

**KODIAK CITY COUNCIL
PLANNING WORK SESSION AGENDA**

Saturday, January 14, 2017

**Kodiak Fisheries Research Center
301 Research Court
10 a.m.**

Planning sessions are extended work sessions of the City Council where Councilmembers discuss policy issues and projects and receive information from staff. Additional items not listed on the planning work session agenda are sometimes discussed when introduced by the Mayor, Council, or staff; no formal action is taken at planning work sessions, and items that require formal Council action are placed on a regular Council meeting agenda. 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. Organizational/Policy Issues**
 - a. Discuss FY2018 Draft Budget Goals.....1
 - b. Review Historical Annexation Documents.....11
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 - d. Review Attorney Opinion About Offenses Against Public Order (Loitering) ...21
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- 3. Property**
 - a. Update on New Fire Station.....79
- 4. Other Staff/Council Comments**
 - a. Council Training Needs
 - b. Other Staff/Council Comments

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MEMORANDUM

TO: Mayor Branson and City Councilmembers

FROM: Aimée Kniaziowski, City Manager 

DATE: January 14, 2017

RE: Planning Session Agenda, Item 2.a.-1, Organizational/Policy Issues, Discuss Draft FY2018 Budget Goals

For the past seven fiscal years you have reviewed and discussed annual budget goals at the Council planning meeting and adopted finalized goals by resolution. The process of adopting formal budget goals gives you the opportunity to define the budget direction at the outset of the budget cycle, and it provides valuable direction to me as I work with staff in developing the budget for your consideration and approval.

The attached proposed goals for FY2018 were reviewed by Kelly Mayes, Mike Tvenge, and me with limited recommended adjustments. As you can see, most of the draft goals are restatements of the current fiscal year goals. I believe the goals, both current and proposed, are well-developed. We only recommend minor changes in the coming year because the City's organization, infrastructure needs, and overall financial condition remain similar from year to year.

Staff and I are looking closely at some conditions that have and will continue to influence the City's financial stasis. Sales tax revenues continue to make up the largest portion of the City's revenues each year, ranging from 65% in FY11 to 63% budgeted for FY17. We are seeing a drop in sales tax collected and remitted and have concerns about impacts on City revenues from fisheries fluctuations, such as the downturn in metered water sales for the first half of FY17 and likely reduction in Water Enterprise Fund revenues. The voter initiative that passed last fall removed the City's forty-two year exemption from the state's Public Employment Relations Act (PERA) and now mandates the City to follow PERA regulations when dealing with employees and permits City employees to unionize. We continue to absorb legal and other fees as the Teamsters Local 959 unionization efforts move forward. The City is also hiring two full-time HR people to help with the new and complex HR tasks of research, response, and management of a newly unionized workforce. In the meantime, we are spending more time on union-related claims against the City and unionization related tasks which will continue now that the City must follow the state's labor law requirements under PERA. More info will be provided when we present revenue projections for FY18 in the coming weeks.

The City also must be prepared for more changes the state is facing due to declining oil

revenues. Intergovernmental funds which are always variable are expected to decline this coming fiscal year along with the proposed reduction in revenue sharing programs that have helped us continue to rebuild our infrastructure (docks and utilities). Intergovernmental funds have fluctuated from a high of 21% of the City's general fund revenues in FY2013 to a low of 14% budgeted for the current fiscal year. Much is in flux at this point on both state and federal funding levels that Kelly and I aren't comfortable in making more specific budget recommendations than what you see in the draft resolution.

The budget goals are your policy statement that tells me how you want to utilize the City's resources to provide services for the next fiscal year. They are goals and therefore are both a policy statement and a planning tool. They may be accomplished in a single year or two or carry over from year to year because they are needed each year, or because they have not yet been completed. I use your goals as framework when preparing the City's operating and capital budget. This process improves accountability by making the management staff and employees aware of Council's concerns and gives us the direction necessary to help work toward and achieve the goals.

City of Kodiak
Budget Calendar FY 2018

DATE	ITEM	BY
January 14, 2017	Review City Council Goals and prepare suggested changes	City Manager & City Council
February 7, 2017	City Council Presentation FY 2016 Revenue Projections, & Budget Calendar	City Manager & Finance Director
February 9, 2017	City Council adopts Goals by Resolution	City Manager & City Council
March 10, 2017	Meeting of City Manager & Department Heads to distribute budget packets and provide overview of information in packets.	City Manager & Department Heads
March 31, 2017	Final day for departmental budget requests to be returned to Manager (via Finance Department)	Department Heads
April 10-14, 2017	City Manager & Finance Director reviews departmental budget with respective Department Heads.	City Manager/ Finance Director & Department Heads
April 27, 2017	Distribute Manager's Budget to City Council	City Manager
May 6, 2017	Budget presentation to City Council by management staff	City Manager/ Department Heads & City Council
May 25, 2017	First reading of budget ordinance	City Manager/ Finance Director & City Council
May 26, 2017	Advertisement for overall City Council agenda including budget	Clerk
June 8, 2017	Second reading and public hearing of budget ordinance; adoption of budget	City Manager/ Finance Director & City Council
July 1, 2017	Budget Implementation	Finance Director
September 6, 2017	90 day Submittal to Distinguished Budget Presentation Awards Program - Government Finance Officers Association	Finance Director

CITY OF KODIAK
DRAFT RESOLUTION NUMBER 2017-XX

**A RESOLUTION OF THE COUNCIL OF THE CITY OF KODIAK APPROVING
THE CITY COUNCIL'S BUDGET GOALS FOR FY2018**

WHEREAS, budget guidelines help ensure that the City's budget is prepared in a manner consistent with City Council desires; and

WHEREAS, the City Council discussed and selected the list of budget goals at their January 14, 2017 planning meeting; and

WHEREAS, management will use the listed budget goals as a framework when developing the FY2018 budget.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Kodiak, Alaska, that the following budget goals will be used in the development of the City of Kodiak's FY2017 budget:

Revenue

Revenues will continue to be estimated conservatively using an analytical and objective approach.

One-time revenues will be used only for one-time expenditures. The City will avoid using temporary revenues or grants to fund routine City services or positions.

Charges for Fees and Services will be reviewed and updated annually to ensure quality service delivery and adequate revenues.

Operating Expenses

General Fund operating (non-personnel) expenses for FY 2017 will be at a level consistent with FY 2016. Required increases will be justified to the City Manager in writing and, if approved, presented by department heads to the City Council for final consideration during budget presentations.

Review existing programs and services to assess how well budgeted performance indicators met goals and objectives.

City management will continue to examine ways to hold the line on expenditures without significant impact to level and quality of services provided to residents.

Personnel Goals

~~There will be an increase in the number of employee full-time equivalents (FTEs) from the FY2016 total of 126.15 to 128.15 due to the need to operate the City's new compost facility and meet permit requirements and operational needs. The City will not increase the current number of FTEs from 130.15 in FY2018 unless new operational needs or mandates require additional employee positions.~~

~~Sections of the PR&R will continue to be reviewed and amended to improve practices that reflect recognized Human Resources standards. (Removed due to PERA requirements and unknown outcomes of unionization.)~~

General Fund

Council will review ways to increase revenues in the General Fund to help offset increases in operating expenses, meet infrastructure needs, and increase the fund balance, per the plan outlined in "Setting the Course for the Future, 1/14/12.

General Fund revenues will be forecast conservatively and take into consideration possible state funding policies that may affect City revenues such as, community ~~revenue sharing~~ assistance program, shared fisheries and other shared business taxes, pension costs and liabilities, and the required allocation of sales tax.

The General Fund will be budgeted without a deficit through appropriations from the fund balance when/if necessary, and with a goal to maintain up to three months' operating reserves. Council may appropriate additional funds for capital projects.

Enterprise Funds

The major enterprise funds will develop long-term plans to include maintenance and repairs, needed facility replacement or expansion, and a schedule for rate reviews.

Enterprise Funds will continue to conduct rate studies every five years and present them to the City Council for implementation.

~~The Shipyard will continue to maintain and achieve revenue increases on a cash flow basis through charges for services to meet debt payments and operational expenses without transfers from other funds. The business plan and marketing campaign for services will be evaluated yearly for its effectiveness to capture maximum revenues. The Shipyard will strive to maintain positive cash flows through charges for services to meet debt service payments and maintain facilities operations and maintenance costs. The Shipyard will highlight the services offered by developing a business plan and marketing campaign to maximize revenues. This plan will be reviewed annually for marketing effectiveness. (This says the same thing but more accurately and with updated wording.)~~

Ensure adequate revenues are established to continue to maintain and improve Harbor facilities that support fisheries and support sector services and activities.

Community Support

The total amount available to fund non-profit requests will continue to follow the Council established level of funding which is based on 1% of budgeted General Fund revenues.

Capital

Within resources available, the City will maintain capital assets and infrastructure at a level that is adequate to protect its investment, to minimize future replacement and maintenance costs, and to maintain existing service levels.

The City Manager and management staff ~~will continue to develop~~ and refine the City's first formal five-year capital improvement plan (CIP) that identifies and ranks projects for capital and major maintenance projects. The plan has additional information for ten-year expense projections for all departments and funds. The City will utilize the planning document and develop policies and procedures identifying criteria and steps for implementation. ~~Once complete, the~~ The capital budget will link to, and flow from, the multi-year capital improvement plan.

Debt Service

The City will not incur new debt without appropriate analysis to:

- Show impacts on rates or taxpayers, or
- Analyze financial capacity for proposed capital projects, or
- Determine if the debt is required for projects mandated by the state or federal government, needed for economic development, environmental, aesthetic or quality of life, or health and safety improvements.

Quality of Life

The City will provide adequate services that meet the community needs, priorities, challenges and opportunities with consideration given to the condition of the economy, the composition of the population, technology, legal or regulatory issues, intergovernmental issues, and physical or environmental issues.

Economic Development

The City will continue to promote and support economic development to help ensure a sustainable and healthy economy for Kodiak. *(Suggest adding support because funding and other types of support will be required to invest in economic development.)*

CITY OF KODIAK

MAYOR

ATTEST:

CITY CLERK

Adopted:

DRAFT

**CITY OF KODIAK
RESOLUTION NUMBER 2016-07**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF KODIAK APPROVING
THE CITY COUNCIL'S BUDGET GOALS FOR FY2017**

WHEREAS, budget guidelines help ensure that the City's budget is prepared in a manner consistent with City Council desires; and

WHEREAS, the City Council discussed and selected the list of budget goals at their January 16, 2016 planning meeting; and

WHEREAS, management will use the listed budget goals as guidelines when developing the FY2017 budget.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Kodiak, Alaska, that the following budget goals will be used in the development of the City of Kodiak's FY2017 budget:

Revenue

Revenues will continue to be estimated conservatively using an analytical and objective approach.

One-time revenues will be used only for one-time expenditures. The City will avoid using temporary revenues or grants to fund routine City services or positions.

Charges for Fees and Services will be reviewed and updated annually to ensure quality service delivery and adequate revenues.

Operating Expenses

General Fund operating (non-personnel) expenses for FY 2017 will be at a level consistent with FY 2016. Required increases will be justified to the City Manager in writing and, if approved, presented by department heads to the City Council for final consideration during budget presentations.

Review existing programs and services to assess how well budgeted performance indicators met goals and objectives.

City management will continue to examine ways to hold the line on expenditures without significant impact to level and quality of services provided to residents.

Personnel Goals

There will be an increase in the number of employee full-time equivalents (FTEs) from the FY 2016 total of 126.15 to 128.15 due to the need to operate the City's new compost facility and meet permit requirements and operational needs.

Sections of the PR&R will continue to be reviewed and amended to improve practices that reflect recognized Human Resources standards.

General Fund

Council will review ways to increase revenues in the General Fund to help offset increases in operating expenses, meet infrastructure needs, and increase the fund balance, per the plan outlined in "Setting the Course for the Future," 1/14/12.

General Fund revenues will be forecast conservatively and take into consideration possible state funding policies that may affect City revenues such as, community revenue sharing, shared fisheries and other shared business taxes, pension costs and liabilities, and the required allocation of sales tax.

The General Fund will be budgeted without a deficit through appropriations from the fund balance when/if necessary, and with a goal to maintain up to three months' operating reserves. Council may appropriate additional funds for capital projects.

Enterprise Funds

The major enterprise funds will develop long-term plans to include maintenance and repairs, needed facility replacement or expansion, and a schedule for rate reviews.

Enterprise Funds will continue to conduct rate studies every five years and present them to the City Council for implementation.

The Shipyard will continue to maintain and achieve revenue increases on a cash flow basis through charges for services to meet debt payments and operational expenses without transfers from other funds. The business plan and marketing campaign for services will be evaluated yearly for its effectiveness to capture maximum revenues.

Ensure adequate revenues are established to continue to maintain and improve Harbor facilities that support fisheries and support sector services and activities.

Community Support

The total amount available to fund non-profit requests will continue to follow the Council established level of funding which is based on 1% of General Fund revenues.

Capital

Within resources available, the City will maintain capital assets and infrastructure at a level that is adequate to protect its investment, to minimize future replacement and maintenance costs, and to maintain existing service levels.

The City Manager and management staff will continue to develop and refine the City's formal five-year capital improvement plan (CIP) that identifies and ranks projects for capital and major maintenance projects. The City will utilize the planning document and develop policies and procedures identifying criteria and steps for implementation. Once complete, the capital budget will link to, and flow from, the multi-year capital improvement plan.

Debt Service

The City will not incur new debt without appropriate analysis to:

- Show impacts on rates or taxpayers, or
- Analyze financial capacity for proposed capital projects, or
- Determine if the debt is required for projects mandated by the state or federal government, needed for economic development, environmental, aesthetic or quality of life, or health and safety improvements.

Quality of Life

The City will provide adequate services that meet the community needs, priorities, challenges and opportunities with consideration given to the condition of the economy, the composition of the population, technology, legal or regulatory issues, intergovernmental issues, and physical or environmental issues.

Economic Development

The City will continue to promote economic development to help ensure a sustainable and healthy economy for Kodiak.



ATTEST:

Debra Martin

CITY CLERK

CITY OF KODIAK

Pat Ryan

MAYOR

Adopted: February 11, 2016

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City of Kodiak Annexation Timeline

1950s

- **Ordinance No. 204;** An ordinance providing for the fixing of time for the area known as the Mission Road Area to become part of the City of Kodiak. Ordinance No. 204 approved March 12, 1956.

1960s

- **Ordinance No. 282;** Untitled. Re: Air Park Subdivision No. One. Ordinance No. 282 effective January 1, 1966.
- **Ordinance No. 290;** Untitled. Re: Portion of U.S. Survey No. 1396. Ordinance No. 290 effective August 27, 1966.
- **Ordinance No. 307;** An ordinance of the City of Kodiak annexing adjoining contiguous property into the city and setting an effective date. Re: Beginning at Corner 7 of Extension of USS No. 2538B identical with Corner 4 of USS No. 1396. Ordinance No. 307 effective October 18, 1967.
- **Ordinance No. 311;** An ordinance of the City of Kodiak annexing adjoining contiguous property into the city and setting an effective date. Re: Lots Twenty-eight (28), Twenty-nine A (29-A) and Twenty-nine B (29-B) of U.S. Survey No. 3098. Ordinance No. 311 effective December 9, 1967.
- **Ordinance No. 313;** An ordinance of the City of Kodiak annexing adjoining contiguous property into the city and setting an effective date. Re: Tracts R, Q, A and B1 of U.S. Survey No. 3218 and units one (1) through four (4) of the Kodiak Alaska subdivision lying and being within U.S. Survey No. 3469. Ordinance No. 313 passed February 11, 1968.
- **Ordinance No. 319;** An ordinance calling for an annexation election and setting a date therefor.
- **Ordinance No. 325;** An ordinance amending Ordinance No. 319 by changing the date of the date of the special election called therein. Ordinance No. 325 passed August 25, 1968.

1970s

- **Ordinance No. 339;** Untitled. Re: Tract B-2 and Tract C, U.S. Survey No. 3218. Ordinance No. 339 effective January 29, 1970.
- **Ordinance No. 361;** An ordinance of the City of Kodiak annexing adjoining contiguous property into the city and setting an effective date. Re: Tracts D, E, G, H, all situate within U.S. Survey No. 3218. Ordinance No. 361 effective October 9, 1971.
- **Ordinance No. 384;** An ordinance of the City of Kodiak annexing adjoining contiguous property owned by the city into the City of Kodiak and setting and effective date. Re: Beginning at M.C. 6, U.S. Survey No. 2873, identical with M.C. 1, U.S. Survey No. 3066. Ordinance No. 384 effective August 30, 1973.
- **Ordinance No. 401;** An ordinance of the City of Kodiak annexing adjoining contiguous property into the city and setting an effective date. Re: Lots Twenty-six (26) A, Twenty-six (26) B, Twenty-six C, and Twenty-six (26) D, of the subdivision of Lot Twenty-six of the Mill Bay Road group of the land embraced on USS No. 3098. Ordinance No. 401 second reading on February 14, 1974.

City of Kodiak Annexation Timeline

- **Ordinance No. 402;** An ordinance of the City of Kodiak annexing adjoining contiguous property into the city and setting an effective date. Re: Lots Sixteen (16) B, and Sixteen (16) C, of the subdivision of Lot Sixteen (16) of the Mill Bay Road group of land embraced on USS No. 3098. Ordinance No. 402 second reading on February 14, 1974.
- **Ordinance No. 419;** An ordinance of the City of Kodiak annexing adjoining contiguous property into the city and setting an effective date. Re: Lot Twenty-five (25) of U.S. Survey No. 3098. Ordinance No. 419 second reading on June 27, 1974.
- **Ordinance No. 434;** An ordinance of the Common Council of the City of Kodiak annexing adjoining contiguous property into the city and setting and effective date. Re: Lots 7-16 of U.S. Survey No. 2537-B, of the original Townsite of Kodiak. Ordinance No. 434 effective April 19, 1975.
- **Ordinance No. 454;** An ordinance of the City of Kodiak annexing adjoining contiguous property into the city and setting and effective date. Re: Lot 24, U.S.S. 3098. Ordinance No. 454 effective February 12, 1976.
- **Ordinance No. 456;** An ordinance of the City of Kodiak annexing adjoining contiguous property to the city and setting an effective date. Re: Beginning at Corner Two (2) U.S. Survey No. 2537 B identical with Corner Fifteen (15) U.S. Survey No. 3945. Containing 193.6 acres more or less. Ordinance No. 456 effective April 22, 1976.
- **Ordinance No. 493;** An ordinance of the Council of the City of Kodiak annexing adjoining contiguous property into the city and setting an effective date. Re: Beginning at Corner 1 M.C. of USS 2537-B Tract A, said corner being the True Point of Beginning. Containing 38.6 acres more or less. Ordinance No. 493 effective June 9, 1977.
- **Ordinance No. 502;** An ordinance of the City of Kodiak annexing adjoining contiguous property into the city and setting and effective date. Re: Lot 1, Block 1 of U.S. Survey 3066-B. Ordinance No. 502 effective August 30, 1977.
- **Ordinance No. 509;** An ordinance of the Council of the City of Kodiak annexing adjoining contiguous property into the city and setting and effective date. Re: Lot three (3) of U.S. Survey 3467 containing 7.65 acres more or less and a portion of U.S. Survey 3469 described as follows under parcels A and B. Ordinance No. 509 effective October 13, 1978.
- **Ordinance No. 510;** An ordinance of the City of Kodiak annexing adjoining contiguous property into the city and setting and effective date. Re: Lot 1, Block 1 of U.S. Survey 1822. Ordinance No. 510 effective October 13, 1978.
- **Ordinance No. 531;** An ordinance of the City of Kodiak annexing adjoining contiguous property into the city and setting an effective date. Re: Lot 17A, USS 3098. Ordinance No. 531 effective October 13, 1978.
- **Ordinance No. 532;** An ordinance of the City of Kodiak annexing adjoining contiguous property into the city and setting an effective date. Re: Lot 14A, USS 3098. Ordinance No. 532 effective October 13, 1978.

City of Kodiak Annexation Timeline

- **Ordinance No. 552;** An ordinance of the City of Kodiak annexing adjoining contiguous property into the city and setting an effective date. Re: Lots 17B, 18, and 19, USS 3098. Ordinance No. 552 effective July 30, 1979.
- **Ordinance No. 553;** An ordinance of the City of Kodiak annexing adjoining contiguous property into the city and setting an effective date. Re: Lot 2A, USS 3098. Ordinance No. 553 effective July 30, 1979.
- **Ordinance No. 554;** An ordinance of the Council of the City of Kodiak annexing adjoining contiguous property into the city and setting an effective date. Re: Lot one (1) embraced in the U.S. Survey 3098 located in township twenty seven (27 South, Range Nineteen (19) West, Seward Meridian, containing .17 acres more or less. Ordinance No. 554 effective July 30, 1979.

1980s

- **Ordinance No. 586;** An ordinance of the City of Kodiak annexing adjoining contiguous property into the city and setting an effective date. Annexation of USS 3218, Tract S-2. Ordinance No. 586 effective on August 27, 1980.
- **Failed Ordinance No. 597;** An ordinance of the City of Kodiak annexing adjoining contiguous property into the city and setting and effective date. Re: Tract B and E of Kodiak Alaska subdivision. Ordinance No. 597 failed on April 1, 1981.
- **Failed Ordinance No. 598;** An ordinance of the Council of the City of Kodiak annexing adjoining contiguous property into the city and setting an effective date. Re: Tract F in Unit 5 of the Kodiak Alaska subdivision. Ordinance No. 598 failed on April 1, 1981.
- **Failed Ordinance No. 603;** An ordinance of the City of Kodiak annexing adjoining contiguous property into the City and setting an effective date. Ordinance No. 604 failed on May 14, 1981.
- **Tabled Ordinance No. 604;** An ordinance of the Council of the City of Kodiak annexing adjoining contiguous property into the city and setting an effective date. Re: Tract F in Unit 5 of the Kodiak Alaska subdivision.
- **Ordinance No. 608;** An ordinance of the City of Kodiak annexing adjoining contiguous property into the city and setting an effective date. Annexation of USS 3098, Lots 27A and 27B. Ordinance No. 608 effective on July 11, 1981.
- **Ordinance No. 622;** An ordinance of the City of Kodiak annexing adjoining contiguous property into the city and setting an effective date. Annexation of USS 3098, Lots 20, 21, 22, 23. Ordinance No. 622 effective on November 21, 1981.
- **Failed Ordinance No. 631;** An ordinance setting forth conditions to be met prior to development within the city, and outside the city in cases of extension of public service. Ordinance No. 631 failed on January 14, 1982. Re: public improvements for health and safety of citizens.
- **Ordinance No. 651;** An ordinance of the Council of the City of Kodiak annexing contiguous property into the city and setting an effective date. Annexation of Near, Gull, Round and Uski islands referencing USS 2873 and USS 3066 (see ordinance). Ordinance No. 651 effective on November 18, 1982.

City of Kodiak Annexation Timeline

- **Ordinance No. 656;** An ordinance of the Council of the City of Kodiak annexing adjoining contiguous property into the city and setting an effective date. Annexation of Lot 1 & 2, Tract M, Block 1 of USS 3218. Ordinance No. 656 effective January 22, 1983 and approved by the Local Boundary Commission on February 28, 1983.
- **Failed Ordinance No. 665;** An ordinance of the City of Kodiak annexing adjoining contiguous property into the city and setting an effective date. Re: Lots 3A and 3B, through 7A and 7B; lots 9A and 9B; and lots 11A and 11B; all in USS 3098. Ordinance No. 665 failed on March 24, 1983.
- **Failed Ordinance No. 666;** An ordinance of the City of Kodiak annexing adjoining contiguous property into the city and setting an effective date. Re: City owned lots 8B and 10B, the privately owned lots 8, 10, 12, 13, and 15A, all of USS 3098, together with the Mill Bay Rd. right of way between the USS 3098 and 1396 to the boundary of the Bancroft subdivision. Ordinance No. 666 failed on March 24, 1983.
- **Ordinance No. 673;** An ordinance of the City of Kodiak annexing adjoining contiguous property into the city and setting an effective date. Annexation of Lots 3A and 3B, through 7A and 7B; Lots 9A and 9B; and Lots and 11A and 11B; all in US Survey 3098. Ordinance No. 673 effective on June 11, 1983 and approved by the Local Boundary Commission on October 9, 1983.
- **Ordinance No. 674;** An ordinance of the City of Kodiak annexing adjoining contiguous property into the city and setting an effective date. Annexation of city owned lots 8B, 10B, and 12B, and the privately owned lots 2, 8A, 10A, 12A, 13, and 15A, together with the sixty foot right of way between lot 2 and lots 3A and 3B, and the portion of Mill Bay road platted at lot 30 all in USS 3098. Ordinance No. 674 effective August 27, 1983 and approved by the Legislature on March 3, 1984.
- **Failed Ordinance No. 689;** An ordinance of the City of Kodiak annexing adjoining contiguous property and into the city and setting and effective date. Ordinance No. failed on July 28, 1983. Re: Lots 8B, 10B, 12B, together with the portion of Mill Bay Rd platted as lot 30, all in USS 3098 also referencing Ordinance No. 673.
- **Ordinance No. 708;** An ordinance of the City of Kodiak annexing adjoining contiguous property into the city and setting an effective date. Re: Corner No. 1 of USS 3468, identical to Corner No. 1 of USS 3098, which is the True Point of Beginning. Ordinance No. 708 effective January 19, 1983. Approved by the Local Boundary Commission on January 7, 1984.
- **Ordinance No. 716;** An ordinance of the City of Kodiak annexing adjoining contiguous property into the city and setting an effective date. Lots A-1 through A-5, Tracts B, C-1, D-1, E, and F of Kodiak Alaska Subdivision, Unit 5, USS 3469. Ordinance No. 716 effective March 22, 1984. Approved by the Local Boundary Commission April 12, 1984.
- **Failed Ordinance No. 733;** An ordinance of the City of Kodiak annexing contiguous territory into the city and setting an effective date. Failed on August 23, 1984. Re: Rezanof Dr. and runway at State airport.
- **Ordinance No. 771;** An ordinance of the City of Kodiak annexing contiguous territory into the city, providing for a special election thereon, and setting and effective date. Ordinance No. 771 effective July 25, 1985.

City of Kodiak Annexation Timeline

- **Ordinance No. 775;** An ordinance of the City of Kodiak amending Ordinance No. 771 and changing the election date on the question of annexing the “mission lake neighborhood”. Ordinance No. 775 effective October 17, 1985.
- **Ordinance No. 786;** An ordinance of the City of Kodiak Repealing Ordinance No. 775, amending Ordinance No. 771, and changing the election date on the question of annexing mission lake area. Re: Special election date. Ordinance No. 786 effective January 18, 1986.
- **Ordinance No. 797;** An ordinance of the City of Kodiak Annexing City-owned contiguous property into the city and setting and effective date. Annexation of VonScheele Way right of way. Ordinance No. 797 effective April 26, 1986. Approved by the C&RA May 8, 1986.
- Certificate of Election –April 22, 1986 – certification the corporate boundaries of the City of Kodiak were not extended by vote of the people to the encompass those tracts lying northeasterly of the corporate limits and including all, or all of those portions not already within the corporate limits of US Survey 3066 A & B, Southeast Addition No. 2; 2739; 1822; 2511, Hospital subdivision; 2843, Mission Subdivision; Lots 13, 14, and 15 of 3233; and the unsurveyed portion of Mission Lake bound by 1822, 2843, 3099, and 3233. (Mission Lake Area)
- Certificate of Boundaries of the City of Kodiak – May 17, 1986
- **Ordinance No. 798;** An ordinance of the City of Kodiak annexing contiguous property into the city and setting an effective date. Annexation of Tract S-4A, U.S. Survey 3218. Ordinance No. 798 effective date April 26, 1986. Approved by the Alaska State Legislature March 15, 1987.
- Certificate Boundaries of the City of Kodiak – March 16, 1987
- **Ordinance No. 806;** An ordinance annexing adjoining contiguous property into the city and setting an effective date. Ordinance No. 806 effective November 8, 1986. Approved by the Local Boundary Commission: September 10, 1987. RE: Kodiak King Crab, owner of property
- **Failed Ordinance No. 809;** December 14, 1987 – An ordinance of the Council of the City of Kodiak annexing contiguous property into the city and setting an effective date. Re: Service district #1, Fire protection area no. 1 unsurveyed area bound by USS 3945, 3538A, 3468, 3467, Monashka Bay Alaska subdivision, USS 1678 and ADL 44355.
- **Ordinance No. 832;** An ordinance annexing adjoining contiguous property into the city and setting an effective date. Annexation of Lot I-2 USS 3218. Ordinance No. 832 effective May 13, 1988 and approved by the Local Boundary Commission on April 25, 1988. Preclearance date as required by the voting rights act of 1965: August 11, 1988.

1990s

- Discussion of Annexation; Monashka Bay Service District #1 - February 1, 1991
- **Ordinance No. 907;** An ordinance annexing adjoining contiguous property into the city and setting an effective date. Annexation of Lakeside Subdivision, Second Addition, per Plat 87-16 Ordinance No. 907 effective date April 28, 1991 and approved by the Local Boundary Commission on June 29, 1991. Preclearance date as required by the voting rights act of 1965: September 16, 1991.

City of Kodiak Annexation Timeline

- Certificate of Boundaries for the City of Kodiak–August 8, 1991
- **Failed Ordinance No. 946** –July 22, 1993 – An ordinance annexing adjoining contiguous property into the city and setting an effective date. Re: Salvation Army.
- **Ordinance No. 985**; An ordinance of the Council of the City of Kodiak annexing contiguous property into the city and setting an effective date. Re: Service district #1. Ordinance No. 985 effective April 23, 1994.
- **Failed Ordinance No. 986** –April 28, 1994 –An ordinance of the Council of the City of Kodiak annexing contiguous territory into the city and setting an effective date. Re: Salvation Army
- **Ordinance No. 1001**; An ordinance of the Council of the City of Kodiak repealing ordinance number 985, which annexed contiguous property into the city and set an effective date. Re: annexation service district #1 and the spruce cape area. Ordinance No. 1001 effective date September 24, 1994. (Petition withdrawn)
- **Ordinance No. 1065**; An ordinance of the Council of the City of Kodiak annexing contiguous property into the city and setting an effective date. Re: Watershed per Ordinance No. 932 and Borough Fire Protection Number one KIB Ordinance 97-16. Ordinance No. 1065 effective date July 25, 1998. The annexation ballot proposition failed with 118 in favor and 887 opposed.

2000s

- **Ordinance No. 1289**; An ordinance of the Council of the City of Kodiak authorizing the annexation of the portions of Lots 1A-1, 1B-2, and 1B-3, Lakeside subdivision second addition that are located outside the City of Kodiak, to the City of Kodiak. Ordinance No. 1289 effective October 28, 2011. (As of January 2017 the annexation petition ((Ashford property)) has not been prepared or submitted to LBC.)

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**CITY OF KODIAK
RESOLUTION NUMBER 2015-16**

A RESOLUTION OF THE COUNCIL OF THE CITY OF KODIAK RESCINDING RESOLUTION NO. 2014-19 AND ESTABLISHING FUNDING CRITERIA FOR NONPROFIT GRANTS

WHEREAS, the City Council recognizes and supports local nonprofit organizations and has historically made funding available to these organizations on an annual basis; and

WHEREAS, it has been determined that the appropriate total amount of City funds to grant to nonprofit organizations is a maximum of one percent of budgeted general fund revenues, exclusive of any fund balance appropriation; and

WHEREAS, City funds have been provided to nonprofit organizations that supplement and compliment the services provided to residents by the City; and

WHEREAS, it is the intent of the City Council to update this policy statement.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Kodiak, Alaska hereby establishes the following additional funding criteria for nonprofit grants provided by the City:

1. Organizations receiving funds must be legally recognized by the Internal Revenue Service.
2. Funding will be granted only for the following kinds of programs/activities and up to the maximum identified funding amount per organization and program type:

Youth Recreation Programs	\$2,500
Adult Recreation Programs	\$5,000
Public Safety Support Programs (Shelter/Food)	\$10,000
Emergency Response Support Programs	\$10,000
3. Subject to available funding, the Council may authorize a special one-time funding increase for a special project.



ATTEST:

CITY OF KODIAK


MAYOR


DEPUTY CITY CLERK

Adopted: May 28, 2015

**CITY OF KODIAK
RESOLUTION NUMBER 2016-38**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF KODIAK
AUTHORIZING PAYMENT FOR TWO ADDITIONAL FISCAL YEAR 2017
NONPROFIT ORGANIZATION GRANTS**

WHEREAS, the City Council recognizes and supports local nonprofit organizations and has made provisions in the Fiscal Year 2017 budget for cash contributions to these organizations; and

WHEREAS, the City Council supports these nonprofit organizations because they supplement and complement services provided by the City; and

WHEREAS, the funding criteria for cash grants from the General Fund Non-Departmental Contributions Account to nonprofit organizations is based on the criteria established in Resolution No. 2015-16; and

WHEREAS, the City Council reviewed FY2017 nonprofit grant applications at the July 12, 2016, work session and adopted Resolution No. 2016-23 on July 14, 2016, authorizing nonprofit grants in the amount of \$177,201; and

WHEREAS, the City Council reviewed FY2017 nonprofit grant applications at the September 20, 2016, work session and expressed support to authorize two additional nonprofit grants.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Kodiak, Alaska, hereby authorizes payment for two additional nonprofit organization grants for Fiscal 2017:

Section 1. General Fund-Non-Departmental Cash Contributions (Nonprofit Organization Grants):

FY2017 Additional Grant Request

Adult Recreation Programs

Kodiak Audubon Society 1,700

Emergency Response Support Programs

Kodiak Baptist Mission 5,0005,599

Two Additional Nonprofit Grant Requests 6,700

FY2017 Nonprofit Grant Requests Previously Funded 177,201

FY2017 Budgeted 184,500

Nonprofit Grants Balance 5990

CITY OF KODIAK


MAYOR

ATTEST:


CITY CLERK

Adopted: October 13, 2016




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MEMORANDUM

TO: Mayor Branson and City Councilmembers

FROM: Aimée Kniazowski, City Manager 

DATE: January 14, 2017

RE: Planning Session Agenda, Item 2.d.-1, Organizational/Policy Issues, Review Attorney Opinion About Offenses Against Public Order (Loitering)

Staff and I began to work with our legal firm, Birch Horton & Bittner, and our attorney Tom Klinkner in the spring of 2015 to research the City's ability to strengthen existing ordinances regarding aggressive and troublesome behaviors by indigents. I requested a legal memo from the attorney summarizing their research, which they provided on June 25, 2015 (see attached).

Based on that research, staff introduced Ordinance 1341 which amended sections of Title 8 dealing with camping, assault, obstructive behavior, and aggressive panhandling. The ordinance passed on January 28, 2016 and became effective on March 2nd. (See attachment #2.)

On July 1, 2016 the Mayor and Council received a letter from the American Civil Liberties Union (ACLU) identifying "potential constitutional infirmities" in our ordinance and urged the City to not enforce the provisions in the ordinance. I received a copy of the letter and passed it on to Tom Klinkner for a response as requested. Tom responded on August 1, 2016 agreeing that the City would not enforce provisions in the ordinance pending further legal analysis. He stated that, since the ordinance passed, the federal courts, including the US Supreme Court have called into question the case authority his initial analysis was built on. He recommended the City suspend enforcement until he could perform further research and recommend updated amendments to the ordinance.

I haven't heard back on the work Tom and Leila Kimbrell, another attorney in his firm, may have done on this, but I know people are frustrated at the City's lack of ability to deal with the indigents. As you may know, Tom moved to California this last summer and is working 20 hours a week for his firm and is working with the City to meet the terms of his contract. We are still in a transition phase there.

Another complication to this issue of managing the homeless, inebriates, and others is the recently passed Alaska Senate Bill 91 which has changed the terms under which KPD can respond and retain individuals for this type of behavior. Chief Wallace described one incident this week where they responded to an individual on 4 occasions in one night and, due to provisions in SB91, had to bring the person in to the jail for booking, write conditions of release on his own recognizance, and released him 3 times. On the 4th response, they took that

individual into protective custody under Title 49. The current law, SB91, is being reviewed by the Sun'aq Tribe and the Native Village of Afognak in public forums to better understand the law and its implications for Kodiak and our police force. SB91 may save the state money, but it creates more work for law enforcement at the local level.

In the meantime, there is no clear answer we can provide, except to work on amendments to the ordinance once Tom and Leila complete their research.

MEMORANDUM

TO: AIMÉE KNIAZIOWSKI,
CITY MANAGER

FROM: THOMAS F. KLINKNER
LEILA R. KIMBRELL

RE: REGULATION OF OFFENSIVE CONDUCT IN PUBLIC PLACES

CLIENT: CITY OF KODIAK

FILE NO.: 505,786.81

DATE: JUNE 25, 2015

Issue Presented.

You have asked for our advice regarding the City's options for strengthening its ordinances prohibiting loitering and other public nuisance type violations. You have indicated that the City has a growing problem with a small number of the homeless, indigent and inebriate population who spend their days and sometimes nights in Kodiak's downtown area in public spaces like sidewalks and parks, and also in business doorways, where they shout obscenities and engage in other intimidating and offensive behavior. The following memorandum discusses legal constraints on the City's ability to regulate this type of conduct, and describes some regulations that have survived legal challenge.

Constraints on Regulating Offensive Public Behavior

Introduction

As a general rule, a "city is free to prevent people from blocking sidewalks, obstructing traffic, littering streets, committing assaults, or engaging in countless other forms of antisocial conduct," but it must do so "through the enactment and enforcement of ordinances directed with reasonable specificity toward the conduct to be prohibited."¹ However, laws that seek to address social problems that can arise from street dwellers, homeless persons, and vagrants, by prohibiting breach of the peace, disorderly conduct, loitering, vagrancy, soliciting, begging, panhandling, and similar conduct, often are subject to successful constitutional challenges. As advocacy for the homeless and

¹ *Coates v. City of Cincinnati*, 402 U.S. 611, 614; 91 S.Ct. 1686, 1688; 29 L.Ed.2d 214 (1971).

other marginal groups has intensified, more laws of this type have become subject to successful constitutional challenge.

Vagueness and Overbreadth

A fundamental problem in legislating against antisocial public behavior is identifying the proscribed conduct in specific, objective terms. This must be done to avoid challenges that legislation is unconstitutionally vague or overbroad. The Alaska Supreme Court has explained that an ordinance will be declared unconstitutionally vague when (1) it fails to give adequate notice to the ordinary citizen of what is prohibited, and, as a consequence, (2) confers “unbridled discretion” on law enforcement which raises the possibility of uneven and discriminatory enforcement.² These two defects in vague legislation deny the constitutional right to due process. Similarly, a law will be invalidated as overbroad when it proscribes activity that is constitutionally protected in addition to conduct the state can legitimately regulate.³ Laws usually are found to be overbroad when their prohibitions extend to conduct protected under the First Amendment freedoms of speech and assembly, and the freedom of movement. The Alaska Supreme Court explained that overbroad laws have an impermissible “chilling effect’ [...] on the exercise of constitutional rights.”⁴ Consequently, “broad prophylactic rules are suspect and ‘(p)recision of regulation must be the touchstone ...”⁵

The leading case in Alaska that strikes down a traditional anti-loitering ordinance for overbreadth and vagueness is *Marks v. City of Anchorage*, in which the plaintiffs challenged an Anchorage ordinance that provided in relevant part:

It shall be unlawful for any person with purpose and intent to cause public inconvenience, annoyance or alarm, or recklessly create a risk thereof by:

- (1) Engaging in fighting or threatening, or in violent or tumultuous behavior; or
- (2) Making unreasonable noise or offensively coarse utterance, gesture, or display, or addressing abusive language to any person present...

The court first addressed the ordinance’s overbroad infringement upon speech protected under the First Amendment:

The Anchorage ordinance prohibits ‘threatening and violent or tumultuous behavior’, ‘unreasonable noise’, ‘abusive language’ and ‘offensively coarse utterances, gestures or displays’ when motivated by an intent to cause ‘public inconvenience, annoyance or alarm’ ... Neither the federal

² *Marks v. City of Anchorage*, 500 P.2d 644 (Alaska 1972).

³ *Marks*, 500 P.2d at 647.

⁴ *Marks*, 500 P.2d at 647 (citations and footnote omitted).

⁵ *Id.*

nor Alaska constitutions will permit such a broad and arbitrary interference with freedom of speech. Public life in our democracy would be robbed of its vitality and our citizens soon lose their self-confident independence of thought if such an ordinance were enforced to eliminate any mode of speech not acceptable to the most squeamish of our citizens.⁶

The court then addressed the ordinance's unconstitutional vagueness:

When these fundamental and long-established principles of constitutional law are applied to the Anchorage ordinance, there is no escape from the conclusion that the ordinance is likewise void for vagueness ... The defective prefatory language is 'with purpose and intent to cause public inconvenience, annoyance or alarm or recklessly create a risk thereof.' (emphasis added). *Coates v. Cincinnati*,⁷ specifically declared the word 'annoying' to be unconstitutionally vague and the words 'inconvenience' and 'alarm' are no less so. The rest of the ordinance is also peppered with indefinite words-'threatening' 'tumultuous behavior', 'unreasonable noise', 'offensively coarse', and 'abusive language'. The phrase 'tumultuous behavior', for example, might encompass conduct ranging from actual violence to speaking in a loud and excited manner; depending on the arresting officer's temperament, everything from the most provocative insult to the mildest obscenity might be termed 'abusive language.' In sum, not only does the ordinance fail to give adequate notice of what conduct is prohibited, but it is particularly subject to the abuse of uneven enforcement.⁸

This analysis establishes that prohibitions on conduct that an observer finds "annoying," or to contain "abusive," "loud," or "offensive" language will not survive constitutional challenge.

Freedom of Expression

The prohibition of ordinances that are vague or overbroad also protects the freedom of speech that is guaranteed by both the U.S. and Alaska constitutions.⁹ Only in the most limited circumstances can speech be punished.¹⁰ A long established function of free speech is to invite dispute.¹¹ Therefore, ordinances that attempt to limit speech or expressive conduct that "stirs the public to anger, invites disputes, brings about conditions of unrest, or creates a disturbance," or that causes "public

⁶ *Marks*, 500 P.2d at 649.

⁷ 402 U.S. 611, 91 S.Ct. 1686, 29 L.Ed.2d 214 (1971).

⁸ 500 P.2d at 652-53 (footnotes in original omitted).

⁹ U.S. Const. amend. I; Alaska Const. art. 1, sec. 6.

¹⁰ *Marks*, 500 P.2d at 647.

¹¹ *Id.*

inconvenience, annoyance, or unrest”,¹² will not survive a First Amendment challenge. What is annoying to one person may not be annoying to another and is thus protected by the First Amendment.

The Interest in Liberty

The United States Supreme Court has recognized that “[t]he freedom to loiter for innocent purposes is part of the “liberty” protected by the Due Process Clause of the Fourteenth Amendment.”¹³ This liberty interest “includes the right to be or go where one pleases, subject to not violating property or personal rights of others, and subject to governmental restrictions constituting due process of law.”¹⁴ A person’s decision to remain in a public place of his choice is as much a part of his liberty as the freedom of movement.¹⁵

Freedom of Assembly

Freedom of assembly, or association, is another constitutional right that can be implicated in anti-loitering policies. The right to assemble peacefully is guaranteed by the U.S. and Alaska constitutions.¹⁶ Like the freedom of speech, public intolerance and animosity are insufficient reasons for limiting the freedom of assembly.¹⁷ In *Coates v. Cincinnati*, the U.S. Supreme Court invalidated a city ordinance that made it a criminal offense for three or more persons to assemble on a sidewalk and conduct themselves in a manner annoying to passersby. The *Coates* court explained that the term “annoy” is unconstitutionally vague because it “subjects the exercise of the right of assembly to an unascertainable standard.”¹⁸ The Constitution “do[es] not permit a State to make criminal the exercise of the right of assembly simply because its exercise may be ‘annoying’ to some people.”¹⁹

Protection of Expression in a “Public Forum”

The freedom to engage in the protected speech or assembly is particularly well recognized in public places, such as sidewalks, parks, and streets.²⁰ Courts refer to these traditional arenas for expression as “public forums.” The government’s ability to restrict constitutionally protected conduct in public forums is limited to reasonable time,

¹² *Marks*, 500 P.2d at 648.

¹³ See, *City of Chicago v. Morales*, 527 U.S. 41, 53; 119 S.Ct. 1849, 144 L.Ed.2d 67 (1999).

¹⁴ McQuillin, *Municipal Corporations*, § 19:57 (3d ed., 2004 rev. volume) (hereafter McQuillin).

¹⁵ *Id.*

¹⁶ U.S. Const. amend. I; Alaska Const. art. 1, § 6.

¹⁷ *Marks*, 500 P.2d at 649 (quoting *Coates v. Cincinnati*, 402 U.S. 611 (1971)).

¹⁸ *Coates v. Cincinnati*, 402 U.S. 611 (1971).

¹⁹ *Id.*

²⁰ See, e.g., *United States v. Grace*, 461 U.S. 171, 177, 103 S. Ct. 1702, 1707, 75 L. Ed. 2d 736 (1983).

place, and manner restrictions that are content-neutral, narrowly tailored to serve a significant government interest and leave open ample channels of communication.²¹

Potential Solutions

Having made you aware of the legal constraints on regulating offensive public behavior, we should not leave you without some potential solutions. In the ordinances enacted for this purpose that have been upheld have been directed at specific, narrowly defined forms of behavior that clearly do not have a significant expressive component.

In *Roulette v. City of Seattle*,²² the Ninth Circuit Court of Appeals rejected a constitutional challenge to a City of Seattle ordinance that prohibited sleeping, lying, standing on sidewalks during certain times in specific districts within the city. The ordinance at issue provided:

A. Prohibition. No person shall sit or lie down upon a public sidewalk, or upon a blanket, stool, or any other object placed upon a public sidewalk, during the hours between 7:00 a.m. and 9:00 p.m. in the following zones:

1. The Downtown Zone
2. Neighborhood Commercial Zones

B. Exceptions. The prohibition in Subsection A shall not apply to any person:

1. sitting or lying down on a public sidewalk due to a medical emergency;
2. who, as the result of a disability, utilizes a wheelchair, walker, or similar device to move about the public sidewalk;
3. operating or patronizing a commercial establishment conducted on the public sidewalk pursuant to a street use permit; or a person participating in or attending a parade, festival, performance, rally, demonstration, meeting or similar event conducted on the public sidewalk pursuant to a street use or other applicable permit;
4. sitting on a chair or bench located on the public sidewalk which is supplied by a public agency or by the abutting private property owner; or
5. sitting on a public sidewalk within a bus stop zone while waiting for public or private transportation ...²³

The plaintiffs in the *Roulette* case challenged the ordinance as violating their rights of free speech, among other claims. In denying their claims, the court explained that “[t]he fact that sitting can *possibly* be expressive” was not enough to trigger First Amendment protections.²⁴ Of note, the ordinance upheld in *Roulette* was limited in scope: it limited

²¹ *Id.* at 736 (citation omitted).

²² 97 F.3d 300 (9th Cir. 1996)

²³ 97 F.3d at 302.

²⁴ 97 F.3d at 304 (emphasis added).

the times during which the prohibition applied, it applied only to certain zones within the city, and it contained several exceptions to avoid being overbroad.

In *Young v. New York City Transit Authority*,²⁵ the court upheld a complete ban against begging and panhandling in the City's subway system after finding that such conduct is an act and not protected speech. The court explained:

The only message that we are able to espy as common to all acts of begging is that beggars want to exact money from those whom they accost. While we acknowledge that passengers generally understand this generic message, we think it falls far outside the scope of protected speech under the First Amendment.²⁶

In *Joel v. City of Orlando*,²⁷ the court upheld an ordinance that prohibited camping on public property:

Camping Prohibited; exceptions.

(1) For the purposes of this section, "camping" is defined as:

- (a) Sleeping or otherwise being in a temporary shelter out-of-doors; or
- (b) Sleeping out-of-doors; or
- (c) Cooking over an open flame or fire out-of-doors.

(2) Camping is prohibited on all public property, except as may be specifically authorized by the appropriate governmental authority.

(3) Camping is prohibited on all property in the City used for residential purposes; provided, however, that camping is permitted on such property with the permission and consent of the property owner.²⁸

The court held that homeless persons are not entitled to special constitutional protection, and is sleeping out-of-doors is not a fundamental right, and that a rational basis exists for believing that prohibiting sleeping out-of-doors on public property would further aesthetics, sanitation, public health, and safety.²⁹ However, the court also was influenced by the fact that there was an ample supply of homeless shelter facilities on Orlando, so that the homeless had alternatives to sleeping in public places.³⁰

Conclusion

The examples of potential solutions cited above certainly are not exhaustive. The most important considerations in evaluating potential solutions to the issue of

²⁵ 903 F.2d 146 (2d Cir. 1990).

²⁶ 903 F.2d at 152.

²⁷ 232 F.3d 1353 (11th Cir. 2000).

²⁸ 232 F.3d at 1356.

²⁹ 232 F.3d at 1357-1358.

³⁰ 232 F.3d at 1362.

offensive public behavior are to avoid vague (“I can’t define it, but I know it when I see it”) prohibitions of offensive conduct, and prohibitions that impinge on protected expressive behavior. We are available to assist the City in developing regulations that are carefully tailored to meet its needs within constitutional constraints.

**CITY OF KODIAK
ORDINANCE NUMBER 1341**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KODIAK REPEALING KODIAK CITY CHAPTER 8.20, ASSAULT AND BATTERY, ADOPTING KODIAK CITY CODE CHAPTER 8.20, OFFENSES AGAINST PUBLIC ORDER, AND REPEALING KODIAK CITY CODE 8.56.060, DISORDERLY CONDUCT; 8.64.010, BEGGING, 8.64.020, JOSTLING PEOPLE; AND KODIAK CITY CODE 1.12.040, DISPOSITION OF SCHEDULED OFFENSES—FINE SCHEDULE

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

Section 1: Kodiak City Code Chapter 8.20, Assault and Battery is hereby repealed.

Section 2: Kodiak City Code Chapter 8.20, Offenses Against Public Order, is adopted to read as follows:

8.20.010 Definitions

As used in this chapter,

“Camping” means sleeping or otherwise being in a temporary shelter, tent or sleeping bag out-of-doors, sleeping atop or covered by materials such as a bedroll, cardboard or newspapers out-of-doors, or cooking over an open flame or fire out-of-doors.

“Panhandling” means any solicitation made in person in which a person requests an immediate donation of money or other gratuity from another person, including without limitation seeking donations in exchange for an item of little or no monetary value under circumstances where a reasonable person would understand that the transaction is in substance a donation.

“Public place” means a place to which the public has access, including without limitation streets, highways, sidewalks, alleys, parking areas, plazas, parks, and playgrounds.

8.20.020 Assault

No person may by words or other conduct recklessly place another person in a public place in fear of imminent physical injury.

8.20.030 Obstruction of pedestrians or vehicles.

No person may walk, stand, sit, lie, or place an object in a public place in such a manner as to block rightful passage by another person or a vehicle, or to require another person or a driver of a vehicle to take evasive action to avoid physical contact. This section does not apply to lawful picketing, parades or use of a public place in accordance with a permit issued by the City.

8.20.040 Aggressive panhandling.

No person may engage in an act of panhandling in an aggressive manner as set forth in (a) through (e) of this section:

(a) Touching the solicited person without the solicited person's consent;

(b) Panhandling a person while such person is standing in line and waiting to be admitted to a commercial or public establishment;

(c) Blocking the path of a person being solicited, or the entrance to any building or vehicle;

(d) Persisting in closely following or approaching a person, after the person solicited has informed the solicitor by words or conduct that such person does not want to be solicited or does not want to give money or any other thing of value to the solicitor;

(e) Making any statement, gesture, or other communication which would cause a reasonable person to be fearful or coerced to make a donation; or

(f) Panhandling in a group of two or more persons.

8.20.050 Sitting or lying on public sidewalks.

(a) No person may sit or lie upon a public sidewalk, or upon a blanket, chair, stool, or any other object placed upon a public sidewalk, during the hours between:

(1) 6:00 a.m. and 11:59 p.m. on Monday, Tuesday, Wednesday or Thursday; or

(2) 6:00 a.m. Friday through 2:30 a.m. Saturday; or

(3) 6:00 a.m. Saturday through 2:30 a.m. Sunday.

(b) The prohibition in subsection (a) of this section does not apply to:

(1) Sitting or lying on a public sidewalk due to a medical emergency;

(2) Using, as the result of a disability, a wheelchair, walker, or similar device to move about;

(3) Operating or patronizing a commercial establishment conducted on a public sidewalk in accordance with a permit issued by the city, or participating in or attending a parade, festival, performance, race, rally, demonstration, meeting, or similar event conducted on the public sidewalk in accordance with a permit issued by the city;

(4) Sitting on a chair or bench located on the public sidewalk which is supplied by a public agency or by the abutting private property owner;

(5) Sitting on a public sidewalk within a passenger loading zone while waiting for public or private transportation; or

(6) Waiting in line to purchase, receive or deliver an item or gain access to an adjacent property, such as waiting to purchase an item from a street vendor, or tickets at a ticket window, or waiting for an establishment to open to receive or deliver goods or services, while remaining as far from the traveled roadway as practicable.

8.20.060 Camping.

Camping is prohibited in all public places, except those that are specifically designated for camping by the appropriate governmental authority

Section 3: Subsection (c) of Kodiak City Code Section 1.12.040, Disposition of scheduled offenses—fine schedule, is hereby amended by adding new lines to read as follows:

City Code Provision	Offense	Fine		
		1st offense w/i 2 years	2nd offense w/i 2 years	3rd offense w/i 2 years
8.20.020	Assault	\$250	\$500	\$1,000
8.20.030	Obstruction of pedestrians or vehicles	\$50	\$100	\$200
8.20.040	Aggressive panhandling	\$50	\$100	\$200
8.20.050	Sitting or lying on public sidewalks	\$50	\$100	\$200
8.20.060	Camping	\$50	\$100	\$200

Section 4: Kodiak City Code 8.56.060, Disorderly conduct; 8.64.010, Begging; and 8.64.020, Jostling people, are hereby repealed.

Section 5: This ordinance shall be effective one month following final passage and publication in accordance with Kodiak Charter article II section 13.



CITY OF KODIAK

Out Braun

 MAYOR

ATTEST:

Michelle Whurvell-Nelson

 DEPUTY CLERK

First Reading: January 14, 2016
 Second Reading: January 28, 2016
 Effective Date: March 2, 2016



July 1, 2016

The Honorable Pat Branson
Mayor of the City of Kodiak
710 Mill Bay Road
Kodiak, AK 99615

Sent by email: mayor@city.kodiak.ak.us

Re: Kodiak City Ordinance No. 1341

Dear Mayor Branson:

The American Civil Liberties Union of Alaska has reviewed Kodiak City Ordinance No. 1341, adopted on January 28, 2016, to regulate panhandling, sitting and lying on sidewalks, and sleeping out-of-doors. Based on our review, the ACLU of Alaska believes the Ordinance contains significant constitutional infirmities. We recommend that the Council repeal the Ordinance, and, until it is repealed, that it not be enforced.

As you know, the American Civil Liberties Union of Alaska represents thousands of people throughout the State of Alaska who seek to preserve and expand individual freedoms and civil liberties guaranteed to all Alaskans under the United States and Alaska Constitutions. We engage in public advocacy and education to further those rights, and—when necessary—we litigate when those rights are abridged. We appreciate this opportunity to share our concerns with you and welcome any questions you may have.

Potential Constitutional Infirmities

Our review indicates that Kodiak City Ordinance (KCO) No. 1341 violates the Alaska and United States Constitutions in four ways. The Ordinance restricts speech in a manner that violates guarantees of free speech and association; these restrictions also violate guarantees of equal protection. Vague provisions in the Ordinance violate guarantees of due process. And the regulation of sitting and sleeping in public spaces may violate guarantees against cruel and unusual punishment, unless Kodiak can demonstrate that it provides adequate legal alternatives, such as shelters, where homeless people can rest and sleep.

(a) Prohibitions of aggressive panhandling appear to violate constitutional guarantees of free speech and association.

Recently enacted KCC 8.20.040 prohibits aggressive panhandling. It enumerates six secondary conditions that can define panhandling as criminally aggressive and therefore subject to fine. The restriction would not likely survive legal challenge, as it is an impermissible subject-matter speech restriction. And, as discussed further below, a

provision that applies to two or more persons panhandling together also violates the guarantees of free association.

The First Amendment of the United States Constitution provides that “Congress shall make no law . . . abridging the freedom of speech.”¹ Article 1 of the Constitution of the State of Alaska provides a similar protection: “Every person may freely speak, write, and publish on all subjects, being responsible for the abuse of that right.”² The constitutional protection of free speech has been recognized to include protection of solicitation generally,³ and of solicitation for charitable contributions specifically.⁴

When a court analyzes a restriction of constitutionally protected speech, two key questions determine the analysis: whether the restriction is content-based or content-neutral, and whether the restriction applies to a traditional public forum, such as a public park or sidewalk.⁵ A content-based speech restriction applied in a traditional public forum is presumed unconstitutional and is analyzed under strict scrutiny.⁶ The government thus must prove that the regulation is “narrowly tailored to promote a compelling Government interest,” such that no “less restrictive alternative would serve the Government’s purpose.”⁷

¹ U.S. Const. amend. I.

² Alaska Const. art. I, § 5.

³ See, e.g., *United States v. Kokinda*, 497 U.S. 720, 725 (1990) (“Solicitation is a form of speech recognized by the First Amendment.”); *Bates v. State Bar of Arizona*, 433 U.S. 350, 363 (1977) (“[O]ur cases long have protected speech even though it is in the form of . . . a solicitation to pay or contribute money.”).

⁴ See, e.g., *Vill. of Schaumburg v. Citizens for a Better Env’t*, 444 U.S. 620, 632 (1980) (“[C]haritable appeals for funds, on the street or door to door, involve a variety of speech interests—communication of information, the dissemination and propagation of views and ideas, and the advocacy of causes—that are within the protection of the First Amendment.”); *Riley v. Natl. Fed’n of the Blind of N.C., Inc.*, 487 U.S. 781, 789 (1988) (“[S]olicitation of charitable contributions is protected speech.”).

⁵ See *United States v. Grace*, 461 U.S. 171, 177 (1983) (“[P]ublic places historically associated with the free exercise of expressive activities, such as streets, sidewalks, and parks, are considered, without more, to be public forums.”) (internal quotation marks omitted).

⁶ See, e.g., *Reed v. Town of Gilbert, Ariz.*, 135 S. Ct. 2218, 2231 (2015) (“Because the Town’s Sign Code imposes content-based restrictions on speech, those provisions can stand only if they survive strict scrutiny”); *Kokinda*, 497 U.S. at 726 (“Regulation of speech activity on governmental property that has been traditionally open to the public for expressive activity, such as public streets and parks, is examined under strict scrutiny.”); *City of Ladue v. Gilleo*, 512 U.S. 43, 59 (1994) (O’Connor, J., concurring) (“With rare exceptions, content discrimination in regulations of the speech of private citizens . . . in a traditional public forum is presumptively impermissible, and this presumption is a very strong one.”) (citation omitted); *Simon & Schuster, Inc. v. Members of N.Y. State Crime Victims Bd.*, 502 U.S. 105, 115 (1991) (“A statute is presumptively inconsistent with the First Amendment if it imposes a financial burden on speakers because of the content of their speech.”) (citation omitted).

⁷ *United States v. Playboy Entm’t Grp., Inc.*, 529 U.S. 803, 804 (2000).

As the Supreme Court noted in *Burson v. Freeman*, “[I]t is the rare case in which we have held that a law survives strict scrutiny.”⁸

While the Kodiak City Council may have believed that KCC 8.20.040 is a content-neutral regulation of the time, place, or manner of speech—which would subject it to a less exacting “intermediate” level of scrutiny⁹—the Supreme Court foreclosed such a reading with its recent decision in *Thayer v. City of Worcester, Massachusetts*.¹⁰ In *Thayer*, the Court considered a prohibition against aggressive panhandling—containing provisions much like those in KCC 8.20.040—and a prohibition targeting solicitation of motorists by pedestrians from crosswalks or traffic islands. The First Circuit concluded that the solicitation restrictions were content-neutral.

The Supreme Court reversed. The Court issued a one-paragraph opinion vacating the First Circuit’s decision and remanding for further consideration in light of *Reed v. Town of Gilbert*, decided earlier in the same term.¹¹ In *Reed*, the Court had observed:

The First Amendment’s hostility to content-based regulation extends not only to restrictions on particular viewpoints, but also to prohibition of public discussion of an entire topic. Thus, a speech regulation targeted at specific subject matter is content based even if it does not discriminate among viewpoints within that subject matter.¹²

By reversing the First Circuit in *Thayer* and directing it to turn to *Reed* to resolve the question of whether the panhandling restriction is content-neutral or content-based, the Court strongly implied that restrictions on panhandling are content-based and subject to strict scrutiny. Likewise, a court would find that KCC 8.20.040’s prohibitions on panhandling are content-based restrictions on speech in traditional public fora, and the court would apply strict scrutiny in analyzing those prohibitions.

The panhandling restrictions would not survive strict scrutiny, because there are less restrictive ways to accomplish the city’s legitimate goals.¹³ For example, the city is free to

⁸ 504 U.S. 191, 211 (1992).

⁹ See, e.g., *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989) (“[I]n a public forum the government may impose reasonable restrictions on the time, place, or manner of protected speech, provided the restrictions are justified without reference to the content of the regulated speech, that they are narrowly tailored to serve a significant governmental interest, and that they leave open ample alternative channels for communication of the information.”) (citations and internal quotation marks omitted).

¹⁰ 135 S. Ct. 2887 (2015).

¹¹ *Supra* note 6.

¹² *Id.* at 2230 (2015) (quotation marks and paragraph break omitted).

¹³ See, e.g., *Frisby v. Schultz*, 487 U.S. 474, 485 (1988) (“A statute is narrowly tailored if it targets and eliminates no more than the exact source of the ‘evil’ it seeks to remedy.”); *Mickens v. City of Kodiak*, 640 P.2d 818, 822 (Alaska 1982) (“[I]t is not permissible to suppress constitutionally protected forms of expression in order to curb the lawless conduct of some of those who are reacting

proscribe intimidating behavior without conditioning the proscription on whether the violator has spoken about a constitutionally protected subject matter.¹⁴ Indeed, the Alaska Statutes already criminalize threatening speech.¹⁵ State law also criminalizes many behaviors similar to those contained in subsections of KCC 8.20.040, demonstrating again that there are ways to ban offensive behaviors without also criminalizing speech based on its content.¹⁶

Because the prohibition of a particular type of protected speech—whether called solicitation or panhandling—in itself makes KCC 8.20.040 unconstitutional, it is not necessary to examine the six possible secondary elements that contribute to a violation. Nevertheless, we note that two of the six secondary conditions are themselves constitutionally suspect. KCC 8.20.040(b) prohibits “[p]anhandling a person while such person is standing in line and waiting to be admitted to a commercial or public establishment.” Perhaps the restriction was intended to protect a kind of captive audience. However, case law generally precludes treating people standing in public spaces as a captive audience. Captive audience doctrine is predicated upon the violation of an expectation of privacy that does not exist in

to it, unless other law enforcement techniques which do not infringe first amendment freedoms are unavailable or likely to be ineffective.”).

¹⁴ See, e.g., *Comite de Jornaleros de Redondo Beach v. City of Redondo Beach*, 657 F.3d 936, 949–50 (9th Cir. 2011) (“The City has various other laws at its disposal that would allow it to achieve its stated interests while burdening little or no speech. . . . Even under the intermediate scrutiny ‘time, place, and manner’ analysis, we cannot ignore the existence of these readily available alternatives.”) (applying the analysis associated with intermediate scrutiny and striking down an anti-solicitation ordinance); *McCullen v. Coakley*, 134 S. Ct. 2518, 2538 (2014) (“All of the foregoing measures are, of course, in addition to available generic criminal statutes forbidding assault, breach of the peace, trespass, vandalism, and the like”) (applying less than strict scrutiny and striking down buffer zones around abortion clinics for violating the First Amendment).

¹⁵ AS 11.41.230(a)(3) (“A person commits the crime of assault in the fourth degree if . . . by *words* or other conduct that person recklessly places another person in fear of imminent physical injury.”) (emphasis added).

¹⁶ See, e.g., AS 11.41.270(b)(1) (“A person commits the crime of stalking in the second degree if the person knowingly engages in a course of conduct that recklessly places another person in fear of death or physical injury . . . [through] repeated acts of nonconsensual contact.”). Other behaviors that can qualify as elements of stalking another person include “following or appearing within the sight of that person” (AS 11.41.270(b)(4)(A)), and “approaching or confronting that person in a public place or on private property” (AS 11.41.270(b)(4)(B)). See also, e.g., AS 11.41.530(a)(1) (“A person commits the crime of coercion if the person compels another to engage in conduct from which there is a legal right to abstain . . . by means of instilling in the person compelled a fear that, if the demand is not complied with, the person who makes the demand or another may . . . inflict physical injury on anyone, except under circumstances constituting robbery in any degree, or commit any other crime”); AS 11.61.120(a)(5) (“A person commits the crime of harassment in the second degree if, with intent to harass or annoy another person, that person . . . subjects another person to offensive physical contact.”).

public spaces such as parks and sidewalks.¹⁷ The Ninth Circuit has observed, “[P]ublic park-goers, in general, are not a protectable captive audience for constitutional purposes.”¹⁸

KCC 8.20.040(f) prohibits “[p]anhandling in a group of two or more persons.” This criminalizes two constitutionally protected activities when done in tandem: engaging in speech and engaging in expressive association. The freedom to associate in furtherance of the exercise of the right to speak is well established.¹⁹ The Alaska Supreme Court has explained, “It is axiomatic that freedom of speech and the correlative freedom of association are fundamental rights which lie at the foundation of our system of government.”²⁰ Because both speech and association are separately protected, it is particularly difficult to justify criminalizing engaging in them together.

Alaska’s constitutional protections of speech are even “more explicit and direct” than federal protections.²¹ Under Alaska constitutional jurisprudence, “[I]t is only in the most limited circumstances that speech can be punished.”²² “[O]nly a regulation which impinges

¹⁷ See, e.g., *Cohen v. California*, 403 U.S. 15, 21 (1971) (“The ability of government, consonant with the Constitution, to shut off discourse solely to protect others from hearing it is, in other words, dependent upon a showing that substantial privacy interests are being invaded in an essentially intolerable manner.”); *Berger v. City of Seattle*, 569 F.3d 1029, 1054 (9th Cir. 2009) (“Given the importance of [public parks], we cannot countenance the view that individuals who choose to enter them, for whatever reason, are to be protected from speech and ideas those individuals find disagreeable, uncomfortable, or annoying.”) (citation omitted).

¹⁸ *Berger* at 1054 (rejecting a “captive audience” argument presented in support of a city ordinance provision prohibiting “speech activities” within a buffer zone around captive audiences in parks, including people waiting in line).

¹⁹ See, e.g., *Nat’l Ass’n for the Advancement of Colored People v. Alabama*, 357 U.S. 449, 460–61 (1958) (“Effective advocacy of both public and private points of view, particularly controversial ones, is undeniably enhanced by group association, as this Court has more than once recognized by remarking upon the close nexus between the freedoms of speech and assembly. It is beyond debate that freedom to engage in association for the advancement of beliefs and ideas is an inseparable aspect of the ‘liberty’ assured by the Due Process Clause of the Fourteenth Amendment, which embraces freedom of speech. Of course, it is immaterial whether the beliefs sought to be advanced by association pertain to political, economic, religious or cultural matters, and state action which may have the effect of curtailing the freedom to associate is subject to the closest scrutiny.”) (citations omitted).

²⁰ *Alaska Gay Coal. v. Sullivan*, 578 P.2d 951, 959 (Alaska 1978). The Court observed that “the First Amendment is designed to ensure that individuals are able to speak (and associate) free from unnecessary government restraint. Inherent in its mandate is the notion that it is the suppression of speech in itself which is the evil to be avoided for such suppression necessarily impairs the right to speak freely.” *Id.* at 960.

²¹ *Messerli v. State*, 626 P.2d 81, 83 (Alaska 1980). See also, e.g., *Vogler v. Miller*, 651 P.2d 1, 3 (Alaska 1982) (“Our previous decisions have found the free speech guarantee of Article I, Section 5 to be at least as broad as that of the First Amendment of the United States Constitution.”).

²² *Marks v. City of Anchorage*, 500 P.2d 644, 647 (Alaska 1972).

on the right to speak and associate *to the least degree possible* consistent with the achievement of the state's legitimate goals will pass constitutional muster.”²³

KCC 8.20.040 cannot be enforced and should be repealed, because it does not pass muster under either the federal or state constitutions.

(b) KCC 8.20.040 also violates constitutional guarantees of equal protection.

Because KCC 8.20.040 treats some speakers differently than other speakers—allowing people to discuss politics or to sell art but not to request money—this provision also implicates the Equal Protection Clauses of the Alaska Constitution²⁴ and of the Fourteenth Amendment of the United States Constitution.²⁵ As observed by the U.S. Supreme Court in *Carey v. Brown*, “When government regulation discriminates among speech-related activities in a public forum, the Equal Protection Clause mandates that the legislation be finely tailored to serve substantial state interests, and the justifications offered for any distinctions it draws must be carefully scrutinized.”²⁶ Earlier, in *Police Department of Chicago v. Mosely*, the Court stated, “Necessarily, then, under the Equal Protection Clause, not to mention the First Amendment itself, government may not grant the use of a forum to people whose views it finds acceptable, but deny use to those wishing to express less favored or more controversial views.”²⁷

Just as with its protection of speech, the Alaska Constitution’s equal protection guarantee is more protective of people’s rights than the federal constitution’s. Alaska equal protection analysis uses a three-step “sliding scale.” A court weighs the importance of the governmental interest that the regulation seeks to advance, how well the government’s regulation “fits” that interest, and the degree of impairment imposed on people’s rights.²⁸

²³ *Vogler* at 5 (emphasis added).

²⁴ Alaska Const. art. I, § 1 (“This constitution is dedicated to the principle[] . . . that all persons are equal and entitled to equal rights, opportunities, and protection under the law.”).

²⁵ U.S. Const. amend. XIV, § 1 (“No state shall . . . deny to any person within its jurisdiction the equal protection of the laws.”).

²⁶ 447 U.S. 455, 461–62 (1980).

²⁷ 408 U.S. 92, 96 (1972).

²⁸ See *Schiel v. Union Oil Co. of Cal.*, 219 P.3d 1025, 1030 (Alaska 2009) (internal quotations omitted) (“To determine whether a statute violates the Equal Protection Clause of the Alaska Constitution, we apply a sliding scale approach which places a greater or lesser burden on the state to justify a classification depending on the importance of the individual right involved.”); see also *State v. Planned Parenthood of Alaska*, 35 P.3d 30, 42 (Alaska 2001) (“In *State v. Erickson*, we adopted as a measure of Alaska's equal protection provision a flexible, three-step sliding-scale test. Under this test, we initially establish the nature of the right allegedly infringed by state action, increasing the state’s burden to justify the action as the right it affects grows more fundamental: at the low end of the sliding scale the state needs only to show that it has a legitimate purpose; but at the high end—when its action directly infringes a fundamental right—the state must prove a compelling governmental interest. We next examine the importance of the state purpose served by the challenged action in order to determine whether it meets the requisite standard. We last

Even at the lowest level of scrutiny, the government must demonstrate a “substantial” connection between the interest it seeks to serve and the restriction imposed by the law.²⁹ At the highest level—required when the law infringes on a fundamental interest, such as free speech—the government must demonstrate that the law serves a compelling interest *and* that no less restrictive alternative would serve that interest.³⁰

Finally, the equal protection guarantees prohibit governments from singling out people for disparate treatment in order to express disfavor or animus.³¹ Although KCC 8.20.040 does not explicitly target specific classes of people, the legislative history indicates that it was adopted with specific classes of people in mind: “a number of the homeless, indigent, and inebriate population.”³² The fact that the law was enacted to impose restrictions on a disfavored class of people would offer the courts a basis for invalidating the entire law on equal protection grounds.

(c) Provisions of KCC 8.20.030 are unconstitutionally vague.

The Alaska and United States Constitutions both protect the people from being deprived of their life, liberty, or property without due process of law.³³ This protection includes a prohibition on the government from enforcing vague laws.³⁴ The requirement for clear criminal laws ensures that people understand what behaviors are proscribed and prevents the police from wielding arbitrary power. As written, a portion of KCC 8.20.030, violates

consider the particular means that the state selects to further its purpose; a showing of substantial relationship between means and ends will suffice at the low end of the scale, but at the high end the state must demonstrate that no less restrictive alternative exists to accomplish its purpose.”) (footnotes and citations omitted).

²⁹ *Alaska Civil Liberties Union v. State*, 122 P.3d 781, 791 (Alaska 2005) (“Alaska’s Equal Protection Clause requires more than just a rational connection between a classification and a governmental interest; even at the lowest level of scrutiny, the connection must be *substantial*.”).

³⁰ *See, e.g., Planned Parenthood of Alaska*, *supra* note 28.

³¹ *See, e.g., U.S. Dep’t of Agric. v. Moreno*, 413 U.S. 528, 534 (1973) (“[I]f the constitutional conception of ‘equal protection of the laws’ means anything, it must at the very least mean that a bare congressional desire to harm a politically unpopular group cannot constitute a legitimate governmental interest.”).

³² 20160128 Regular Meeting Agenda Packet, Memorandum from Aimée Kniazowski, City Manager, to Mayor Branson and City Councilmembers (Jan. 28, 2016), at 16, http://www.city.kodiak.ak.us/sites/default/files/fileattachments/City%20Council/meeting/packets/5178/20160128_regular_meeting_packet.pdf.

³³ Alaska Const. art. I, § 7 (“No person shall be deprived of life, liberty, or property, without due process of law.”); U.S. Const. amend. XIV, § 1 (“[N]or shall any State deprive any person of life, liberty, or property, without due process of law.”).

³⁴ *See, e.g., City of Chicago v. Morales*, 527 U.S. 41, 56 (1999) (“Vagueness may invalidate a criminal law for either of two independent reasons. First, it may fail to provide the kind of notice that will enable ordinary people to understand what conduct it prohibits; second, it may authorize and even encourage arbitrary and discriminatory enforcement.”).

this principle. The section reads: “No person may walk, stand, sit, lie, or place an object in a public place in such a manner as to . . . require another person . . . to take evasive action to avoid physical contact.”

On its face, this implicates ordinary behavior engaged in by countless people in Kodiak throughout the day. Any time one person’s intended path crosses another’s, one or both of them will presumably take evasive action to avoid collision. A pair of friends having an intense discussion run afoul of the law if they pay insufficient attention to the paths of other people in their vicinity, forcing others to evade them. A person who stops on the sidewalk to talk on a cell phone breaks the law if another must change her path to avoid bumping into him. The number of potential violations drawn from everyday public activity is endless. Essentially, the law criminalizes the basics of navigating public spaces.

Presumably, that was not the intent of the City Council. But the broad sweep of the law is constitutionally problematic. Vague laws fail to inform people what behavior they must avoid and imbue the police with power that may be wielded arbitrarily.³⁵ The Alaska Supreme Court has struck down a similarly vague law, noting the risk of arbitrary enforcement against unpopular people:

Those generally implicated by the imprecise terms of the ordinance—poor people, nonconformists, dissenters, idlers—may be required to comport themselves according to the life-style deemed appropriate by the . . . police and the courts. Where, as here, there are no standards governing the exercise of the discretion granted by the ordinance, the scheme permits and encourages an arbitrary and discriminatory enforcement of the law. It furnishes a convenient tool for harsh and discriminatory enforcement by prosecuting officials, against particular groups deemed to merit their displeasure.³⁶

If challenged, this portion of the law likely would be invalidated by the courts.

(d) Two new sections of the Kodiak City Code could constitute cruel and unusual punishment if enforced against homeless people.

Newly enacted KCC 8.20.050(a) includes: “No person may sit or lie upon a public sidewalk, or upon a blanket, chair, stool, or any other object placed upon a public sidewalk, during [specified times].” Newly enacted KCC 8.20.060 provides that “[c]amping is prohibited in all public places, except those that are specifically designated for camping by the appropriate governmental authority.” Camping is defined in KCC 8.10.010 to include “sleeping atop or

³⁵ *Marks v. City of Anchorage*, 500 P.2d 644, 646 (Alaska 1972) (“A vague statute violates the due process clause both because it fails to give adequate notice to the ordinary citizen of what is prohibited and because its indefinite contours confer unbridled discretion on government officials and thereby raise the possibility of uneven and discriminatory enforcement.”).

³⁶ *Marks v. City of Anchorage*, 500 P.2d 644, 653 (Alaska 1972) (quoting *Papachristou v. City of Jacksonville*, 405 U.S. 156, 170 (1972) (internal quotation marks omitted)).

covered by materials such as a bedroll, cardboard[,] or newspapers out-of-doors.” On its face, this definition appears targeted at homeless people.

Such regulations can violate constitutional prohibitions against inflicting cruel and unusual punishment when they are applied to homeless people.³⁷ Courts reviewing similar ordinance have ruled that, when a municipality essentially criminalizes resting, a human necessity, but does not make sufficient resting space available for people who have no space of their own, the municipality is punishing people for being homeless and having basic human needs. Thus, for example, in *Jones v. City of Los Angeles*, the Ninth Circuit concluded that “the Eighth Amendment prohibits the City from punishing involuntary sitting, lying, or sleeping on public sidewalks that is an unavoidable consequence of being human and homeless without shelter in the City of Los Angeles.”³⁸

Although the *Jones* decision was subsequently vacated after the parties came to a settlement agreement, the United States Department of Justice has explicitly endorsed its reasoning. The DOJ filed a statement of interest in an Idaho case supporting the conclusion expressed in *Jones*.³⁹ The Idaho case involved a camping and sleeping prohibition enacted by the city of Boise. The DOJ’s statement of interest included:

Because . . . there is . . . conflicting lower court case law in this area, the United States files this Statement of Interest to make clear that the *Jones* framework is the appropriate legal framework for analyzing Plaintiffs’ Eighth Amendment claims. Under the *Jones* framework, the Court should consider whether conforming one’s conduct to the ordinance is possible for people who are homeless. If sufficient shelter space is unavailable . . . then it would be impossible for some homeless individuals to comply with these ordinances. . . . [I]n those circumstances enforcement of the ordinances amounts to the criminalization of homelessness, in violation of the Eighth Amendment.⁴⁰

In September 2015, the district court dismissed the Idaho case for lack of standing without reaching the Eighth Amendment argument. Lack of standing was partly attributable to Boise’s decision not to enforce its outdoor camping and sleeping prohibitions when “a homeless individual is on public property and there is no available overnight shelter.”⁴¹

³⁷ Alaska Const. art. I, § 12 (“Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.”); U.S. Const. amend. VIII (“Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.”).

³⁸ *Jones v. City of L.A.*, 444 F.3d 1118, 1138 (9th Cir. 2006) *vacated upon settlement*, 505 F.3d 1006 (9th Cir. 2007).

³⁹ Statement of Interest of the United States, *Martin v. City of Boise*, Civil Action No. 1:09-cv-00540-REB (D. Idaho Sept. 28, 2015), a re-filing of *Bell v. City of Boise*, 993 F. Supp. 2d 1237 (D. Idaho 2014), under instruction of the court, <https://www.justice.gov/opa/file/643766/download>.

⁴⁰ *Id.*

⁴¹ *Martin* at 3 (internal quotation marks omitted).

Mayor Pat Branson, City of Kodiak
ACLU Analysis of Kodiak City Ordinance No. 1341
July 1, 2016
Page 10 of 10

In the event Kodiak's prohibitions against sitting or lying on sidewalks are enforced against homeless people and there is insufficient shelter space available in Kodiak for its homeless population, we believe a court would find these provisions unconstitutional.

Conclusion

In light of the constitutional infirmities that have been outlined above, the ACLU of Alaska urges the Kodiak City Council to repeal Ordinance No. 1341. Meanwhile, we urge Kodiak not to enforce the provisions the Ordinance enacted.

We respectfully request a response from the City Council that includes any legal analysis that differs from that presented above and whether Kodiak agrees not to enforce Ordinance No. 1341's enacted provisions. We request that this response be sent by no later than August 1, 2016, to:

Eric Glatt
ACLU of Alaska
1057 W. Fireweed Lane, Suite 207
Anchorage, AK 99503

Thank you for your thoughtful consideration. Please feel free to let us know if you have any questions we may be able to answer.

Sincerely,



Eric G. Glatt
Attorney at Law

cc: Councilmember Laura Arboleda, larboleda@city.kodiak.ak.us
Councilmember Randall Bishop, rbishop@city.kodiak.ak.us
Councilmember Charles Davidson, cdavidson@city.kodiak.ak.us
Councilmember Gabriel Saravia, gsaravia@city.kodiak.ak.us
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August 1, 2016

VIA ELECTRONIC DELIVERY

Eric G. Glatt, Esq.
ACLU of Alaska
1057 W. Fireweed Lane, Suite 207
Anchorage, AK 99503

RE: City of Kodiak Ordinance Number 1341
Our File No.: 505,786.86

Dear Mr. Glatt:

We are the attorneys for the City of Kodiak ("City"). This responds to your letter of July 1, 2016, to Mayor Pat Branson regarding constitutional issues raised by the provisions of City Ordinance 1341.

We agree that since the legal analysis that preceded the adoption of Ordinance Number 1341 decisions of federal courts regarding the regulation of panhandling activity have called into question the continued validity of authorities that the analysis relied upon. We are undertaking additional study to determine what modifications should be made to Ordinance Number 1341 in light of those decisions. Pending completion of that study, the City will not enforce the provisions of Kodiak City Code 8.20.030 or 8.20.040.

Yours truly,

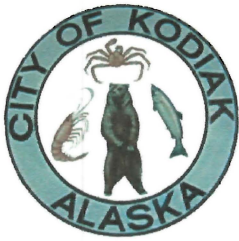
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Thomas F. Klinkner

TFK:
cc: Aimee Kniazowski


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MEMORANDUM

TO: Mayor Branson and City Councilmembers

FROM: Aimée Kniaziowski, City Manager 

DATE: January 14, 2017

RE: Planning Session Agenda, Item 2.e-1, Organizational/Policy Issues, Review Strategic Plan

The City contracted with Sarah Barton in the spring of 2015 to help the Council develop strategic priorities for the City of Kodiak straddling 2 years, from 2015-2017. Sarah worked with the Council to develop the vision, values, and strategic priorities document and then worked with management staff to develop and align their efforts and priorities with those of the Council's. Sarah put the Council's visions and priorities and the managers' projects in the document which is attached.

Due to my workload, staff transitions, and other demands, an update on the status of the strategic plan was not presented to you for review this past year. However, staff has been working on the projects and, while they may not reach all initial target dates, important work and effort to make the plan successful has gone on. I will go over the document with you and provide updates at the meeting.

This project shows just how well our Directors are aligned with and support Council's values and priorities. I believe this plan helps us remain aligned and use this tool and others like the new CIP coming out this year to maintain a steady course for the immediate future.



City of Kodiak
Strategic Priorities 2015-2017

July 2015

Introduction

This document summarizes the Vision, Values and Strategic Priorities for the City of Kodiak, 2015-2017. It includes workplans for implementation by each of the City's departments. This work was completed by the City Council, City Manager and Department Heads in meetings between May and July 2015.

The Council identified the overall vision for the future of the City of Kodiak as:

Kodiak is a thriving, engaged and diverse island-community that cares for all.

This vision will be served by the values defining how we will work together:
Leadership, integrity, collaboration, innovation, stewardship

The vision will be delivered through these priority strategies:

- Create a strategy for asset management. (buildings, vehicles, equipment, etc.)
- Promote economic development.
- Strengthen local partnerships. (government, business, nonprofit)
- Maintain sustainable fiscal policies.
- Attract and retain the best people. (staff and residents)

This leadership communication from the City Council will set the course for the next two years. It will be shared with the community and staff, align the work of the City Manager and departments, and guide the Council in decision-making.

The City Manager and department heads articulated departmental workplans aligned with the vision and values to implement the strategic priorities set by the Council. The workplans include citywide efforts to increase operating efficiency, buying power and effective use of technology, demonstrating stewardship of the City's resources and service to the community.

The Council's vision, values and priority strategies are summarized on the following chart. Implementation workplans were outlined by each department:

- City Manager
- City Clerk
- Fire Department
- Harbor
- Engineering
- Public Works
- Parks and Recreation
- Library
- Police



City of Kodiak

Council Strategic Priorities

Vision	Kodiak is a thriving, engaging, and diverse island-community that cares for all.				
Values	Leadership, integrity, collaboration, innovation, stewardship				
Priority Strategies	Create Asset Management plan	Promote Economic Development	Strengthen Local Partnerships	Maintain Sustainable Fiscal Policy	Attract/Retain Best People
Implementation	<p>Develop Citywide plan for maintenance and replacement of facilities, equipment and vehicles.</p> <p>Design and plan for construction of replacement Fire Station</p> <p>Prepare 25-year longterm Capital Improvement Plan.</p> <p>Develop citywide building services contracts.</p> <p>Complete Mill Bay Road repairs.</p> <p>Develop citywide regulatory compliance plan.</p> <p>Identify Records storage solutions.</p>	<p>Replace Channel Transient Floats.</p> <p>Create Shipyard Development Plan.</p> <p>Develop Replacement Plant for St. Herman Harbor.</p> <p>Pier and doc inspections.</p> <p>Library collections and services analysis to establish state/national grant eligibility.</p> <p>Upgrade technology, access, operations and data capacity.</p>	<p>Build joint agenda with KIB, and KIBSD.</p> <p>Partner with KNB, and KANA and Alutiiq, and faith-based communities and Chamber to create positive downtown environment.</p> <p>Redesign City website to be more informative and interactive outreach. Highlight City priorities, and myth busting.</p> <p>Work with other libraries to broker cost-savings contracts, and to extend State's OWL program.</p> <p>Explore public/private partnerships for capital projects.</p>	<p>Produce energy audits and savings plan, such as bulk fuel and LEDs.</p> <p>Establish turf maintenance and replacement fund.</p> <p>Install videoconferencing at Jail to reduce costs.</p> <p>Funds consolidation.</p> <p>Improve revenues with update of Title 3.</p> <p>Apply for grants for support of library and police programs</p> <p>Maintain equitable rates for port, harbor and shipyard that support facilities replacements and operations.</p>	<p>Deliver training for staff; supervisory, technology, conflict resolution, large-scale emergency response.</p> <p>Develop Safety Compliance Plan.</p> <p>Complete Skate Park</p> <p>Establish temporary worker policy.</p> <p>Assess staffing citywide, and respond as needed based on national standards and Best Practices.</p> <p>Establish recruitment and retention plan</p> <p>Succession planning.</p>

July, 2015

DEPARTMENT WORK PLANS

City Manager

Department	Project	Strategic Priority	Timing	Activities
City Manager's Office	Refine & Complete 5 Year Capital Improvement Plan	Asset Management/Economic Development		
			FY16 2 nd Quarter	Assign senior staff responsible for annual plan management
			FY16 2 nd Quarter	Research & select preferred CIP type
			FY16 2 nd Quarter	Develop steps for application and staff review and scoring matrix
			FY16 3 rd Quarter	Staff review and training Internal scoring/selection
			FY16 3 rd Quarter	Final document to Council for adoption by resolution
			FY16 4 th Quarter	Council review as part of FY17 budget development plan
	Clean, Well Maintained Facilities and Infrastructure	Asset Management/Economic Development/Attract-Retain Best People		
			FY16 2 nd Quarter	Management staff identifies specific goals as to how to achieve clean, well-maintained facilities @ department level

DEPARTMENT WORK PLANS

City Manager (continued)

Department	Project	Strategic Priority	Timing	Activities
			FY16 2 nd Quarter	Departments develop 10 year departmental master plans
			FY16 3 rd Quarter	Departments submit 10 year master plans to City Manager's Office
			FY16 3 rd Quarter	Use CIP nomination process for projects from plans
			FY16 4 th Quarter	Propose facilities maintenance position oversee all maintenance & replacement of City facilities & components to Council for approval
			FY17 1 st Quarter	Research, classify, & recruit position if approved
	Sell City Accomplishments; Correct Misinformation; Improve Outreach to Community	Strengthen Local Partnerships		
			FY16 1 st Quarter	Management team analyze how to improve outreach to community
			FY16 1 st Quarter	Identify noteworthy accomplishments each month by staff
			FY16 2 nd Quarter & Ongoing	Issue press releases or requests for interviews through PIO/Clerk's Office
			FY16 2 nd Quarter	Implement social media policy

DEPARTMENT WORK PLANS

City Manager (continued)

Department	Project	Strategic Priority	Timing	Activities
			FY16 2 nd Quarter & Ongoing	Use social media to tell City stories & correct misinformation
			FY16 3 rd Quarter	Work with PR firm to help City develop positive outreach & messaging
			FY17 3 rd Quarter Annually thereafter	Develop annual City Assessment document for distribution to Council, vendors, and public
			FY16 2 nd Quarter	Develop plan for regular outreach by City Manager & key staff to Kodiak Island Borough staff and School District staff to improve and maintain professional working relationships
	Analyze City's Financial Health			
		Maintain Sustainable Fiscal Policy		
			FY16 1 st Quarter	Develop written rate study schedule for Enterprise Funds
			FY16 2 nd Quarter	Review revenue & expense projections & rate structures used & analyze for improvements
			FY16 3 rd Quarter	Work with Finance Director & financial advisor on financial activity in City & ways to prevent revenue leakage

DEPARTMENT WORK PLANS

City Manager (continued)

Department	Project	Strategic Priority	Timing	Activities
			FY16 4 th Quarter	Present information to Council
			FY17 1 st Quarter	Get Council direction on use and retention of fund balance/retained earnings
	Review & Adapt Tax Structure	Maintain Sustainable Fiscal Policy		
			FY16 2 nd Quarter	Finance Director, City Manager & Deputy City Manager to review past presentations to Council & update
			FY16 2 nd Quarter	Review 2012 Setting the Course for the Future report to Council. Direction from Council on what is valid and what needs updating
			FY16 3 rd Quarter	Present updated report to Council on existing tax structure; possible revenue improvements; changes to tax structure; options consistent with Council's long-term goals
			FY16 4 th Quarter	City code amendments presented to Council per their direction if agreed
			FY16 4 th Quarter	Implement Council direction as to service & budget cuts if no changes

DEPARTMENT WORK PLANS

City Manager (continued)

Department	Project	Strategic Priority	Timing	Activities
	Succession Planning	Attract/Retain Best People		
			FY17 1st Quarter	Research succession plan models from other local and state governments
			FY17 2 nd Quarter	Review findings with Management team for discussion & adaptation to City's needs
			FY17 2 nd Quarter	Review PR&R for possible amendments or updates to support succession plan
			FY17 4 th Quarter	Develop proposed succession plan program including rules and employee/manager commitment to support employees in program
			FY17 4 th Quarter	Survey City employees as to who wants to advance in organization and in what direction, identify participants in succession planning activities
			FY17 4 th Quarter	Introduce to City Council if formal plan is possible

DEPARTMENT WORK PLANS

City Manager (continued)

Department	Project	Strategic Priority	Timing	Activities
	Staffing Assessment	Attract/Retain Best People		
			FY17 2 nd Quarter	Find assistance in determining levels of staff needed for each department & task
			FY17 2 nd Quarter	Analyze changing demographics and alter outreach/retention process if possible
			FY17 1 st Quarter	Develop temporary staffing policy with possible amendments to PR&R
			FY17 1 st Quarter	Identify impacts to temporary hires by Affordable Care Act and other governmental requirements
	Training	Attract/Retain Best People		
			FY16 2 nd Quarter	Identify & provide regular supervisory training
			FY16 2 nd Quarter	Identify required training, set schedule, and track completion for each employee, including temporary employees
			FY16 3 rd Quarter	Identify and provide ongoing Council training on various topics
			FY16 4 th Quarter	Staff technology training

City Clerk

Department	Project	Strategic Priority	Timing	Activities
City Clerk	Records Storage: Paper	Asset Management	Q4, 2017	Reassess potential locations for a records storage center. Design funds are budgeted in FY2018 budget.
City Clerk	Records: Data Backup off-island	Asset Management	Q4, 2015	Determine vital and essential records to be stored electronically. <ul style="list-style-type: none"> Conduct survey with all City departments. Estimate cost for inclusion in FY2016 budget.
			Q1, 2016	Tally results from survey. <ul style="list-style-type: none"> Clerk and Records Manager to determine records to include. Work with IT to determine records storage size. Contact records approved vendor(s) to determine exact cost and storage transmission methods. Formalize and conduct RFQ/RFP. Determine if correct amount budgeted in FY2016 budget. Receive Council approval for budget adjustment, if necessary Award contract via Council or Manager, depending on cost. Set up data transfer protocols with IT and transmit data.
City Clerk	Redesign City website Social media policy User-friendly Highlight City priorities	Economic Development, Attract, Retain Best People	Q4, FY2015	Contract awarded. <ul style="list-style-type: none"> Develop photo library with website development team Receive training from aHa! Consulting. Discuss with consultant website elements needed to provide a user-friendly interface and highlight City priorities. Identify staff from each department who will have authority to update departmental website. Social media policy that was previously drafted to be approved by Manager.

DEPARTMENT WORK PLANS

City Clerk (continued)

Department	Project	Strategic Priority	Timing	Activities
			(Q4, FY2015 continued)	<ul style="list-style-type: none"> Website team to discuss social media with vendor and determine which social media will be used by the City. (Facebook, Twitter, Nixel, etc.) Integrate social media into the re-designed web site New web site online
City Clerk	<p>City Manager Search Plan</p> <p>Timeline based on assumption Manager to retire April 30, 2016. Process should begin six months prior to retirement, if possible.</p>	Attract/Retain Best People		
			Q2, FY2016 (begin process and follow through until new CM hired)	<p>At a work session or special meeting, Council to determine CM hiring process and direct Clerk to proceed:</p> <ul style="list-style-type: none"> Determine if by committee or full Council. Determine minimum qualifications and experience. (Clerk will draft initial scoring sheet based on this criteria.) Determine advertising venues and length of advertising time (AML; Muni Mgrs. Assoc.; local, state, out of state newspapers; headhunter firm; etc.) Committee or full Council to meet in work session to review and prioritize applications when sufficient number of applicants received and/or hiring period closes. Determine number of finalists to be interviewed.

DEPARTMENT WORK PLANS

City Clerk (continued)

Department	Project	Strategic Priority	Timing	Activities
			(Q2, FY2016 <i>continued</i>)	<ul style="list-style-type: none"> • Determine if phone/skype interviews will be conducted for off-island candidates, or if all first-round finalists will be flown to Kodiak for interviews. • Determine interview questions. (Process must be consistent for all applicants.) • Conduct interviews. • After obtaining permission from applicants, meet in Executive Session to discuss strength and weaknesses of each applicant. (If any applicant requests the discussion be conducted in an open meeting, an Executive Session may not be conducted.) • Determine if second-round interviews will be conducted. • Determine if social occasion will be provided for applicant(s) to interface with Council/public. (Clerk will verify Open Meetings Act requirements.) • Determine how reference checks will be conducted. • Determine at work session or special meeting which applicant to extend an employment offer. • Authorize Mayor or Councilmember to sign offer letter.

Fire Department

Department	Project	Strategic Priority	Timing	Activities
Fire with Engineering	Replace Fire Station	Asset Management	Q1, FY 2016	<p><u>Pre Design</u> Council Approval for Professional Services Contract Contract to cover:</p> <ul style="list-style-type: none"> • Current Site Evaluation • New site Evaluation (if needed) • Cost Estimate to include: <ol style="list-style-type: none"> 1. Building destruction 2. Temporary Fire Station 3. Design and As-built
			Q1, FY 2016	<p><u>Pre Design</u> Site Visit Condition Assessment Site Selection</p>
			Q2, FY 2016	<p><u>Pre Design</u> Concept Design Preferred Concept Presentation</p>
Fire with Engineering and Finance			Q2, FY 2016	<p><u>Pre-Design</u> Develop Funding Source Plan Federal Grant – Fire Station Construction Grant State Grant - SHSP Self Funding – Bonds</p>

DEPARTMENT WORK PLANS

Fire Department (continued)

Department	Project	Strategic Priority	Timing	Activities
Fire with Engineering			Q4, FY 2016	<u>100% Design</u> Secure Funding Source
Fire with Engineering			Q4, FY 2016	<u>Construction</u> Bid Opening
Fire and Engineering			Q1, FY 2017	<u>Construction</u> Bid Selection
Fire and Engineering			Q1, FY 2018	Construction
Fire			Q2, FY 2019	Move-In and Operate/Maintain.
Fire	Supervisory Training	Attract/Retain Best People		City Manager/HR to address Citywide.
Fire	Rolling Stock Replacement	Asset Management		Participate with Engineering and Public Works to address rolling stock replacement for Fire Department.

Harbor and Boatyard

Department	Project	Strategic Priority	Timing	Activities
Harbor	CTF Replacement \$3,000,000	Asset Management/ Economic Development		
			Q1, FY 2015	Solicit for Design-Build or Design-Bid-Build. Design build could be most cost-effective but uncertain funding from State could make this option undesirable.
			Q1, FY 2015	Fund & authorize. Use authorized city funds for engineering and design.
			Q1, FY 2015	Grant application for State Harbors matching grant due to State by August 1, 2015. Funding in FY16 uncertain.
			Q1, FY 2016	Bid project, depending on State funding.
			Q1, FY 2016	Award Project.
			Q3, FY 2017	Construction.
Harbor	St Herman Harbor Replacement \$25,000,000	Asset Management/ Economic Development		
			FY 2017	Solicit for master plan update, design and engineering. Budget funding for design and engineering in FY17.
			FY 2017	Determine funding sources: Tier 2 State grant, local funds, and bond. Obtain funding.
			FY 2019	Bid and construction, depending on funding.

DEPARTMENT WORK PLANS

Harbor and Boatyard (continued)

Department	Project	Strategic Priority	Timing	Activities
Harbor	Shipyard Development Plan: \$250k	Asset Management/ Economic Development	Q1, FY2015	Include Shipyard in Near Island Development Study as it ties into shipyard. Roadway, parking and public access areas along Alimaq Drive can be addressed.
			Q1, 2017	Fund Shipyard development plan. Budget for and authorize Shipyard Development Plan. Consider future infrastructure (vendor buildings, boat house, loading dock), land use and lease policy.
Harbor	Pier & Dock Inspections:\$175k	Asset Management		
			FY 2017	Budget for engineering and inspection of Pier 2 and 3 (Port); Dock 1 and 2 (Harbor). Funds to come from Cargo and Harbor accounts.
			Q1, 2017	Solicit for Engineering and Inspection, 1 July 2017.
			Q1, 2017	Award project in August 2017.
			Q1, 2017	Conduct Inspections by September 2017.

Engineering

Department	Project	Strategic Priority	Timing	Activities
Engineering	Citywide Building Maintenance System	Asset Management	Q1, FY 2016	Develop maintenance questionnaire checklist. Includes Arch, Struct, Mech, Elect, Site/Landscape. Distribute.
			Q2, FY 2016	Assess and prioritize needed maintenance and repair with focus on most critical needs.
			Q2, FY 2016	Obtain Asset Management training AWWA Water Infrastructure Conference. Apply training to this task.
			Q3, FY 2016	Research local resources available and costs. Look for one or two local firms that could provide services .
			Q3, FY 2016	Draft vendor contracts for Department and Manager review and approval.
			Q4, FY 2016	Finalize costs for inclusion in FY 2017 Budget.
			Q1, FY 2017	Implementation.
			Q2, FY 2017	Monitor and assess program.
Engineering	Citywide Equipment/Vehicle Inventory	Asset Management	Q4, 2015	Inventory vehicles in engineering department .
			Q4, 2017	Develop schedule for Replacement, Disposal, Sale for inclusion in Public Works Citywide Vehicle Inventory.
				Operate and maintain engineering vehicles based on scheduled repairs/replacement.

Public Works

Department	Project	Strategic Priority	Timing	Activities
Public Works	Vehicle/Equipment Replacement Tracking System	Maintain Sustainable Fiscal Policy Create Asset Management Plan	End of Q2 FY 2016	Work with IT (suitable software, must be compatible with finance) Finance and Departments (match all inventory with Finance and departments) Develop Written Procedures to aid maintenance of program (per adopted vehicle replacement policy).
			First of Q 3 FY 2016	Provide this to City Manager for purpose of discussion with Council at annual planning meeting
	CIP Plan: 5, 10, 15 years+	Create Asset Management Plan Maintain Sustainable Fiscal Policy		
			End Q3, FY 2016	Coordination with all departments in order to identify infrastructure and buildings (known needs and unknown) citywide. Specific coordination with Finance to verify assets. Work with IT for management programming options, including contingency and unplanned emergency response.
			End of Q 4, FY 2016	Focus on updating existing 5-year CIP plan. Incorporate updated 5-year CIP with longer term plan so look ahead can be part of annual 5-year CIP update. Update existing plan to include FY2016 plus 5 years.

DEPARTMENT WORK PLANS

Public Works (continued)

Department	Project	Strategic Priority	Timing	Activities
	Citywide Safety Compliance	Create Asset Management Plan Maintain Sustainable Fiscal Policy	End Q2, FY2016	Coordinate with City Safety Committee to identify common safety needs for all departments citywide. Focus on saving time and resources by doing common training, as in HazCom, substance abuse management.
			End Q4, FY2016	Establish methods and processes for implementation. Identify training location, trainers (in-house or consultant). Multiple sessions and followup required. Set up tracking system to monitor.
			End of Q1, FY2017	Implement the first of the common training programs citywide.
	Energy Audit for City Facilities	Asset Management. Maintain Sustainable Fiscal Policy.		
			End Q3, FY 2016	Identify facilities' electrical and fuel usage (Use Energy Committee benchmark forms.) Discuss audit options with consultant to evaluate potential of cost benefit for facility improvements.
			Q4, FY 2016	Based on work above, budget highest priority facilities for energy audit of facilities.
			End Q1, FY 2017	Award energy audit of facilities to consultant.
			End Q2, FY 2017	Evaluate audit results and begin further development of specific facility improvement projects.

DEPARTMENT WORK PLANS

Public Works (continued)

Department	Project	Strategic Priority	Timing	Activities
			Q3, FY 2017	Develop budget for design and construction of facility improvements.
	Mill Bay Road Repairs	Asset Management. Sustainable Fiscal Policy		
			End Q2, FY 2016	Patch pavement in worst locations. Evaluate use of mill and overlay or pavement removal and full-depth replacement.
			End Q3, FY 2016	Budget process for remaining work. Must complete repair work in summer 2017, or it is likely that entire surface will be lost and have to be completely replaced.
	Regulatory Compliance Plan	Asset Management. Sustainable Fiscal Policy		
			End Q3, FY 2016	Develop tracking program for regulatory compliance needs at Public Works. Build monitoring and tracking system to improve compliance. Focus on WT, WWT, dams, environmental, stormwater, SPCC and underground tanks. Need IT help to evaluate best software programs.
			End Q1, FY 2017	Include fund source to improve future budget planning for regulatory compliance monitoring, upgrades and reporting.

DEPARTMENT WORK PLANS

Public Works (continued)

Department	Project	Strategic Priority	Timing	Activities
	Develop Barn as IT Center, Reroof	Attract/retain best people. Asset management. Sustainable fiscal policy.	End Q1, FY 2016	Clean the area to allow electrical evaluation. Evaluate possible route for fiber optic. Develop scope of work to prepare building utility needs of phone, internet infrastructure. Identify funding to support work and move.
			End Q2, FY 2016	Coordinate outside work with in-house work on site (dependent on funding availability).
			End Q2, FY 2017	Complete reroof of the building, dependent on funding.

Parks and Rec

Department	Project	Strategic Priority	Timing	Activities
Parks & Recreation	Fleet upgrade	Asset Management		
			Q1, FY2016	Evaluate Fleet size.
			Q2, FY2016	Replace one vehicle.
			Q3, FY2016	Evaluate vehicles for replacement.
			Q4, FY2016	Request new vehicle.
			Q2, FY2017	Replace one vehicle.
	Equipment replacement schedule, implementation			Tool Cat John Deere tractor Zamboni
			Q2, FY2016	Evaluate all equipment and priority of need.
			Q3, FY2016	Repair what can be repaired.
			Q4, FY2016	Request replacement of toolcat.
			Q2, FY2017	Replace toolcat.
			Q4, FY2017	Request replacement of John Deere tractor
	Skate Park Completion	Attract/Retain Best People		
			Q1, FY2016	Put money into project for Phase 2 utilizing P&R capital funds.
			Q4, FY2016	Request \$80,000 from Parks capital fund for Phase 2.
			Q1, FY2017	Sole source to American Ramp to stay consistent with Phase 1.
			Q3, FY2017	Install Phase 2 ramps.

DEPARTMENT WORK PLANS

Parks and Rec (continued)

Department	Project	Strategic Priority	Timing	Activities
	Staffing	Attract/Retain Best People		
				Establish Temporary Worker employment policy. This is a City Manager action item.
	Turf Replacement Fund	Sustainable Fiscal Policies		The turf has a life expectancy of 10-15 years. To replace the turf at today's price would be \$2 million dollars.
			Q3, FY2016	Find a funding source. Establish a fund that will be available for turf replacement in 10 years.
			Q4, FY2016	Request funding source be approved by Council.
			Q3, FY2017	Establish reserve funds for eventual replacement of field turf.

Library

Department	Project	Strategic Priority	Timing	Activities
Library	Building Maintenance Plan	Maintain Sustainable Fiscal Policy	Q4, FY2015 through Q4, FY2016	A fiscally responsible library building maintenance plan will ensure facility systems and equipment remain operational in a cost-effective manner over a 30 year time period so that city assets are housed and public services are delivered in a safe, functioning, appealing building that attracts all community members to use it and skilled staff to work in it
Library will strengthen its Partnerships with Engineering, DPW and Park & Rec			Q4, FY2015 June through Q2 FY2016 December	Library will participate in a City-Wide Building Maintenance System to reduce costs. Work with Engineering Dept. to identify and contract with systems maintenance service personnel to inspect and repair library's operational and special systems
			Q1, FY2016 July for creation of timetable Q4, FY2016 June complete	Create and implement a citywide building maintenance time table for operational systems: fire suppression and sprinklers, HVAC, boiler, etc. Contribute library input.
			Q1 FY2016 July Q4, FY2016 June complete	Create and implement time table for special systems maintenance (security cameras, lighting, electric windows, sound & projection).
		Attract/Retain Best People	Q1, FY2017 July	Establish duties and skill requirements for a library regular part-time position to provide daily maintenance of building FF&E, i.e.: table and desk wire management, door closures, furniture repair, shelving and cart repairs.

DEPARTMENT WORK PLANS

Library (continued)

Department	Project	Strategic Priority	Timing	Activities
Library	Library Collections Assessment	Promote Economic Development	Initiate Q2 FY16 November Complete Q3 FY17 February	Library will be active in City's economic redevelopment by providing materials responding to people's economic, employment, educational and cultural needs and helping individuals thrive in Kodiak.
		Create Asset Management Plan	Q2 FY2016 November	Library will identify and review its collection assets in prior reports, The New Kodiak Public Library Development Plan, April 22, 2011.
		Create Asset Management Plan	Q3 FY2016 February	Train library staff in collections assessment using community-based asset-analysis techniques. American Library Association standards . Prepare and deliver Library Collection Assessment in local media, reports and presentations
		Strengthen Local and Other Partnerships	Q4 FY2016 April	Library will communicate its eligibility for partnerships with grant and other agencies at local, state, regional and national levels. April 1, 2016-State Library grant deadline.
		Promote Economic Development	Q2FY2017 October	Identify grant and program opportunities; submit proposals for fiscal and other support. Library will offer collections and trainings relevant to the community's life and job enrichment needs.
Library	Create Library Technology Infrastructure	Attract/Retain Best People	Q1 FY2016 July through Q4 FY2016 June	Establishing an integrated plan of library devices and training on those devices for staff and patrons will boost library use, appeal and satisfaction amidst employees, newcomers, visitors and residents of Kodiak.

DEPARTMENT WORK PLANS

Library (continued)

Department	Project	Strategic Priority	Timing	Activities
		Maintain Sustainable Fiscal Policy	Q1 FY2016 July through Q1 FY2017 August.	Continue staff training and development through the complimentary, national "EDGE: Technology Access Benchmarking Initiative" begun in FY15. Library is one of several Alaskan Libraries invited to participate in the EDGE program to increase patron access to information technology and establish potential for outreach and funding. http://www.libraryedge.org/
Library and IT Department		Strengthen Local Partnerships	Q1 FY2016 July through Q3 FY2016 Mar	Work with The City IT staff to create a Library Technology Plan for maintaining and developing library IT capacity in library for patron and staff use. Include outreach to school district. Alaska State Library, American Library Association, and foundations require a library technology plan as part of grant proposals. http://www.imls.gov
		Attract /Retain Best People	Q2 FY2016 December through Q4 FY2016 June	Based on tech planning work, identify proficient and advanced levels of technology skills in library staff and develop those skills. www.webjunction.org
		Attract /Retain Best People	Q1 FY2017 through Q4FY2017	Offer technology training to staff and patrons around the island through grant-funded and collaborativpartnerships. Library will be a recognized, competent community leader in offering information technology tips and training around Kodiak to staff, patrons and community partners

Police

Department	Project	Strategic Priority	Timing	Activities
Police	Reinstate 19th Police Officer	Maintain Sustainable Fiscal Policy	Q3, FY2016	Perform population study, within City limits and Borough. Use other city demographics for the comparables. January-March 2016.
			Q4 FY2016	Identify Funding via grants and City. COPS Grants. April – June 2016
			Q1, FY2017	Begin discussion with Council for additional FTEs. July 2016
			Q2, FY2017	Present Council with research conducted on comparables, with information from Kodiak and other cities. Sept – Dec 2016
			Q4, FY2017	If accepted by Council, proceed with next steps in adding 19th police officer for FY18. April – June 2017
Police	Experience and Longevity Incentives	Attract, and Retain Best People		
			Q3, FY2016	Perform City of Kodiak Personnel Study regarding current incentives for experience and longevity, including the Kodiak Police Department. Jan – Mar 2016.
			Q4, FY2016	Perform study of comparable employment incentives for police in Kodiak and other cities. April – June 2016.
			Q2, FY2017	Study the costs of employee attrition at KPD. Example: Breakdown investment required to train one officer and the rationale for this training. Oct – Dec 2016.

DEPARTMENT WORK PLANS

Police (continued)

Department	Project	Strategic Priority	Timing	Activities
			Q3, FY2017	Prepare suggested incentives and longevity bonuses based upon above information. Submit to City Manager. Jan – Mar 2017
			Q4, FY2017	Pre sentation to Council, if required for approval. April – June 2017
Police	Video Teleconferencing Contract Community Jail	Maintain Sustainable Fiscal Policy		
			Q1,FY2016	Prepare overview of jail operations in September 2015.
			Q1, FY2016	Review contract beds and costs for 22-bed facility that is always over-capacity with as many as 39 occupants. Include occupancy of 2 juvenile beds, maximum hold days, prisoner transports, professional services. September 2015
			Q2, FY2016	Achieve DOC participation in better prisoner transports and agreement to video teleconferencing. Seek local court participation for video teleconferencing. October 2015
Police and IT Department			Q3, FY2016	All parties agree, seek quotes for equipment Wiring already in place when jail was built in 2010.
Police and IT Department			Q3, FY2016 March 2016	Installation and start of new system for video teleconferencing by March 2016.

DEPARTMENT WORK PLANS

Department	Project	Strategic Priority	Timing	Activities
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**CITY OF KODIAK
RESOLUTION NUMBER 2012-05**

A RESOLUTION OF THE COUNCIL OF THE CITY OF KODIAK RESCINDING RESOLUTION NUMBER 08-02 AND RE-ESTABLISHING STANDING AND SPECIAL RULES OF THE COUNCIL

WHEREAS, the City Council initially established its Standing and Special Rules with Resolution No. 02-01 and subsequently amended its Rules with Resolution Nos. 05-6; and 08-02; and

WHEREAS, the City Council reviewed its Special and Standing Rules at the January 28, 2012, planning meeting; and

WHEREAS, the City Council desires to amend Section 3, Work Session Agenda Discussion .

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Kodiak, Alaska, that Resolution No. 08-02 is hereby rescinded.

BE IT FURTHER RESOLVED by the Council of the City of Kodiak, Alaska, that the following Rules are hereby adopted and shall remain in effect until rescinded or amended:

- Section 1: Items for Regular Meeting Agendas.** Regular meeting agenda items shall be established by the Mayor, any two Councilmembers, and/or the City Manager. The Clerk may also place routine items on the agenda.
- Section 2: Agenda Amendments.** Except in the event of an emergency, or to consider an extremely time-sensitive issue, motions to amend the agenda shall not be made. (Any amendment to an agenda that results in an official Council action for which sufficient public notice has not been given is a violation of the Alaska Open Meetings Act and is grounds for recall.)
- Section 3: Work Session Agenda Discussion Items.** Work session agendas are set at the weekly agenda setting meetings by the Mayor, Council Representative(s), Manager, and Clerk. Any two Councilmembers may also add an item to the work session agenda. At the request of a citizen, the Mayor, a Councilmember, the City Manager, or the City Clerk, an item may be listed on the work session agenda under "To Be Scheduled."
- Section 4: Time Limits for Public Comments.** Unless the Mayor announces a different time limit for public comments, the Clerk shall set a timer for three minutes for public comments during regular and special meetings and work sessions.

- Section 5: Presiding Officer in the Absence of the Mayor and Deputy Mayor.** The most recent Deputy Mayor shall preside at meetings when both the Mayor and Deputy Mayor are absent.
- Section 6: Cell Phones.** Cell phones must be turned off or muted during regular and special meetings. A member cannot leave the chambers to answer a cell phone unless a recess has been called.
- Section 7: Certificates of Appreciation, Proclamations, Letters of Support, etc.** The Mayor is authorized to proclaim events, issue certificates of appreciation, and sign letters of support for various nonprofit agencies, etc.
- Section 8: City of Kodiak Membership in Organizations.** As a matter of policy, the City of Kodiak shall decline membership in organizations whose mission does not promote or support municipal government. Unless otherwise directed by the Council, the City shall maintain membership with the following: Alaska Municipal League, Southwest Alaska Municipal Conference, and National League of Cities.
- Section 9: Public Hearings/Amendments to Motions.** The following process shall be followed with respect to public hearings:
- The agenda item shall be read by the Mayor.
 - A staff report shall be given.
 - A main motion shall be made and seconded.
 - The public hearing shall be opened.
 - The public hearing shall be closed after public comments are made.
 - Amendments to the main motion may be made, if desired.
 - The public hearing shall be reopened **ONLY** if an amendment alters the substantive content of the ordinance.
 - The roll call vote shall be taken on any amendment(s).
 - The roll call vote shall be taken on the main motion.
- Section 10: Restatement of Motion.** Once made and seconded, a motion is considered to be before the Council and does not need to be restated by the Mayor.
- Section 11: Right of Motion Maker to Modify or Withdraw Motion.** The maker of a motion may modify or withdraw the motion before debate/discussion has begun. After debate/discussion has begun, the motion “belongs” to the entire Council and can only be withdrawn by Council consent or amended through the usual process of amendment.
- Section 12: Voting Order.** Unless a conflict has been determined in accordance with KCC 2.10.060(d), a Councilmember shall vote when his or her name is called and may not pass.

Section 13: Change of Vote. The Clerk shall inquire if anyone desires to change a vote before the result is announced.

Section 14: Reintroduction of a Defeated Motion/Proposal. A defeated motion/proposal may not be reintroduced for one year. However, a motion may be reintroduced following an election or appointment of new Councilmembers.

Section 15: Postponed Motions. A motion may be postponed until a specific future meeting. The Councilmember who moves to postpone a motion shall state in the motion when it will be reintroduced.

Section 16: Vote on a Motion To Reconsider. When a motion has been made to reconsider an action of the Council, the vote on the motion to reconsider shall be taken at the next regular meeting, unless otherwise stated in the motion.



CITY OF KODIAK

Pat Braun

MAYOR

ATTEST:

Dulce Marie

CITY CLERK

Adopted: February 23, 2012


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MEMORANDUM

TO: Mayor Branson and City Councilmembers

FROM: Aimée Kniazowski, City Manager 

DATE: January 14, 2017

RE: Planning Session Agenda, Item 3.a.-1, Property, Update on New Fire Station

I requested an update on the new fire station project from Glenn Melvin to share with you. He just returned from medical leave and put together a timeline rather than a narrative (see attached). As you know, Stantec (formerly USKH) is the firm doing the preliminary work and will do the more detailed work in the future. The project is moving forward with the demolition of the old library which will free up the site for the next stage of the project, site preparation.

The new fire station is the City's number one priority to seek funding for, and we continue to explore possible avenues of funding. Nonetheless, the City will have to continue to provide funding before other sources will consider providing help. Stantec estimated the project will run between \$10,000,000 and \$15,000,000, including work to date and site preparation along with other engineering services. We have a current unencumbered balance of \$671,154 in the project and future funds will have to be appropriated.

A potential complication which was unknown up until mid-December is that the State of Alaska and the Tsunami Ready/NOAA people have worked up a draft report and preliminary tsunami inundation maps based on much more detailed information than our current standard which was set based on the 1964 tsunami that destroyed so much of Kodiak. It appears that the new map would put the current and future fire station in the new inundation zone. Staff and I are reviewing the draft reports and maps and will share our comments with the scientists. We will share what we find out with the Emergency Services Council and the City Council once we know more about the report and reasoning. The outcome of the final report and maps could influence where the new fire station is located, but it's still early to tell.

Summary of Work Performed for New Kodiak Fire Station Project

January 14, 2017

Planning Session Agenda, Item 3.a.-2, Property, Update on New Fire Station

I Work leading up to the New Fire Station Project:

This section outlines professional services work performed for the City to help Council determine an approach to improving or replacing aging City buildings. It is included in this report because the Fire Station was part of the Police Station planning and preliminary design prior to construction of the New Police Station in 2009.

- 5/13/04 Council awarded Berry Architects (sub-consultant to USKH) a professional services contract in the amount of \$174,521 for the Space Needs Assessment for City Hall, Library, Police (including Jail), and Fire. The Space Needs for the Fire Station was drafted on May 19, 2004 and is available for review.
- 9/7/04 Final report was issued by Jack Berry and presented to the City Council at the September 7, 2004 work session. The Site Investigations section of the report described 17 sites evaluated.
- 9/15/04 Council was updated on the project status. Council directed a public hearing be held at the January 13, 2005 regular meeting.
- 11/16/04 Concept Studies report was issued by USKH/Berry Architects.
- 1/13/05 The City Council held a public hearing at the January 13, 2005 regular meeting during which Jerry Neubert presented the Concept Studies report. The Council, based on this hearing, confirmed the selection of Site A for Police and Fire and Site B for the Library with the direction that the Barn and as many trees as possible be retained.
- 1/19/05 St.Denny Surveying was given NTP to survey Sites A and B.
- 3/24/05 Council authorized \$300,000 for USKH to perform hazmat survey on existing buildings and geotechnical investigation on downtown site and Barn site. Also progress Police/Fire building design to the 20% level.
- 6/28/05 Presentation at Council work session showing layout of Police Station/Fire Station building. Council direction: include jail in the building.
- 8/31/05 Golder Associates issues Geotechnical Foundation Investigation report for the downtown site and the Barn site.
- 2/23/06 Council authorized USKH to proceed to the 35% level design for the police/fire building.

9/24/06 USKH issued the Hazardous Material Report for existing Fire Station, Police Station, Library and Public Works. The intent of this report is to identify hazardous materials of concern when the buildings are demolished. Public Works was included for a roof replacement project.

Stopped here for now. The timeline continued with bond vote; citizens' initiative banning a municipal building on Near Island; Council vote to not sell any property on Near Island to USPO; More site selection study; Selection of Mill Bay Site and proceeding to design and construction.

II Work performed in preparation for the New Fire Station project:

12/13/12 Council awarded USKH a professional services contract in the amount of \$34,720 for investigation and design services to support the demolition of the Old KPD Police Station. This project included seismic structural upgrades to the Fire Station adjoining roof structure.

7/25/13 Council authorized bid award for Project No. 4035/13-06 Demolition of Old Kodiak Police Station building to Golden Alaska Excavation in the amount of \$349,551. Funding of \$615,500 was provided in the FY14 Budget for this project.

III Work performed to-date on the New Fire Station Project:

7/1/2014 Council authorized FY15 budget that included Building Improvement Fund Project No. 6015, New Fire Station. \$40,000 was budgeted.

12/18/14 Engineering Department was directed to seek professional services for Conceptual Design of a New Fire Station to be constructed specifically on the existing Fire Station Site.

1/8/15 Engineering Department received a proposal for Professional Services from Stantec (previously USKH) for Pre-design of the New Kodiak Fire Station in the amount of \$99,435. The FY15 Budget was amended to \$110,000 to provide full funding for the Stantec Professional Services. In the following weeks Stantec revised their proposal to include a condition assessment of the Old Library to determine if the building could be used for City purposes.

6/11/15 Council authorized the Professional Services Contract with Stantec for the Pre-Design of the New Fire Station and Condition Assessment of the Old Library.

7/1/15 Council authorized FY16 Budget adding \$1,000,000 to the Project 6015 budget for a total of \$1,110,000.

2/23/16 Stantec made a presentation to Council at the work session showing that the cost of improvements to the existing Old Library Building would approach the cost of new construction. Staff was given direction to prepare for demolition of the Old Library as soon as possible.

6/23/16 Council authorized a Professional Services Contract with Stantec for \$31,238 to assist with preparation of bid documents for demolition of the Old Library.

12/8/16 Council authorized Bid Award for Demolition of Old Kodiak Public Library Building in Preparation of a New Fire Station to B&R Fish By Products in the amount of \$263,245.

IV Current financial status of the project:

1/9/17 The project budget currently has \$1,110,000 with an encumbered amount of \$316,452 leaving \$671,154 available. This available amount should remain in the project to cover any unanticipated demolition issue that may be encountered that would require Change Order.

The next submittal by Stantec is expected during the month of January which will include pre-design of the New Fire Station and several site layout concepts. Stantec will prepare an update for presentation to Council and the City should schedule a Work Session Agenda item in February or March. Stantec has indicated that they would like direction on a target construction budget for the project.

The engineer has discussed with Stantec that a good approach to the project would be to develop a Site Preparation Construction Package. This work could be performed at least one year prior to the building construct project and would include civil site construction for utility work, drainage, and pad grading. It would provide usable controlled space for transition for the Fire Department during the future new fire station building construction project.

The preliminary budget estimate for the total New Fire Station project is \$10,000,000 to \$15,000,000 which includes design and bidding services. The preliminary estimate for the Site Prep Package is \$2,500,000 and is included in the total project estimate.

