

KODIAK CITY COUNCIL

WORK SESSION AGENDA

Tuesday, January 26, 2016
Kodiak Public Library Multi-Purpose Room
7:30 p.m.

Work sessions are informal meetings of the City Council where Councilmembers review the upcoming regular meeting agenda packet and seek or receive information from staff. Although additional items not listed on the work session agenda are sometimes discussed when introduced by the Mayor, Council, or staff, no formal action is taken at work sessions and items that require formal Council action are placed on a regular Council meeting agenda. Public comments at work sessions are NOT considered part of the official record. Public comments intended for the "official record" should be made at a regular City Council meeting.

Discussion Items

- 1. Public Comments (limited to 3 minutes)
- 2. FY2015 Audit Presentation..... Provided Separately
- 3. Discussion About Federal CIP List.....1
- 4. Elected Officials Training/Travel Requests
- 5. January 28, 2016, Agenda Packet Review

To Be Scheduled

- 1. March Meeting Schedule

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PROPOSED 2016 DRAFT

FEDERAL CAPITAL NEEDS AND ISSUES

1. Community Roads and Pedestrian Improvements

The City of Kodiak is faced with a number of pressing infrastructure replacement and improvement projects that remain unfunded. The City is seeking funding for the critically needed rehabilitation of the Mill Bay Road, the major arterial road providing access to Kodiak's business district (\$3,500,000); the construction of parking areas to remove pedestrian traffic and roadway congestion along Shelikof Street (\$1,565,000); and pedestrian and roadway improvements on the Kodiak waterfront to accommodate cruise ship passengers and local residents who are walking near the seafood plants and Kodiak's working piers (\$1,100,000). In prior years, the City has been able to seek a federal contribution to community road projects through a High Priority Project designation in legislation reauthorizing the Federal Highway Trust Fund ("Highway Bill"). The Congress has suspended this practice. The allocation of funds to the states has been curtailed due to the shortfall in federal gas tax revenues which make up the Federal Highway Trust Fund. The State of Alaska's worsening revenue deficit has exacerbated the shortfall, reducing state funds available to communities to repair their roads and provide for pedestrian access. The City of Kodiak is requesting the Alaska Delegation's assistance in advocating for some minimum guarantee of Federal Highway Trust Fund revenue to be dedicated to road infrastructure owned by local governments, or an increase in the allocation to the Transportation Alternatives Program of funds for pedestrian improvements.

2. Karluk Lake Enrichment Project

The Karluk Lake system, on the west side of Kodiak Island, is the largest producer of sockeye salmon in the Kodiak area, and supports a large portion of the area's commercial and subsistence sockeye fisheries. Since 2007, returns of adult sockeye to the Karluk system have been extremely poor, most likely due to over-escapement of spawning adults in earlier years. Continuing low returns will not only deprive local fisheries, low spawning escapements will also reduce the supply of marine-derived nutrients to the lake system. Thus, the system may remain in at a low state of productivity indefinitely into the future.

In order to bring the Karluk Lake ecosystem back to its earlier, higher level of production, the Kodiak Regional Aquaculture Association (KRAA) proposes to apply nutrients over the course of up to five years. This lake enrichment project follows established protocols for rehabilitating sockeye salmon rearing environments. Since Karluk Lake is within the Kodiak National Wildlife Refuge and a pre-statehood withdrawal, however, the Fish and Wildlife Service must perform a compatibility review and an environmental assessment. The FWS has completed a draft environmental assessment and will render a decision this year. The City is requesting the Delegation's active support for the enrichment project.

3. Impact of Sea Lions on Ferry Terminal Dock

The State of Alaska has allocated funding to engage in a major project involving the City of Kodiak's Pier 1. The project began in October, 2014 but was suspended in November, 2014 over concerns about Stellar sea lions. The National Marine Fisheries Service required a 350 meter radius exclusion area as a permit condition for the project. Under this permit condition, work must stop each time a marine mammal enters the 350 meter radius. The State decided to suspend the project and seek a permit modification to allow for continuation of work when marine mammals enter the exclusion area. This was issued on September 30, 2015, forcing a one-year delay in the project. The Incidental Harassment Authority issued to the State by NMFS continues to require exclusion zones (350 meters for pile driving and 1150 meters for vibratory/extraction activities). The State is also required to fund marine mammal observers while these activities are underway. In 2014 the City of Sand Point faced a similar permit condition for the construction of docks and floats within its new harbor. This has become a recurring problem throughout coastal Alaska because the sea lions following the fishing fleet back to the shore facilities. It is costing major delays in important harbor infrastructure projects and hundreds of thousands of additional dollars in project costs without any finding that the construction projects are actually harming Stellar sea lions. The City of Kodiak continues to believe that the Marine Mammal Protection Act should be amended to allow communities greater flexibility to conduct marine infrastructure projects.

3. EPA's "Waters of the U.S." Rule

The Environmental Protection Agency and the U.S. Army Corps of Engineers is moving forward with a proposed "Waters of the United States" rule that would expand Federal permitting and other requirements to many waters currently regulated by State and Local governments. The proposed rule would also apply to private landowners. The key change being proposed would expand Clean Water Act coverage to "other waters" where there is a "significant nexus" to currently covered interstate waters, territorial seas and navigable waterways. That determination is meant to be "case-specific" but has not been fully defined and the concern is that "significant nexus" could be interpreted to include floodplains, certain man-made waterways and ditches, self-contained water bodies such as ponds or temporary/isolated wetlands. Under this model, Alaska's extensive acreage of wetlands would likely mean that wetlands and other water bodies, including small streams and tributaries, that are seemingly isolated and geographically far removed from any current CWA-covered waterway would fall under the new definition. The City of Kodiak feels that the proposed rule would add extra layers of bureaucracy to the efforts of Kodiak citizens to use their land and for the City to engage in future public works projects. The City is requesting that the Alaska Delegation support legislative initiatives to curtail this proposed rule.

4. EPA's Fishing Vessel Discharge Rule

EPA has promulgated two rules to require commercial fishermen to obtain Clean Water Act incidental discharge permits as a condition for operating both small and large fishing vessels.

The permits would cover ballast water, fish hold water, anchor chain mud, deck wash/runoff, bilge pump discharge, gray or “stick” water, laundry, shower, and galley sink water. The permits require burdensome reporting, monitoring, inspections and compliance activities – all subject to heavy fines and citizen lawsuits under the Clean Water Act for what seems to be minimal environmental protection. The Congress has imposed a three year moratorium preventing EPA from implementing the Small Vessel General Permit Rule and the Vessel General Permit Rule. Efforts are underway within the Congress to make the moratorium permanent. The City of Kodiak is requesting that the Alaska Delegation actively support a permanent moratorium.

DRAFT

**CITY OF KODIAK
RESOLUTION NUMBER 2015-04**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF KODIAK ADOPTING
THE FEDERAL FISCAL YEAR 2015 FEDERAL CAPITAL NEEDS AND ISSUES 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 2015 prioritized federal capital project and issues list:

1. Community Roads and Pedestrian Improvements

The City of Kodiak is faced with a number of pressing infrastructure replacement and improvement projects that remain unfunded. The City is seeking funding for rehabilitation of the Mill Bay Road, the major arterial road providing access to Kodiak's business district (\$3,500,000); the construction of parking areas to remove pedestrian traffic and roadway congestion along Shelikof Street (\$1,650,000); and pedestrian and roadway improvements on the Kodiak waterfront to accommodate cruise ship passengers and local residents who are walking near the seafood plants and Kodiak's working piers (\$1,100,000). In prior years, the City has been able to seek a federal contribution to community road projects through a High Priority Project designation in legislation to reauthorize the Federal Highway Trust Fund ("Highway Bill"). The Congress has suspended this practice. The allocation of funds to the states has

been curtailed due to the shortfall in federal gas tax revenues which make up the Federal Highway Trust Fund. The State of Alaska's budget deficit has exacerbated the shortfall, reducing state funds available to communities to repair their roads and provide for pedestrian access. The City of Kodiak is requesting the Alaska Delegation's assistance in advocating for some minimum guarantee of Federal Highway Trust Fund revenue to be dedicated to road infrastructure owned by local governments, or an increase in the allocation to the Transportation Alternatives Program of funds for pedestrian improvements.

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3. Impact of Sea Lions on Ferry Terminal Dock

The State of Alaska and the federal government allocated funding to engage in a major project involving the rebuild of the City of Kodiak's Pier I where the state ferry *M/V Tustumena*, docks. The project was developed to replace the aging wooden structure at Pier I and to improve the limited uplands to better accommodate docking and loading of the *M/V Tustumena* the State's seagoing ferry that Kodiak depends heavily upon. The project is budgeted at \$11,000,000 for construction and utility work. Construction on the project began in October 2014, but was suspended in November over concerns about Stellar sea lions. The National Marine Fisheries Service required a 350 meter radius exclusion area as a permit condition for the project. Under this permit condition, work must stop each time a marine mammal enters the 350 meter radius. The State decided to suspend the project and seek a permit modification to allow for continuation of work when marine mammals enter the exclusion area. This is likely to delay resumption of the project until September 2015 or perhaps longer. A larger project involving Pier III in Kodiak was conditioned on a 1000 meter radius exclusion area. Last year Sand Point faced a similar permit condition for the construction of docks and floats within its new harbor. This has become a recurring problem throughout coastal Alaska because the sea lions follow the fishing fleet back to the shore facilities. It is costing major delays in important harbor infrastructure projects and hundreds of thousands of additional dollars in project costs without any finding that the construction projects are actually harming Stellar sea lions. The City of Kodiak feels strongly that NMFS should engage in a rulemaking procedure to allow for harbor projects

to move forward without the need for exclusion areas. The City requests the Delegation's assistance in exploring this issue with NMFS to identify a solution to this problem.

4. EPA's "Waters of the U.S." Rule

The Environmental Protection Agency and the U.S. Army Corps of Engineers is moving forward with a proposed "Waters of the United States" rule that would expand Federal permitting and other requirements to many waters currently regulated by State and Local governments. The proposed rule would also apply to private landowners. The key change being proposed would expand Clean Water Act coverage to "other waters" where there is a "significant nexus" to currently covered interstate waters, territorial seas and navigable waterways. That determination is meant to be "case-specific" but has not been fully defined and the concern is that "significant nexus" could be interpreted to include floodplains, certain man-made waterways and ditches, self-contained water bodies such as ponds or temporary/isolated wetlands. Under this model, Alaska's extensive acreage of wetlands would likely mean that wetlands and other water bodies, including small streams and tributaries, that are seemingly isolated and geographically far removed from any current CWA-covered waterway would fall under the new definition. The City of Kodiak feels that the proposed rule would add extra layers of bureaucracy to the efforts of Kodiak citizens to use their land and for the City to engage in future public works projects. The City is requesting that the Alaska Delegation support legislative initiatives to curtail this proposed rule.

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6. Rural Subsistence Determination

Under current requirements, Alaskan communities with of population of less than 2,500 are generally considered rural, making their residents eligible to qualify for subsistence harvest. Communities with populations between 2,500 and 7,000 may or may not be considered rural depending on other characteristics such as level of subsistence use, economic diversity, state of public infrastructure and transportation accessibility, among other criteria. With a population of roughly 6,200 people but possessing significant rural characteristics, the City currently qualifies as "rural" for purposes of the Rural Subsistence determination.

The Secretaries of Interior and Agriculture are currently reviewing the Rural Subsistence Determinations for Alaskan communities. The review is examining communities such as the City of Kodiak that fall within the 2,500 to 7,000 population window to see if they should keep that designation. The City wants to ensure that the largely non-resident and transient population at the U.S. Coast Guard Base – Kodiak is not factored into the population numbers and that the review continues to count the area’s geographic remoteness, reliance on subsistence consumption, high cost of living, and significant Native population as determinants in keeping a rural designation. The City is also concerned that that the new policy might consider aggregate populations from communities outside the City, which would then place it over the 7,000 population benchmark. The City of Kodiak requests that the Alaska Delegation communicate the need for the City of Kodiak classified as “rural”. The City of Kodiak believes its residents should remain permanently rural for purposes of ANILCA Title VIII, because Kodiak is a geographically and statistically remote archipelago and a community designated as frontier for many federal services.



CITY OF KODIAK

MAYOR

ATTEST:

DEPUTY CITY CLERK

Adopted: February 12, 2015