" means a writing or image that is acquired or created solely for the purpose of creating or incorporation into a record, and includes, without limitation, notes, calculations, and working papers.

(2) "Transitory document" means a writing or image that after its immediate use has no value as evidence of the organization, function, policies, decisions, procedures, operations, or other activities of the city, and includes without limitation transmittals, suspense copies when a reply has been received, routine requests for information, and routine appointment and scheduling requests.

(b) Open to inspection. All public records shall be open to public inspection, except as provided in subsections (c) through (h) of this section.

(c) Confidential or privileged public records. Public records containing information which is accorded confidential or privileged status under this code, or under state or federal law and which has been provided on a condition that the information retain its privileged or confidential nature, are open to public inspection only in a manner that does not disclose such confidential or privileged information.

(d) Inspection of public records involved in litigation.

(1) Public records sought by a party involved in litigation shall be disclosed in accordance with the rules of procedure applicable in a court or administrative adjudication.

(2) In this subsection, "involved in litigation" means a party to litigation or a party representing a party to litigation, including a person who is obtaining records for the party.

(e) Law enforcement records. Public records compiled or maintained for law enforcement purposes are open to inspection and disclosure, except that such disclosure shall not be made if disclosure of the records:

(1) Could reasonably be expected to interfere with enforcement proceedings;

(2) Would deprive a person of a right to a fair trial or impartial adjudication;

(3) Could reasonably be expected to constitute an unwarranted invasion of the personal privacy of a suspect, defendant, victim, or witness;

(4) Could reasonably be expected to disclose the identity of a confidential source;

(5) Would disclose confidential techniques and procedures for law enforcement investigations or prosecutions;

(6) Would disclose guidelines for law enforcement investigations or prosecutions if the disclosure could reasonably be expected to risk circumvention of the law.

(f) Identity of complainants.

(1) The name, address, telephone number, or other identifying information about complainants in actions to enforce building, environmental, or other city ordinances or regulations and state statutes or regulations are not open to public inspection.

(2) This subsection does not prohibit disclosure of the contents of the complaint, so long as the complainant is not identifiable.

(3) This subsection does not prohibit the disclosure of the name of the complainant when such disclosure becomes necessary to the fair and just disposition of the charge or complaint in enforcement proceedings.

(g) Personnel records.

(1) Personnel records, including employment applications and examination materials, are confidential and are not open to public inspection except as provided in this section.

(2) The following information is available for public inspection, subject to reasonable regulations on the time and manner of inspection:

- (i) The names and position titles of all city employees;
- (ii) The position held by a city employee;
- (iii) Prior positions held by a city employee;
- (iv) Whether a city employee is in the classified or exempt service;
- (v) The date of appointment and separation of a city employee;
- (vi) The compensation authorized for a city employee.

(3) A city employee has the right to examine the employee's own personnel files and may authorize others to examine those files.

(4) An applicant for city employment who appeals an examination score may review written examination questions relating to the examination unless the questions are to be used in future examinations.

(5) Notwithstanding subsection (g)(1) of this section, employment applications for the positions of city manager and police chief shall be open to public inspection.

(h) Harbor and utility customer records. Information in records maintained for city harbor facilities and city utilities regarding a specific identifiable customer, including without limitation the customer's address, telephone number, account balance, and payment history, is not open to public inspection. [Ord. 1303 §2, 2013; Ord. 1254 §2, 2009; Ord. 1203 §2, 2006]

2.36.070 Administration of access to public records

(a) Requests for access to public records may be made directly to the concerned department(s) or to the city clerk's office. The city clerk is the city official designated to review any denial of access to public records.

(b) The council by resolution from time to time shall prescribe the standard unit charge for copies of public records.

(c) The fee to search for and duplicate a public record shall consist of:

(1) Actual costs for copying the record in the requested format, including costs for paper, tapes, microfiche, disks, or other media;

(2) Costs incurred by the city to duplicate the record, including computer processing time;

(3) Salary and benefits costs for the city employees performing the work, including computer programming work required to extract or copy the records, as provided in AS [40.25.110](#). [Ord. 1203 §2, 2006]

Web Version

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MEMORANDUM TO COUNCIL

To: Mayor Branson and City Councilmembers

From: Mike Tvenge, City Manager *MT*

Date: March 14, 2019

Agenda Item: V. b. **Resolution 2019–06, Adopting the Federal Fiscal Year 2019 Supported Federal Issues List and Fiscal Year 2020 Federal Projects Capital List**

SUMMARY: The City identifies capital improvement projects (CIP) important to the maintenance and/or improvement of the City’s infrastructure as well as issues that are important to the City or greater community. Council reviewed the federal requests and issues at the February 26, 2019, work session and prioritized the capital projects list. Brad Gillman reviewed the proposed CIP list and supported issues and made recommendations.

Staff worked closely with the City’s federal lobbyists’ Brad Gilman of Robertson, Monagle & Eastbaugh to articulate the list of projects and issues, which the Mayor will promote in Washington, D.C. The Prioritized Federal Capital Project Lists include: Fire Station Phase II in the amount of \$14,000,000 (Priority 1); Waste Water Treatment Plan Ultraviolet (UV) System in the amount of \$4,500,000 (Priority 2); St. Herman Harbor Infrastructure Replacement in the amount of \$28,000,000 (Priority 3); Waste Water Treatment Plant Facility \$19,000,000 (Priority 4); Shelikof Street \$1,950,000 (Priority 5). There were revisions to the EPA’s “Waters of the U.S. Rule” and the Pink Salmon Disaster Assistance.

Resolution No. 2019–06 reflects the prioritized list of funding for the City’s main infrastructure related projects and other federal issues as outlined above for FFY19/20 and will be submitted to our Alaska delegation upon adoption by Council. These are not the only funding and policy issues the City will pursue in the coming year, but they are important because they benefit the community and region. The five projects and two issues included in the resolution will provide formality to the City’s concerns and allow Brad Gilman and staff to promote the City’s interests. Resolution No. 2019–06 reflects the list which Council, staff, and the City’s federal lobbyist recommend for approval.

PREVIOUS COUNCIL ACTION:

- Council adopts a resolution each year identifying the City’s prioritized list of projects for federal funding assistance
- On February 26, 2019, Council reviewed the FFY18 resolution identifying the City’s federal projects and issues and prioritized the federal capital list and requested the City Manager also work with the federal lobbyist.

MARCH 14, 2019

Agenda Item V. b. Memo Page 1 of 2

ALTERNATIVES: Council may adopt, amend, or reprioritize Resolution No. 2019–06. Staff recommends Council approve the resolution as submitted. The list reflects City needs and is based on advice from our federal lobbyist.

FINANCIAL IMPLICATIONS: The City and its residents will benefit if the City is successful in obtaining an additional capital funding source to help offset losses of funding at the State level and by reducing reliance on local contributions.

CITY MANAGER’S COMMENTS: I worked with DC Lobbyist Brad Gilman to scope the development of this year’s resolution, which identifies specific capital projects and requested funding. This resolution continues to reflect our infrastructure needs, including compliance with Federal mandates and follows Brad’s advice to advocate for full project costs with a focus on infrastructure and transportation type projects. It also lists the key issues the City has advocated for in the past and should keep an eye on during this congressional cycle. Mr. Gilman is approving of this year’s capital requests and the issues. Staff recommends Council adopt the resolution.

ATTACHMENTS:

Attachment A: Resolution No. 2019–06 FFY19 Supported Federal Issues List and FFY2020 Federal Capital List

PROPOSED MOTION:

Move to adopt Resolution No. 2019–06.

**CITY OF KODIAK
RESOLUTION NUMBER 2019-06**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF KODIAK ADOPTING
THE FEDERAL FISCAL YEAR 2019 SUPPORTED FEDERAL ISSUES LIST AND
FISCAL YEAR 2020 FEDERAL CAPITAL LIST**

WHEREAS, the City of Kodiak uses a Capital Improvements Program planning process to identify the capital needs of the community; and

WHEREAS, this identification and planning process plays a vital role in directing the City's administration and is utilized as a long-range planning and policy setting tool for City infrastructure maintenance and enhancement; and

WHEREAS, the City of Kodiak is committed to paying its way, to the greatest extent possible, but the cost of some of the City's capital project needs are greater than resources available locally; and

WHEREAS, Kodiak City Council has identified capital project needs for submission to the Alaska Congressional Delegation for funding consideration due to their significance and/or magnitude; and

WHEREAS, changes may be required as to how capital funding contributions for smaller communities like Kodiak, Alaska can be made at the Federal level; and

WHEREAS, the City of Kodiak faces several issues generated by Federal legislation or rulemaking that are of importance to the City of Kodiak, Alaska, and which may adversely impact life in Kodiak by placing undue burdens on those who work and live in the community.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Kodiak, Alaska, that the following projects and issues are high priorities for the community and are hereby adopted as the City of Kodiak Federal Fiscal Year 2019 supported federal issues list and Federal Fiscal Year 2020 prioritized federal capital projects list:

FFY 2020 City of Kodiak Prioritized Federal Capital Projects List

1. Fire Station Phase II

\$14,000,000

The City of Kodiak identified the need to replace its fire station and has been working toward a replacement plan since 2004. The building has clearly outlived its design life. The building is composed of three structures and sits on a site that is currently very limited as it abuts the tsunami inundation zone. The structure is built of cement block type construction built in the 1940s with two block and wood frame additions added in the 1960s and 1975. The structure poses a significant risk of failure in a seismic event. Cracks in the walls and initial separation

of one of the additions from the rest of the structure occurred following the large 7+ earthquake in 2016 and suffered additional damage during the January 2018 earthquake 60 miles off the Kodiak coast. It has ongoing plumbing, drainage, and water infiltration issues. The facility houses personnel, fire and rescue apparatus, three ambulances, and many types of specialty equipment and medical supplies that support the Advanced Life Support services offered to the entire Kodiak area well beyond the City boundaries. The building condition poses constant challenges and problems to the crews who work and live in the structure. Work to replace this building must continue because it is a key emergency response and life-safety facility for Kodiak and continues to require constant maintenance.

The City proposes completion of the project in three phases. Phase I of this project with a budget of \$1,110,000 and funded by the City was used to study the site, for a new facility once a derelict building is removed. It included the removal of the old building, site grading, and other work following the demolition of the old building. Phase I is 95% complete.

Phase II would include a new site acquisition and design completed prior to construction. Relocation would make the project more affordable to do in phases, would reduce the impact to the active fire station, and benefit the transition to a new building. Phase II costs would total \$14,000,000 with site acquisition and building design anticipated during FY2019-20. The City has received a legislative grant award of \$76,755 for partial building design costs. The remaining cost would be required to complete construction and furnish the facility.

The City of Kodiak requests Federal funding for Phase II of the New Fire Station project in the amount of \$14,000,000 to ensure the project continues to move forward.

2. Waste Water Treatment Plant Ultraviolet (UV) System \$4,500,000

The City of Kodiak operates the area wide water distribution and collection system for area residents, businesses, and fish processors and provides lab testing for the US Coast Guard Base Kodiak. A condition of permit renewal by ADEC is to provide additional disinfection to our secondary treatment of effluent discharge. The City met with ADEC in January 2018 to ask for a seven-year grace period prior to the implementation of the new EPA requirement in order to obtain funding to construct the ultra violet disinfection facility and was denied.

The Alaska Pollution Discharge Elimination System (APDES) permit is complete and became effective on July 1, 2018. The new permit includes requirements for disinfection alternatives that will require capital improvement to the existing Wastewater Treatment Plant within five years.

The City has secured a \$600,000 loan from the State of Alaska Revolving Fund loan program to begin the process of meeting the APDES permit requirements. Jacobs has been contracted to provide the design of the new facility and prepare the bid documents. This is expected to be completed this year. By July 2020 the City must secure funding for the construction of the EPA required facility in order to meet the deadline of compliance by July 2023.

The City of Kodiak requests Federal funding to construct the EPA/ADEC required effluent disinfection facility in the amount of \$4,500,000 to remain compliant with current regulations.

3. St. Herman Harbor Infrastructure Replacement \$28,000,000

The economy of the City of Kodiak is based upon commercial fishing including local, state and federal governmental activities associated with support of the fisheries as well as research and enforcement activities. Each year Kodiak ranks as a top commercial fishing port. In 2015 NOAA statistics again put Kodiak as the second largest commercial fishing port in the United States in terms of volume and third in terms of value. This activity requires an infrastructure from potable water, electrical systems, and harbor and dock infrastructure that is much larger than its population might suggest. Current piling repairs indicate the life to date of the docks, which are failing after 50 years of use.

The Kodiak Harbor Department relies on the generation of user fees and the State of Alaska's Harbor Facilities Grant Program to help match municipal costs for dock replacements. The City's request of federal funding assistance in the amount of \$28,000,000 would help the City develop a plan, including replacement of this aging infrastructure which supports the nations scientific and food source needs.

4. Waste Water Treatment Plant Facility \$19,000,000

The first phase of a larger project is to evaluate the condition of the Waste Water Treatment Plant facility (WWTP) and design a necessary upgrade to the City of Kodiak facility. The prior upgrade to the facility was in 1999. The condition and evaluation assessment will include all major components such as the building and aeration basins; including equipment replacement needs. Alaska Pollution Discharge Elimination System (APDES) permitting requirements will also be considered during this assessment. The City of Kodiak has received the Alaska Department of Environmental Conservation (ADEC) preliminary draft APDES permit. This new regulation of compliance is expected to require upgrades to our facility which we will factor in our condition and evaluation assessment.

The City of Kodiak requests federal funding in the amount of \$19,000,000 to assess, design and construct this WWTP project that will help support the wastewater needs of the community for the next twenty years.

5. Shelikof Street \$1,950,000

In 2009, the City identified the need for pedestrian improvements from Pier II to downtown Kodiak as the preferred pedestrian route for cruise ship passengers to safely walk the street into the town center and to improve facilities for local residents, workers, and businesses that use the pier, street, and access to the City's adjacent 250 slip boat harbor.

The first phase of the project, construction of an ADA accessible sidewalk, new retaining walls, improved lighting and parking, and utility work was completed in 2013. The second

phase of the project was completed in January 2017. This phase covered geotechnical investigation, design, permitting, mapping, preparation for permitting through the Army Corps of Engineers, and 95% completion of the design to accommodate a 30 space bulkhead parking area on the south side of Shelikof Street adjacent to St. Paul Harbor.

The net increase in parking will benefit harbor users and retail businesses along Shelikof Street. It will provide improved and safer pedestrian access from Marine Way to the fish processors in the immediate area. The task for this phase will be to complete construction of the bulkhead parking area, including curb and gutter, paving, lighting, and utility relocates.

The City of Kodiak requests federal funding assistance for the final construction of this project, including administration, in the amount of \$1,950,000 to enhance pedestrian and vehicle safety.

FFY 2019 City of Kodiak Supported Federal Issues:

1. EPA’s “Waters of the U.S.” Rule

The “Waters of the United States” rule promulgated during the Obama Administration would expand Federal permitting and other requirements to many waters currently regulated by State and local governments. The Trump Administration issued a proposed rulemaking on February 14 to replace the existing rule. The proposed rule seeks to draw a bright line test between tributaries (which would be subject to the Clean Water Act) and ditches (which would be exempt). There nonetheless continues to be ambiguity about whether the rule would apply to ditches, which were former tributaries, or have seasonal flow due to snowmelts or heavy rains. There is also concern about storm water and waste water systems in low-lying areas. The City of Kodiak supports the effort to further clarify the WOTUS rule to remove drainage ditches and local government infrastructure from the scope of the Clean Water Act 402 authority. We urge the Alaska Congressional Delegation to continue to monitor the situation and to communicate to the EPA and the Army Corps of Engineers their support for a clear and unambiguous rule that exempts drainage ditches and community water infrastructure from the scope of the definition.

2. Pink Salmon Disaster Assistance

The City of Kodiak remains concerned over the delay in the final approval of the 2016 Gulf of Alaska Pink Salmon Disaster Assistance grant. The 2016 pink salmon season was a total fishery failure, causing significant financial hardship for many fishing families in the Kodiak region and elsewhere in Alaska’s commercial salmon communities. The State of Alaska submitted a proposed spending plan to the Department of Commerce in December, and it has now been three months. The City urges the Alaska Congressional Delegation to press the Secretary of Commerce to finalize the approval of the grant. Additionally, the City has been informed that the Congress may soon take up a \$13.6 billion Disaster Assistance Supple-

mental. The City urges the Alaska Delegation to seek \$150 million for Federal Fishery Disaster Assistance, the amount proposed by the House of Representatives in January. Kodiak experienced another fishery failure in 2018 when the Pacific cod stocks crashed due to unusually warm ocean temperatures in the Gulf of Alaska. There is a federal fishery disaster declaration application filed by the State of Alaska that is pending before the Secretary of Commerce. It is critical that the Disaster Assistance Supplemental include sufficient funds to cover the 2018 Gulf of Alaska Pacific Cod Disaster.

CITY OF KODIAK

MAYOR

ATTEST:

CITY CLERK

Adopted:

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MEMORANDUM TO COUNCIL

To: Mayor Branson and City Councilmembers

From: Mike Tvenge, City Manager *MT*
Debra Marlar, City Clerk *DM*

Date: March 14, 2019

Agenda Item: V. c. **Reappointment of Wayne Donaldson to the City of Kodiak Seat on the Prince William Sound Regional Citizens' Advisory Council**

SUMMARY: The City of Kodiak has a dedicated seat for a representative on the Prince William Sound Regional Citizens' Advisory Council (PWSRCAC). Wayne Donaldson has served as the City's representative since January 8, 2015, and he has requested re-appointment. While serving as the City's representative, Mr. Donaldson has served as PWSRCAC Treasurer and on the Scientific Advisory Committee.

PREVIOUS COUNCIL ACTION: The City of Kodiak has appointed a representative to the PWSRCAC since it was established in the early 1990s. Mr. Donaldson was appointed to a two-year term on March 23, 2017, prior to his appointment Jane Eiseman was the City's representative for several years.

BACKGROUND: The Prince William Sound Regional Citizens' Advisory Council's mission is to promote environmentally safe operation of the Alyeska terminal and associated tankers. The City's representative on the PWSRCAC has the opportunity to influence decisions having profound implications for oil transportation safety in Alaska, and the state's oil spill prevention and response capabilities. PWSRCAC is seeking an appointee who understands Kodiak's needs, concerns, and perspectives; has a basic familiarity with oil transportation issues; has a schedule flexible enough to allow for travel; is committed to the PWSRCAC's mission; and seeks opportunities to foster cooperative relationships with citizens, industry, and regulatory agencies.

DISCUSSION: The Mayor received a letter from PWSRCAC last month stating the City's current seat will expire in May 2019 and requested the City to select an individual for a two-year term and notify PWSRCAC of the City's selection by April 1, 2019.

ALTERNATIVES:

- 1) Re-appoint Wayne Donaldson for another two-year term on the PWSRCAC. This is recommended, because Mr. Donaldson has served the City well.
- 2) Do not make an appointment, which is not recommended.

CITY MANAGER'S COMMENTS: I support Mr. Donaldson's reappointment based on his ongoing interest in the work of the PWSRCAC and his prior service as Kodiak's representative on this advisory council.

ATTACHMENTS:

Attachment A: Wayne Donaldson's email requesting re-appointment

Attachment B: PWSRCAC letter

PROPOSED MOTION:

Move to re-appoint Wayne Donaldson to a two-year term as the City of Kodiak representative on the Prince William Sound Regional Citizens' Advisory Council.

MARCH 14, 2019
Agenda Item V. c. Memo Page 2 of 2

From: [Wayne Donaldson](#)
To: [Branson, Pat](#)
Cc: [Clerks](#)
Subject: City of Kodiak seat on The Prince William Sound Citizens' Advisory Council.
Date: Thursday, February 21, 2019 12:21:45 PM

EXTERNAL EMAIL: ***** If sender is unknown or email is unexpected, do not click on attachments/links.*****.

Mayor Branson, the Prince William Sound Regional Citizens' Advisory Council (RCAC) recently sent you a letter advising that my term representing the City of Kodiak expires May 2019. During the current term I have served as the RCAC Treasurer, and on the Scientific Advisory Committee. I am interested in continuing as a board member on the RCAC for the City.

Wayne Donaldson
907-654-7350



Regional Citizens' Advisory Council / "Citizens promoting environmentally safe operation of the Alyeska terminal and associated tankers."

In Anchorage: 3709 Spenard Road / Suite 100 / Anchorage, Alaska 99503 / (907) 277-7222 / FAX (907) 277-4523
In Valdez: P.O. Box 3089 / 130 South Meals / Suite 202 / Valdez, Alaska 99686 / (907) 834-5000 / FAX (907) 835-5926

MEMBERS

February 19, 2019

Sent via email and USPS mail

Alaska State
Chamber of Commerce

Pat Branson
City of Kodiak
PO Box 1397
Kodiak, AK 99615

Chugach Alaska
Corporation

City of Cordova

Dear Mayor Branson:

City of Homer

The Prince William Sound Regional Citizens' Advisory Council (PWSRCAC) is writing to advise you that Wayne Donaldson's term on our Board of Directors expires at the upcoming May 2-3, 2019, annual meeting in Valdez.

City of Kodiak

City of Seldovia

The dedicated seat for the City of Kodiak is its opportunity to influence decisions having profound implications for oil transportation safety in Alaska, and for the state's oil spill prevention and response capabilities. We greatly value your past participation.

City of Seward

The City of Kodiak is best be served by a representative who:

City of Valdez

- Understands her/his organization and/or community, its needs, concerns and perspectives;
- Has at least a rudimentary familiarity with oil transportation issues;
- Has a home and work schedule flexible enough to allow participation and travel;
- Is committed to our mission of promoting environmentally safe operation of the Alyeska terminal and associated tankers; and
- Seeks opportunities to foster cooperative and constructive relationships between citizens, industry and regulatory agencies.

City of Whittier

Community of
Chenega

Community of
Tatitlek

Cordova District
Fishermen United

A PWSRCAC director can expect to devote an average of 15 hours a month on PWSRCAC business. The full Board conducts three 2-day meetings in January, May, and September. In addition, annual budget and planning meetings are held, as well as special meetings and opportunities to participate in committees or work groups. PWSRCAC staff provides support to board members whenever possible.

Kenai Peninsula
Borough

Please notify us in writing, no later than Monday, April 1, 2019, of your selected individual for the City of Kodiak's next two-year term on the PWSRCAC board. Ideally, this individual will then be expected to attend our May 2-3, 2019, meeting in Valdez for confirmation and participation. If Wayne Donaldson will continue to be your representative, we ask that you still notify PWSRCAC in writing.

Kodiak Island
Borough

Kodiak Village Mayors
Association

If you have further questions about the PWSRCAC or the responsibilities of its directors, please don't hesitate to call. Thank you for your cooperation, and we look forward to the City of Kodiak's continued contribution.

Oil Spill Region
Environmental
Coalition

Sincerely,

Port Graham
Corporation

Jennifer Fleming

Executive Assistant

Prince William Sound
Aquaculture
Corporation

Cc via email: Wayne Donaldson

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EXECUTIVE SESSION

MEMORANDUM TO COUNCIL

To: Mayor Branson and City Councilmembers
From: Mike Tvenge, City Manager *MT*
Date: March 14, 2019
Agenda Item: **X. a. Legal Advice re Chiesa v. City of Kodiak**

SUMMARY: The Council will enter into executive session to hear legal advice regarding Chiesa v. City of Kodiak.

PROPOSED MOTION:

Move to enter into executive session to receive legal advice regarding Chiesa v. City of Kodiak.