

**City of Kodiak Regular Council Meeting Agenda for January 10, 2013**  
**7:30 p.m., at 710 Mill Bay Road, Assembly Chambers (Room 232)**

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- I. Call to Order/Roll Call**  
Pledge of Allegiance/Invocation
  
- II. Previous Minutes**  
Approval of Minutes of the December 13, 2012, Regular Council Meeting.....1
  
- III. Persons to Be Heard**
  - a. Proclamation: Stalking Awareness Month.....10
  - b. Public Comments (limited to 3 minutes) (486-3231)
  
- IV. Unfinished Business**
  - a. Second Reading and Public Hearing, Ordinance No. 1302, Amending Kodiak City Code 3.08.140(A) to Require Sales Tax Returns to Report the Number of Transactions in Which a Portion of the Price or Charge is Exempt From Sales Tax Under Kodiak City Code 3.08.120 .....14
  
- V. New Business**
  - a. First Reading, Ordinance No. 1303, Amending Kodiak City Code 2.36.010(B), Definition of City Records, and Kodiak City Code 2.36.060(A), Access to Public Records, to Exclude Reference Documents and Transitory Documents From the Definitions of City Records and Public Records, Respectively .....22
  - b. Acceptance of FY2012 Comprehensive Annual Financial Report (Audit) .....28
  
- 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. Adjournment**

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<p><b>DRAFT</b></p>
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**MINUTES OF THE REGULAR COUNCIL MEETING  
OF THE CITY OF KODIAK  
HELD THURSDAY, DECEMBER 13, 2012  
IN THE BOROUGH ASSEMBLY CHAMBERS**

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

Mayor Pat Branson called the meeting to order at 7:30 p.m. Councilmembers Randall C. Bishop, Terry J. Haines, Richard H. Walker and John B. Whiddon were present and constituted a quorum. Councilmembers Charles E. Davidson and Gabriel T. Saravia were absent. City Manager Aimée Kniazowski, City Clerk Debra L. Marlar, and Temporary Acting Deputy Clerk Catherine Perkins were also present.

After the Pledge of Allegiance, Salvation Army Sergeant Major Dave Blacketer gave the invocation.

**II. PREVIOUS MINUTES**

Councilmember Whiddon MOVED to approve the minutes of the November 8, 2012, regular meeting as presented.

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

Mayor Pat Branson presented a picture to former Councilmember Josefina Rosales and thanked her for her many years of service on the City Council. Former Councilmember Rosales thanked the Council for the picture and said she enjoyed serving with them for over eight years. She explained she had resigned from the Council due to health reasons and said she would miss everyone.

**III. PERSONS TO BE HEARD**

**a. Public Comments**

**Dave Blacketer**, representing the Senior Citizens of Kodiak, thanked the Council for its continued support and gave statistics on the services provided by the Senior Center.

**Judy Kidder** thanked the Council for working closely with the Kodiak Island Borough on the biosolids composting project and said she would like to see continued collaboration between the City and Borough.

**IV. UNFINISHED BUSINESS**

None

**V. NEW BUSINESS****a. First Reading, Ordinance No. 1302, Amending Kodiak City Code 3.08.140(A) to Require Sales Tax Returns to Report the Number of Transactions in Which a Portion of the Price or Charge is Exempt From Sales Tax Under Kodiak City Code 3.08.120**

Mayor Branson read Ordinance No. 1302 by title. To comply with the Council's request for improved sales tax estimates based on different sales tax maximum caps, the sales tax return process should be amended to add the number of transactions in which a portion of the price or charge is exempt from sales tax under KCC 3.08.120. KCC 3.08.140(a)(6) currently stipulates the City Council may require additional information on a sales tax return, but is not specific. Ordinance No. 1302 will improve the Code language by adding a sentence that requires reports to include the number of transactions that are exempt from sales tax based on the sales tax cap.

Councilmember Whiddon MOVED to pass Ordinance No. 1302 in the first reading and advance to second reading and public hearing at the next special or regular meeting.

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

**b. Resolution No. 2012-35, Certifying the FY2013 Shared Fisheries Business Tax Program Application to Be True and Correct**

Mayor Branson read Resolution No. 2012-35 by title. Resolution No. 2012-35 certifies that the City of Kodiak's FY2013 Shared Fisheries Business Tax Program application is true and correct. This resolution adopts the long form using the standard method application for FY2013. This is the twelfth year the City has used the long form standard method application.

Councilmember Walker MOVED to adopt Resolution No. 2012-35.

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

**c. Resolution No. 2012-36, Appropriating Additional Funds for a Design Contract for Demolition of the Old KPD Building and Authorizing the City Manager to Sign the Contract**

Mayor Branson read Resolution No. 2012-36 by title. In early 2004, USKH prepared a feasibility study for the replacement of aging City facilities including what is now the old Kodiak police station building. The new police station and jail was completed in 2010/2011, and KPD relocated into the new facility. Since that time, the old police station building has been unoccupied but has been kept heated due to shared utilities and electrical and electronic communication systems with adjacent City facilities. The City has spent in excess of \$40,000 in utilities and building repairs during this time. The building was not designed to be a public safety building and has not received improvements over time, leaving it unusable and unsafe for public use. The building is not needed and continues to be a burden for the City.

Councilmember Haines MOVED to adopt Resolution No. 2012-36.

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

**d. Resolution No. 2012–37, Accepting a Construction Grant From the Alaska Department of Environmental Conservation for the Design of the Monashka Pumphouse Upgrade Project No. 11-05/7029**

Mayor Branson read Resolution No. 2012–37 by title. Monashka reservoir and pumphouse are the primary sources of water for the City of Kodiak’s public water system. Records show that construction of the pumphouse began sometime in 1972. Since the initial start up of operations, only minor changes have been made, such as adding additional pumps and the replacement of the original motor start systems. In October 2010, Council authorized CH2MHill to do a feasibility study of an upgrade to the Monashka pumphouse. Staff also applied for Alaska Municipal Matching Grants for the design and upgrade to the pumphouse, but the applications were not successful. Staff continued to be concerned about the condition of the pumphouse and requested the state Department of Environmental Conservation’s (DEC) approval to use some of the remaining grant funds from the City’s UV water treatment project for the Monashka pumphouse upgrade design. DEC and the state’s office of Management and Budget (OMB) approved the use of these funds.

Councilmember Bishop MOVED to adopt Resolution No. 2012–37.

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

**e. Authorization of Contract Extension With Gillespie and Associates for State Lobbying Services**

The City Council selected Ray Gillespie of Gillespie & Associates to be the City’s state lobbyist in 2011. The contract is set to expire on December 31, 2012. However, it allows for a two-year extension if agreed to by both parties. Ray Gillespie requested to be retained by the City, and the Manager recommends Council authorize the two-year contract extension. Other than the effective dates of the contract, all terms remain the same.

Councilmember Haines MOVED to authorize a two-year extension to the professional services contract with Gillespie and Associates for state lobbying services based on the same terms as identified in the 2011-2012 contract and authorize the City Manager to sign the extension.

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

**f. Authorization of Professional Services Contract for Pier III Project Management, Project No. 8013**

Full funding for the Pier III project is now available with the \$18.1 million reimbursable legislative grant the City received and the \$15 million as part of the statewide transportation bond voters approved in November. The replacement of Pier III, with a preliminary cost estimate

of \$25-\$33 million, is the most complex and expensive capital project the City will build. The City must now move the project to the next phases, including geotechnical survey work, final design selection, permitting, and construction. Given the complexity, scope, and timing of the project, the Manager requested and received a proposal for professional project management services from Roe Sturgulewski with RISE Alaska.

Councilmember Whiddon MOVED to authorize a professional services contract with RISE Alaska for project management services for the Pier III project through the end of the bidding phase on a time and expense basis in an amount not to exceed \$164,660, with funds coming from the Cargo Development Fund, Pier III project, Project No. 8013, and authorize the City Manager to execute the agreement on behalf of the City.

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

**g. Authorization of Professional Services Contract for Geotechnical Work Associated With Pier III Replacement, Project No. 8013**

Full funding for the Pier III replacement project has been secured. The next step in the design process is to conduct geotechnical surveys to finalize the type of design and begin the design and permitting process. PND Engineers submitted a proposal to conduct the geotechnical work.

Councilmember Haines MOVED to authorize a professional services contract with PND Engineers for geotechnical work associated with Pier III replacement in the amount of \$247,262, with funds coming from the Cargo Development Fund, Pier III project, Project No. 8013, and authorize the City Manager to execute the agreement on behalf of the City.

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

**h. Authorization of a Professional Services Contract for Biosolids Consultation, Project No. 7517**

The City has been working on a solution for both temporary and long-term disposal of biosolids for multiple years. A sludge disposal study was conducted in 2008 to evaluate potential options and later a pilot composting project was conducted in 2010 to verify the feasibility of composting the community's biosolids. The City has contracted with CH2MHill for professional engineering support throughout the process. Given the public concern of the process and the location of the composting facility, as well as the substantial misinformation circulating by opponents, the City needs professional expertise to address multiple claims, complaints, and any other disposal options that may become available.

Councilmember Bishop MOVED to approve a professional services contract with CH2MHill to provide support to staff on biosolid-related issues in an amount not to exceed \$30,000, with funds coming from the Sewer Capital Improvement Fund, Biosolids Management Project, Project No. 7517, and authorize the City Manager to execute the agreement.

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

**i. Advisory Board Appointments**

Several seats expire on various City advisory boards at the end of December 2012. Except for the Personnel Board, whose members are appointed by the Council, and the Employee Advisory Board, whose members are elected by City employees, members of advisory boards are appointed by the Mayor and confirmed by the Council. At the December 11, 2012, work session, Councilmembers interviewed applicants and considered applications.

Mayor Branson appointed John Butler to a regular seat on the Building Code Board of Appeals, with the term ending December 31, 2015; John Butler, Jim Willis, and Helm Johnson to regular seats on the Parks and Recreation Advisory Board, with terms ending December 31, 2015, and Ryan Murdock to an alternate seat on the Parks and Recreation Advisory Board, with the term ending December 31, 2013; Oliver Holm and Tim Abena to regular seats on the Port and Harbors Advisory Board, with terms ending December 31, 2015, and John Lyman and David Jentry to alternate seats on the Port and Harbors Advisory Board with terms ending December 31, 2013.

Councilmember Whiddon MOVED to appoint Pat Szabo to the Personnel Board for a term ending December 31, 2014, correct the Personnel Board terms for Curtis Law and Patricia Olsen to end December 31, 2013; recommend Kathy Drabek for appointment to the three-year City seat on the Planning and Zoning Commission; and confirm the Mayoral advisory board appointments to the Building Code Board of Appeals, Parks and Recreation, and Port and Harbors Advisory Boards as stated.

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

**j. Election of Deputy Mayor**

Under the provisions of City Charter Article II, Section 2, the City Council shall elect one of its members as Deputy Mayor no sooner than thirty days, nor more than sixty days, from the beginning of the newly-elected Councilmembers' terms. The Deputy Mayor serves a one-year term and acts as Mayor in the Mayor's absence. If a vacancy occurs in the office of Mayor, the Deputy Mayor serves until another Mayor is elected by the Council.

Councilmember Haines MOVED to elect John Whiddon as Deputy Mayor.

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

**VI. STAFF REPORTS**

**a. City Manager**

City Manager Kniazowski thanked former Councilmember Josefina Rosales for her many years of service to the community. She said she had met with Lori Aldrich from the state Department of Environmental Conservation (DEC) about different alternatives for the biosolids program, and the pending permit is currently under public comment. She said the public comment period on the application to compost in Middle Bay has been extended through January 18, 2013, and because of that, there will not be a permit by the December 15, 2012, cutoff date given by the Borough. She said that in the interim, approval was received from the U.S. Coast Guard Base to stock pile biosolids for six months, if needed, and expressed appreciation for their help. She noted that the City and Borough have been working together and may have a temporary biosolid disposal option that involves taking biosolids to an area on the top of the existing landfill where the biosolids can be converted into class B compost. She said the Borough passed this plan along to DEC, who said they should have approval by December 14, 2012. She said the Borough also plans to adopt a land disposal ordinance, which will allow the City to continue to bring biosolids to the landfill, which will require a licensing agreement. She expressed appreciation to City and Borough staff, especially Mike Patterson, the solid waste manager for the Kodiak Island Borough, for their work on the biosolids project.

She reported on her attendance at the Alaska Municipal League (AML) conference. She also commented on the City's recent surplus auction and complemented the Finance department for organizing the auction and Public Works for delivering items to the auction. She noted that November 24, 2012, marked the 71st year the City had an active police department in the community. She said there will be a special meeting on January 4, 2012, to meet with Senior Stevens and Representative Austerman regarding the City's CIP list and encouraged the public to attend. She wished everyone safe and happy holidays.

#### **b. City Clerk**

City Clerk Marljar said she was glad for the opportunity to formally thank former Councilmember Rosales for her years of service to the City. She reminded the public the City Clerk's office publishes the entire council packet online and welcomes feedback from the public. She also informed the public of scheduled Council work sessions, regular meetings, and special meetings.

### **VII. MAYOR'S COMMENTS**

Mayor Branson reported on her experiences at the AML and Kodiak Island Mayor's conferences. She thanked the volunteers who came forward to serve on advisory boards and reminded the public there are still seats open. She also thanked the City and Borough staff for their work on the biosolids composting project. She wished everyone happy holidays and happy new year.

### **VIII. COUNCIL COMMENTS**

Councilmember Walker reported on his experience at the AML Newly Elected Officials training. He said he was glad to see the City and Borough working together on the biosolids project and wished the community happy holidays and a happy new year.

Councilmember Haines said while the extra sales tax reporting might be a hassle for business owners, it is necessary to better plan future budgets. He thanked former Councilmember Rosales



for her years of service. He said he was glad to see how well the City and Borough worked together on the biosolids project. He also thanked the Washington delegation for requesting the Observer Program be delayed and encouraged the public to comment and give input on the program. He wished the public merry Christmas.

Councilmember Whiddon thanked former Councilmember Rosales for her service to the community. He commented on scheduled budget training in January. He also expressed concern over comments that were made regarding the biosolids project and said he was disappointed at the language used toward the Council and Staff. He complimented and thanked staff for their work on the biosolids project and wished everyone a merry Christmas and happy new year.

Councilmember Bishop said that while the new sales tax requirement might be seen as a burden, it is another example of the City working together with the community. He thanked former Councilmember Rosales for her service to the community, thanked everyone who applied for the advisory boards, and congratulated those who were appointed. He wished everyone merry Christmas and happy new year.

**IX. AUDIENCE COMMENTS**

None

**X. ADJOURNMENT**

Councilmember Whiddon MOVED to adjourn the meeting.

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

The meeting adjourned at 8:36 p.m.

CITY OF KODIAK

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MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

Minutes Approved:

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## **PERSONS TO BE HEARD**

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## MEMORANDUM TO COUNCIL

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**Date:** January 10, 2013

**Agenda Item:** III.a. Proclamation: Stalking Awareness Month

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**SUMMARY:** This proclamation acknowledges staking as a serious crime and applauds the efforts of victim service providers, police officers, prosecutors, national and community organizations, and private sector supporters for their efforts in assisting victims and promoting awareness about stalking.

**ATTACHMENTS:**

Attachment A: Proclamation: Stalking Awareness Month

# PROCLAMATION

## Declaring Stalking Awareness Month

WHEREAS, at some point in their lives, 1 in 6 women and 1 in 19 men will be stalked, and many of these crimes will go unreported and unprosecuted; and

WHEREAS, stalking behaviors may appear innocuous to outside observers, but victims often endure intense physical and emotional distress and are forced to protect themselves by relocating, changing their identities and jobs, and obtaining protection orders; and

WHEREAS, stalking tends to escalate over time, and it is sometimes followed by sexual assault or homicide; and

WHEREAS, Kodiak Women's Resource and Crisis Center is joining forces with victim service providers, criminal justice officials, and concerned citizens throughout Kodiak Island and the United States to observe National Stalking Awareness Month and to promote the 2013 theme, "Stalking: Know It. Name It. Stop It."

NOW, THEREFORE, I, Pat Branson, Mayor of the City of Kodiak, do hereby proclaim January 2013, as:

### Stalking Awareness Month

in Kodiak and applaud the efforts of victim service providers, police officers, prosecutors, and others for assisting victims, promoting awareness to recognize the signs of stalking, acknowledging stalking as a serious crime; and urge those impacted not to be afraid to speak out or ask for help.

Dated this 10 day of January 2013.

City of Kodiak

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Pat Branson, Mayor

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# **UNFINISHED BUSINESS**

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## MEMORANDUM TO COUNCIL

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**To:** Mayor Branson and City Councilmembers  
**From:** Aimée Kniazowski, City Manager *AK*  
**Thru:** Mary Munk, Finance Director *MM*  
**Date:** January 10, 2013

**Agenda Item:** IV. a. **Second Reading and Public Hearing, Ordinance No. 1302, Amending Kodiak City Code 3.08.140(A) to Require Sales Tax Returns to Report the Number of Transactions in Which a Portion of the Price or Charge is Exempt From Sales Tax Under Kodiak City Code 3.08.120**

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**SUMMARY:** To comply with City Council's request for improved sales tax estimates based on different sales tax maximum caps, the sales tax return process should be amended to add the number of transactions in which a portion of the price or charge is exempt from sales tax under KCC 3.08.120. KCC 3.08.140(a)(6) currently says the City Council may require additional information on a sales tax return, but is not specific. Ordinance No. 1302 improves the Code language by adding a sentence that requires reports to include the number of transactions that are exempt from sales tax based on the sales tax cap. Therefore, staff recommends Council adopt Ordinance No. 1302 in the second reading following the public hearing.

**PREVIOUS COUNCIL ACTION:** KCC 3.08.140 Sales Tax Returns was part of Ordinance 497, which Council adopted in 1977 that established the Sales Tax Code 3.08.

3.08.140 Sales tax returns

- (a) Each person who sells or rents property or renders services taxable under this chapter in any quarter ending March 31, June 30, September 30, and December 31 shall, on or before the last day of the month following the end of each quarter year, or April 30, July 31, October 31, and January 31, respectively, complete, sign, and file with the city a return for that quarter, upon forms furnished by the city, setting forth the following:
- (1) The amount received from all sales, rentals, and services made or rendered within the city;
  - (2) The amount received from nontaxable sales, rentals, and services, with a brief explanation of the nontaxable status;
  - (3) The amount received from taxable sales, rentals, and services;
  - (4) The amount of tax attributable to the taxable sales, rentals, and services;
  - (5) The taxes collected; and
  - (6) Such other information and supporting papers as the council may require in the reporting form.



Council reviewed and discussed proposed Ordinance No. 1302 at the December 11 work session and adopted it in the first reading and advanced to second reading and public hearing at the December 13, 2012, regular meeting.

**DISCUSSION:** Council and staff held many discussions since 2011 on the need to increase revenues to meet expenses. Two main options to increase revenues were considered: increase sales tax from six percent to seven percent, and increase or eliminate the sales tax cap. Council raised the sales tax to seven percent and asked staff to come up with a way to better evaluate the potential revenues if the sales tax cap was raised by a specific amount. Staff worked on a way to update the sales tax reporting form to help refine estimates of possible revenues and worked with the City Attorney on a recommended Code clarification.

Sales tax returns have required the information listed above on all returns since 1977. Currently, KCC 3.08.140 (a)(6) allows the City Council to require additional information on the returns. However, the language is vague. Staff conferred with the City Attorney, and he advised that it would be best to add a clarifying sentence to this portion of the Code. Ordinance No. 1302 (Attachment A) states clearly that tax returns will contain the number of transactions in which a portion of the sale is exempt from sales tax. This change defines the additional information required on the sales tax return form and allows staff to better estimate potential revenues based on different sales tax cap amounts.

**ALTERNATIVES:**

1. Adopt Ordinance No. 1302, which is staff's recommendation. This amendment adds clarifying language to the Code to require sales tax reports to include the number of transactions in which a portion of the price or charge is exempt from sales tax and allows for better potential revenue projections if the sales tax cap is adjusted.
2. The Council can do nothing. This alternative is not recommended, because it won't provide the information Council has requested.

**FINANCIAL IMPLICATIONS:** Council action is required if Council wishes add 3.08.140 (a)(6), the number of transactions in which a portion of the price or charge is exempt from sales tax under KCC 3.08.120. Staff believes adoption of Ordinance No. 1302 is the best choice to ensure better estimates of sales tax revenues to determine the effects of different sales tax maximum caps. This will allow the City Council to set the sales tax maximum cap at a level that is adequate to generate revenues with the least impact to the residents of Kodiak.

**LEGAL:** The Kodiak City Charter and Kodiak City Code grant Council the authority to approve ordinances affecting the Sales Tax Code. The City attorney advised and assisted staff in this review and drafted Ordinance No. 1302.

**STAFF RECOMMENDATION:** This code amendment will help meet a stated Council goal. Therefore, staff recommends Council adopt Ordinance No. 1302 at this meeting after the public hearing.

**CITY MANAGER'S COMMENTS:** I recommend Council adopt this amendment to the Code, because it improves staff's ability to better identify sales that occur above the sales tax cap and will improve projections of possible revenue adjustments based on various sales tax cap options. Mary Munk and I presented an example of the reporting form that would help refine the estimates last spring. The form is attached (see Attachment B), as is a copy of Ordinance No. 1302.

**ATTACHMENTS:**

Attachment A: Ordinance No. 1302

Attachment B: Sample of revised sales tax reporting form

**PROPOSED MOTION:**

Move to adopt Ordinance No. 1302.

**CITY OF KODIAK  
ORDINANCE NUMBER 1302**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF KODIAK AMENDING  
KODIAK CITY CODE 3.08.140(a) TO REQUIRE SALES TAX RETURNS TO REPORT  
THE NUMBER OF TRANSACTIONS IN WHICH A PORTION OF THE PRICE OR  
CHARGE IS EXEMPT FROM SALES TAX UNDER KODIAK CITY CODE 3.08.120**

BE IT ORDAINED by the Council of the City of Kodiak, Alaska, that:

**Section 1:** Subsection (a) of Kodiak City Code 3.08.140 is hereby amended to read as follows:

**3.08.140 Sales tax returns**

(a) Each person who sells or rents property or renders services taxable under this chapter in any quarter ending March 31, June 30, September 30, and December 31 shall, on or before the last day of the month following the end of each quarter year, or April 30, July 31, October 31, and January 31, respectively, complete, sign, and file with the city a return for that quarter, upon forms furnished by the city, setting forth the following:

- (1) The amount received from all sales, rentals, and services made or rendered within the city;
- (2) The amount received from nontaxable sales, rentals, and services, with a brief explanation of the nontaxable status;
- (3) The amount received from taxable sales, rentals, and services;
- (4) The amount of tax attributable to the taxable sales, rentals, and services;
- (5) The taxes collected; ~~and~~
- (6) The number of transactions in which a portion of the price or charge is exempt from sales tax under KCC 3.08.120; and
- (7) Such other information and supporting papers as the council may require in the reporting form.

**Section 2:** This ordinance shall be effective upon the later to occur of (i) the date that is one month after its final passage and publication in accordance with Kodiak Charter Section 2-13; or (ii) the first day of the first calendar quarter after the City issues sales tax return forms that require the reporting of the number of transactions in which a portion of the price or charge is exempt from sales tax under KCC 3.08.120.

[Bold and underlined added. Deleted language stricken through.]

CITY OF KODIAK

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MAYOR

ATTEST:

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CITY CLERK

First Reading: December 13, 2012

Second Reading:

Effective Date:

**[Bold and underlined added. Deleted language stricken through.]**



City of Kodiak  
 710 Mill Bay Road, Room 211  
 Box 1397  
 Kodiak, AK 99615  
 Phone: (907) 486-8655  
 Fax: (907) 486-8600

REPORT OF CONSUMERS' TAX ON SALES,  
 SERVICES AND RENTALS

SAMPLE

Business «ID»

Name «BusName»

DBA «DBA»

Address «MAddress»

Address «MAddress1»

City, St, Zip «MCity» «MState» «MZip»

Business Type «Bustype1»

For the period: «DateBegin» to «DateEnd»

Form must be returned by «DateDue» even when no sales tax is due.

If final return, check box  Last Day of \_\_\_\_\_

Reason: \_\_\_\_\_

If sold, to whom: \_\_\_\_\_

**REVENUE:**

1.) Gross revenue from retail	1.)	<input style="width: 95%;" type="text"/>
2.) Gross revenue from services rendered, including materials	2.)	<input style="width: 95%;" type="text"/>
3.) Gross revenue from rentals	3.)	<input style="width: 95%;" type="text"/>
4.) Gross revenue from other sources	4.)	<input style="width: 95%;" type="text"/>
5.) Total calculated revenues (lines 1, 2, 3 and 4)	5.)	<input style="width: 95%;" type="text"/>

**LIST DETAIL OF DEDUCTIONS:**

6.) Sales or Services to Senior Citizens with valid Senior Exemption	6.)	<input style="width: 95%;" type="text"/>
7.) Sales, Services or Rentals to Government	7.)	<input style="width: 95%;" type="text"/>
8.) Sales or Services to Wholesale/Retail Exemption Certificate	8.)	<input style="width: 95%;" type="text"/>
9.) Sales or Services to Contractors with valid Exemption	9.)	<input style="width: 95%;" type="text"/>
10.) Other Allowable Deductions, please explain _____	10.)	<input style="width: 95%;" type="text"/>
11.) Transactions over maximum taxable amount <small>For explanation see bottom of page. Note 1</small>	11.)	<input style="width: 95%;" type="text"/>

Number of Transactions over maximum taxable amount

Number of Transactions \$750 - \$1,500		<input style="width: 95%;" type="text"/>
Number of Transaction \$1,501 - \$3,000		<input style="width: 95%;" type="text"/>
Number of Transaction > \$3,000		<input style="width: 95%;" type="text"/>

12.) Sales tax collected if included in gross	12.)	<input style="width: 95%;" type="text"/>
13.) Total Deductions	13.)	<input style="width: 95%;" type="text"/>

**CALCULATED TAX AND PAYMENT:**

14.) Calculated Taxable revenue (line 5 minus line 13)	14.)	<input style="width: 95%;" type="text"/>
15.) Computed tax (7% of line 14)	15.)	<input style="width: 95%;" type="text"/>
16.) Discount (2% of line 15, if paid on or before due date noted above and have a 0 balance)	16.)	<input style="width: 95%;" type="text"/>
17.) Total Penalty and Interest - <small>For explanation see bottom of page. Note 2</small>	17.)	<input style="width: 95%;" type="text"/>
18.) Total Sales Tax Due (line 15, less line 16, plus line 17, plus past due balance)	18.)	<input style="width: 95%;" type="text"/>
Balance of account from prior returns, penalties and interest and		<input style="width: 95%;" type="text"/>
19.) Amount Remitted <span style="float: right;">Cash _____ or Check # _____</span>	19.)	<input style="width: 95%;" type="text"/>

Date: \_\_\_\_\_ Printed Name: \_\_\_\_\_ Signature: \_\_\_\_\_

1 Sales or services which exceed seven hundred fifty dollars for a single transaction shall be exempt from sales tax (i.e. transaction is \$2000 then only the first \$750 is taxable, the remaining \$1250 shall be noted as a deduction on this line) 2 Failure to remit taxes collected on or before due date will result in a penalty of 5% per month or fraction of month during which the tax remains unpaid, until a total of 20% is accrued. In addition, the principal amount will accrue 15% interest per annum.

**RETURN THIS COPY TO THE CITY OF KODIAK**

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# **NEW BUSINESS**

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## MEMORANDUM TO COUNCIL

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**To:** Mayor Branson and City Councilmembers  
**From:** Aimée Kniazowski, City Manager  
Debra Marlar, City Clerk *DM*  
**Date:** January 10, 2013

**Agenda Item:** V.a. **First Reading, Ordinance No. 1303, Amending Kodiak City Code 2.36.010(B), Definition of City Records, and Kodiak City Code 2.36.060(A), Access to Public Records, to Exclude Reference Documents and Transitory Documents From the Definitions of City Records and Public Records, Respectively**

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**SUMMARY:** State law and City Code provide access to official City records. The City Clerk's Office routinely responds to requests for public City records, and responded to 27 requests in 2012. Oftentimes, requestors ask for information that is considered to be reference material or transitory (temporary) information that is not considered to be a record. The City Attorney recommended KCC 2.36 be amended to clarify that reference and transitory documents are not included in the definition of a City record. This amendment will enable staff to more efficiently assist the public and clarify for the public the information that may be received. Staff recommends the Council pass Ordinance No. 1303 in the first reading and advance to second reading and public at the next regular or special Council meeting.

**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

**DISCUSSION:** The public has a right to inspect official public records, and some requests take many staff hours to complete. A recent request for public records required 21 staff hours to research and compile, and required our attorney's opinion to interpret. Other recent records requests have included requests for information including notes, scheduled meetings, and discussions, which are not public records and which information was not released. The suggested amendment to KCC 2.36 will clarify



that reference and transitory documents, such as preliminary notes, telephone logs, correspondence tracking logs, appointment books/calendars and similar information is not a public record and will not be released.

KCC 2.36, Management of Records provides for the efficient and lawful management of City records, which are a City asset. Included within KCC 2.36 are sections that identify public records and access to public records. Due to records requests for information that is not deemed to be public records, the City Attorney suggested an amendment to KCC 2.36 to specifically identify reference and transitory documents and exclude these types of documents from public access.

**ALTERNATIVES:**

1. Pass Ordinance No. 1303 in the first reading and advance to second reading and public hearing, which is staff's recommendation. This amendment clarifies items that are excluded from the definition of a City record.
2. The Council may postpone or fail Ordinance No. 1303 in the first reading. This is not recommended for the reasons stated above.

**FINANCIAL IMPLICATIONS:** There is no direct financial impact to the adoption and implementation of this ordinance. However, it should reduce the need for legal assistance in interpreting poorly worded or open-ended requests, and staff time can be spent in identifying, locating, and supplying the requested documents more timely and efficiently.

**LEGAL:** The City Attorney recommended KCC 2.36 be amended to exclude reference and transitory documents from the definition of a public record and wrote Ordinance No. 1303.

**CITY CLERK'S COMMENTS AND RECOMMENDATION:** Requests for public records have increased from an average of 13 between 2007 and 2009 to 27 in 2010, 2011, and 2012. The trend for public records requests is expected to increase. A clear definition of records and access to them is very important to ensure that public records requests are handled efficiently and quickly. The City Clerk, who has the overall responsibility of City records, supports Ordinance No. 1303 and encourages the Council to pass it in the first reading and advance to second reading and public hearing at the next regular or special Council meeting.

**CITY MANAGER'S COMMENTS AND RECOMMENDATION:** I believe it's important to clarify the language in our code to describe what City work products are considered records and which constitute working or transitory documents. I support a citizen's right to ask for information of interest or concern to them. However, City staff generates information such as calendars, phone logs, and working meeting notes when we work on projects or issues over the course of time. Key outcome documents are considered records and are retained as such, but not all items generated are actually records as identified in our records retention program. I support this ordinance to clarify the code

language as to what is and isn't a record. This change will improve staff's response time to the growing number of citizen requests and reduce the need to get legal advice for those public information requests that are unclear or wide ranging.

**NOTES/ATTACHMENTS:**

Attachment A: Ordinance No. 1303

**PROPOSED MOTION:**

Move to pass Ordinance No. 1303 in the first reading and advance to second reading and public hearing at the next regular or special Council meeting.

JANUARY 10, 2013  
Agenda Item V.a. Memo Page 3 of 3

**CITY OF KODIAK  
ORDINANCE NUMBER 1303**

**AN ORDINANCE AMENDING KODIAK CITY CODE 2.36.010(b), DEFINITION OF CITY RECORDS, AND KODIAK CITY CODE 2.36.060(a), ACCESS TO PUBLIC RECORDS, TO EXCLUDE REFERENCE DOCUMENTS AND TRANSITORY DOCUMENTS FROM THE DEFINITIONS OF CITY RECORDS AND PUBLIC RECORDS, RESPECTIVELY**

BE IT ORDAINED by the Council of the City of Kodiak, Alaska, that:

**Section 1:** Subsection (b) of Kodiak City Code 2.36.010, Definition of City records, is hereby amended to read as follows:

(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, or 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.

**Section 2:** Subsection (a) of Kodiak City Code 2.36.060, Access to public records, is hereby amended to read as follows:

(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.

**Section 3:** This ordinance shall be effective upon the date that is one month after its final passage and publication in accordance with Kodiak Charter Section 2-13.

CITY OF KODIAK

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

First Reading:  
Second Reading:  
Effective Date:

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## MEMORANDUM TO COUNCIL

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**To:** Mayor Branson and City Councilmembers  
**From:** Aimée Kniazowski, City Manager *AK*  
**Thru:** Mary Munk, Finance Director *MM*  
**Date:** January 10, 2013

**Agenda Item:** V.b. **Acceptance of FY2012 Comprehensive Annual Financial Report (Audit)**

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**SUMMARY:** Each year the City Council retains a qualified accounting firm to perform an annual audit of the City's financial records and accounting practices. The City Charter and the City Code require the Council to accept the comprehensive annual financial report. Council typically accepts the audit by motion. Staff recommends Council approve the Fiscal Year 2012 audit in accordance with Kodiak City Code 3.24.020 and accept the FY2012 Comprehensive Annual Financial Report.

**PREVIOUS COUNCIL ACTION:** The Fiscal Year 2012 budget was adopted by the City Council on May 26, 2011, Ordinance No. 1287. The annual audit expense was budgeted in the General Fund, Finance Administration Department, Professional Services. The budgeted amount to conduct the Fiscal Year 2012 audit was \$45,000.

**DISCUSSION:** Article V, Section 21 of the City Charter requires an annual audit of the accounting and financial records of the City by independent certified public accountants. This charter section requires the auditor to examine all funds of the City in accordance with generally accepted auditing standards and the standards set forth in the Government Accountability Office's Government Auditing Standards. In addition, the auditor must conduct the compliance examinations required by the Single Audit Act Amendments of 1996, the related U.S. Office of Management and Budget's Circular A-133, and the State of Alaska Audit Guide and Compliance Supplement for State Single Audits. The standards governing Single Audit engagements require the independent auditor to report not only on the fair presentation of financial statements, but also on the audited government's internal controls and compliance with legal requirements, with special emphasis on internal controls and legal requirements involving the administration of grants.

The City of Kodiak solicited the services of qualified firms of certified public accountants to audit its financial statements for the fiscal year ending June 30, 2008, 2009, and 2010, with the option to audit the City's financial statements for two subsequent fiscal years. The City of Kodiak contracted with Mikunda, Cottrell & Co. for auditing services. The fees for services, not including travel expenses, have been \$40,200 for 2008, \$41,025 for 2009, \$42,000 for 2010, \$45,000 for 2011, and \$46,019 for 2012.

The auditors from Mikunda, Cottrell worked with City staff during the summer and into the fall of 2012 to review records, run their tests, and complete the audit documents. As in past years, staff recommends Council approve the final FY2012 audit document by motion at this regular meeting.

**ALTERNATIVES:** N/A

**FINANCIAL IMPLICATIONS:** Compliance with Kodiak City Code Section 3.24.020 is required. It states that “upon Council’s acceptance of the annual financial report, necessary budgetary/accounting entries shall be recorded in the succeeding fiscal year for all outstanding encumbrances and incurred obligations, as disclosed in the prior fiscal year’s annual financial report.”

**LEGAL:** N/A

**STAFF RECOMMENDATION:** Staff recommends that the City Council accept the Fiscal Year 2012 annual financial report by motion.

**CITY MANAGER’S COMMENTS:** The annual audit is a financial requirement of the City. Staff prepared for and worked closely with the auditors as they gathered information during the summer and fall to prepare the final report. Council will have had the presentation at the January 8 work session, and I recommend that Council accept the FY2012 audit by motion at this meeting. Once more, I want to thank Finance Director Mary Munk and her staff for their work during the audit and for their ongoing professionalism and attention to detail.

**NOTE:**

The City Council was issued a copy the Fiscal Year 2012 Comprehensive Financial Annual Report (CAFR).

**PROPOSED MOTION:**

Move to accept the City’s Fiscal Year 2012 Comprehensive Annual Financial Report.