

**MINUTES OF THE REGULAR COUNCIL MEETING  
OF THE CITY OF KODIAK  
HELD THURSDAY, AUGUST 9, 2018  
IN THE BOROUGH ASSEMBLY CHAMBERS**

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

Mayor Pat Branson called the meeting to order at 7:30 p.m. Councilmembers Laura B. Arboleda, Charles E. Davidson, Daniel Mckenna-Foster, Richard H. Walker, and John B. Whiddon were present and constituted a quorum. Councilmember Randall C. Bishop was absent. City Manager Mike Tvenge, City Clerk Debra Marljar, and Deputy Clerk Michelle Shuravloff-Nelson were also present.

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

**II. PREVIOUS MINUTES**

Councilmember Whiddon MOVED to approve the minutes of the July 12, 2018, regular meeting as presented.

The roll call vote was Councilmembers Arboleda, Davidson, Mckenna-Foster, Walker, and Whiddon in favor. Councilmember Bishop was absent. The motion passed.

**III. PERSONS TO BE HEARD**

**a. Public Comments**

**Larry Van Daele**, Chairman of the Kodiak State Parks Citizens Advisory Board, spoke in support of the second renewal of the Land Use Management Agreement with the State of Alaska to manage a portion of Fort Abercrombie. He spoke about the annual visits to the park and the fees they are able to collect, which helps the continued operation of the park and provides a quality recreation area to the residents and the visitors in Kodiak.

**Betty MacTavish** provided a legislative update: she spoke in support of AK SB 15, which will fine retailers if they sell e-cigarettes to minors. She spoke in support of AK SB 63, which will prohibit smoking in certain places. She spoke about the personal impact of second hand smoke, and she thanked the Council for their support.

**Heidi Roberson** said she is a mentor of the Kodiak Area Mentor Program (KAMP). She said that drugs and alcohol addiction are a worldwide epidemic. She shared that KAMP is a faith-based program that provides education, nutritious meals, and counseling. She said she hopes the Council supports their grant application.

**IV. UNFINISHED BUSINESS**

**a. Authorization of the Five-Year Regional and Community Jail Contract With the Alaska Department of Corrections**

The Alaska Department of Corrections (DOC) has proposed a new five-year contract with the City to provide short-term Regional and Community Jail Services for persons held for violations of State law. The new contract would be effective July 1, 2018, and continue in force through June 30, 2023. The contract can be terminated upon ninety (90) days notice from the terminating party, and contract amendments for additional work could be incorporated through mutually agreed upon appendices or attachments. The base contract amount is \$991,552 with an additional \$37,380 included for Pretrial Electronic Monitoring Services the City provides for the State. The total FY2019 contract amount is \$1,028,932.

*{Clerk's Note: The motion to authorize a five-year professional services contract for Regional and Community Jail services with the Alaska Department of Corrections (DOC Contract No. 2091006) commencing on July 1, 2018, and ending on June 30, 2023, for \$1,028,932 and authorize the City Manager to sign the agreement on behalf of the City is on the floor. Both the five-year and one-year contracts have the same contract number.}*

Councilmember Whiddon MOVED to amend the motion by substituting the five-year DOC contract for Regional and Community Jail services with a one-year contract, (DOC Contract No. 2091006) commencing on July 1, 2018, and ending on June 30, 2019, in the amount of \$1,028,932 and authorize the City Manager to sign the agreement on behalf of the City.

The roll call vote on the amendment was Councilmembers Arboleda, Davidson, Mckenna-Foster, Walker, and Whiddon in favor. Councilmember Bishop was absent. The motion passed.

The roll call vote on the main motion as amended was Councilmembers Arboleda, Davidson, Mckenna-Foster, Walker, and Whiddon in favor. Councilmember Bishop was absent. The motion passed.

## V. NEW BUSINESS

### a. **First Reading, Ordinance No. 1381, Amending Chapters 18.12 and 18.20 of the Kodiak City Code to Allow for Negotiated Leases of Real Property if Approved by Ordinance**

Mayor Branson read Ordinance No. 1381 by title. Ordinance No. 1381 will codify the process of authorizing property leases via a standalone ordinance, which has been done for many years upon attorney advice. Kodiak City Code Title 18, Chapters 12 and 20 specify the process to dispose of or lease City real property. Title 18 as written includes a lengthy process requiring leases having a term of more than five years or having a computed annual minimum rental of more than \$5,000 to be offered by sealed bid or at public auction and an appraisal, in addition to other requirements. Once adopted, Title 18, Chapters 12 and 20 will document a long standing process that helps to streamline routine property leases. The Council voiced a consensus at the work session to add a legal description to the land being leased in the ordinance.

Councilmember Arboleda MOVED to pass Ordinance No. 1381 in the first reading and advance to second reading and public hearing at the next regular or special meeting.

Councilmember Mckenna-Foster MOVED to amend Ordinance No. 1381 by substituting it with Ordinance No. 1381(SUB).

The roll call vote on the amendment was Councilmembers Arboleda, Davidson, Mckenna-Foster, Walker, and Whiddon in favor. Councilmember Bishop was absent. The motion passed.

The roll call vote on the main motion as substituted was Councilmembers Arboleda, Davidson, Mckenna-Foster, Walker, and Whiddon in favor. Councilmember Bishop was absent. The motion passed.

**b. Resolution No. 2018–08, Option A or B, Authorizing Payment of Fiscal Year 2019 Nonprofit Organization Grants and In-Kind Contributions**

Mayor Branson read Resolution No. 2018–08 by title. Each year the City Council authorizes grant payments to local nonprofit organizations. The types and levels of funding are based on the City Council's nonprofit funding policy guidelines, which were most recently adopted by Resolution No. 2018–06. The policy resolution stipulates the total amount available for nonprofit grants in a given fiscal year, which equals a maximum of one percent of budgeted general fund revenues, not to exceed \$175,000, exclusive of any fund balance appropriations and transfers to capital project funds. This policy limits organizations to one funding criteria or program per year and provides up to \$5,000 for Youth and Adult Recreation Programs and up to \$15,000 for Public Safety Support and Emergency Response Support Programs. The policy also grants agencies the ability to apply for a special one-time only grant for special projects when the City has additional funds available. The City received 20 FY2019 applications from nonprofit organizations that serve Kodiak, down from the 22 applications received last fiscal year, for a total amount requested of \$178,126.50. Council reviewed the applications at the July 11 work session and voiced a consensus to cut each request by approximately \$33 to keep within the \$175,000 cap. Subsequently, the Mayor and some Councilmembers voiced a preference for an alternative funding method that would include funding one request from the Tourism Fund, which has been done in previous years. Both the original funding method discussed at the July 11 work session, Option A, and the subsequent funding suggestion, Option B, were discussed at the August 7 work session.

Councilmember Arboleda MOVED to adopt Resolution No. 2018–08 Option B.

Councilmember Davidson MOVED to amend Resolution No. 2018–08B by substituting it with Resolution No. 2018–08B(SUB).

The roll call vote on the amendment was Councilmembers Arboleda, Davidson, Mckenna-Foster, Walker, and Whiddon in favor. Councilmember Bishop was absent. The motion passed.

The roll call vote on the main motion as amended was Councilmembers Arboleda, Davidson, Mckenna-Foster, Walker, and Whiddon in favor. Councilmember Bishop was absent. The motion passed.

**c. Authorization of Professional Services Contract to Richard Birdsall With Avitus Group for a Third-Party Review of the Process Followed in the Dismissal of the Former Deputy Manager**

Personnel actions are confidential and are handled administratively. However, the City Charter grants the Council the right to inquire into the conduct of any office, department, or agency of

the City and to investigate municipal affairs. In response to public comments, the Council authorized the Mayor and Councilmembers Arboleda and Davidson to choose a reviewer to pursue a thorough, independent third-party review of the process followed in the termination of the Deputy Manager and provide the general outcome of the review once completed. The committee named the City Clerk as the contact person for this investigation. Three proposal solicitation letters were sent to prospective proposers. Richard Birdsall, Senior Associate with Avitus Group (formerly known as The Growth Company) submitted the sole proposal, which was endorsed by the committee. Mr. Birdsall is an attorney, trainer, mediator, investigator, and expert witness who has conducted HR investigations for multiple organizations.

Councilmember Davidson MOVED to authorize a professional services agreement with Richard Birdsall of Avitus Group in an amount not-to-exceed \$7,500 for an independent review of the process used in the termination of the Deputy City Manager, with funds coming from Legislative Professional Services line item, and authorize the City Clerk to execute the necessary documents for the City.

Councilmember Whiddon MOVED to amend the motion by inserting the words after Deputy City Manager contingent upon receiving a signed release from Matt Van Daele no later than August 20, 2018, authorizing Mr. Birdsall to have access to Mr. Van Daele's personnel file, otherwise the agreement shall not be authorized.

Councilmember Whiddon said the third party review process was initiated in response to public comments and their inquiry following the dismissal of the Deputy City Manager. He said without Mr. Van Daele's release to access his personnel file, he does not feel a thorough review can be completed and the cost of the review using taxpayer dollars would not be reasonable.

The roll call vote on the amendment was Councilmembers Arboleda, Davidson, Walker, and Whiddon in favor. Councilmember Mckenna-Foster was opposed. Councilmember Bishop was absent. The motion passed.

The roll call vote on the main motion as amended was Councilmembers Arboleda, Davidson, Walker, and Whiddon in favor. Councilmember Mckenna-Foster was opposed. Councilmember Bishop was absent. The motion passed.

**d. Authorization of Bid Award to Brechan Construction LLC for Annual Pavement Repair, Project No. 19-02/5039**

This project will repair areas of asphalt damaged by wear and water erosion. Public notice was advertised and bids were opened on July 25, 2018, with Brechan Construction LLC the only bidder. The bid has been reviewed by the Engineering Department and is a responsible/responsive bid.

Councilmember Walker MOVED to authorize the bid award for annual pavement repair, Project No. 19-02/5039, to Brechan Construction LLC in the amount of \$215,812.50 with funds coming from the Streets Capital Improvement Fund, Project No. 5039, Pavement Repairs.

The roll call vote was Councilmembers Arboleda, Davidson, Mckenna-Foster, Walker, and Whiddon in favor. Councilmember Bishop was absent. The motion passed.

**e. Authorization of Change Order No. 1 With Brechan Construction LLC for Aleutian Homes Water and Sewer Phase VI, Project No. 15-03/7037**

Aleutian Homes Water and Sewer Replacement Phase VI is a continuation of the upgrade of utilities, pavement, and sidewalks in the Aleutian Homes Area. The Notice to Proceed for construction of the upgrade project was issued to Brechan Construction LLC on March 23, 2018, and construction began in early May. Change Order No. 1 reconciles unit cost quantities for work performed during FY2018 up to June 30, 2018. All contract administration work from July 1, 2018, to the end of the project will be administered during FY2019.

Councilmember Davidson MOVED to authorize Change Order No. 1 to Brechan Construction LLC for \$58,219.57 with funds coming from the Aleutian Homes Water and Sewer Replacement Phase VI, Project No. 15-03/7037, and authorize the City Manager to execute the documents on behalf of the City.

The roll call vote was Councilmembers Arboleda, Davidson, Mckenna-Foster, Walker, and Whiddon in favor. Councilmember Bishop was absent. The motion passed.

**f. Authorization of the Second Renewal to the Cooperative Land Use Management Agreement With the State of Alaska Providing for the State to Manage the Portion of Lot 3, U.S. Survey No. 3462, Located North of Monashka Bay Road, Commonly Known as the Cry of the Wild Ram Site, as Part of Fort Abercrombie State Historic Park**

On July 1, 2018, the first five-year renewal expired for the Cooperative Land Use Management Agreement with the State of Alaska Department of Natural Resources. Alaska Parks and Recreation manages this portion of City property. The State would like to continue to manage the Cry of the Wild Ram site north of the State historic park. The agreement that was authorized by Ordinance No. 1232 has unlimited five-year renewal options. It has been ten years since this agreement was authorized.

Councilmember Walker MOVED to authorize the second renewal to the Cooperative Land Use Management Agreement with the State of Alaska Providing for Management of the Portion of Lot 3, U.S. Survey No. 3462, Located North of Monashka Bay Road, commonly known as the Cry of the Wild Ram Site, as Part of Fort Abercrombie State Historic Park and authorize the City Manager to execute the documents on behalf of the City.

The roll call vote was Councilmembers Arboleda, Bishop, Davidson, Mckenna-Foster, Walker, and Whiddon in favor. Councilmember Bishop was absent. The motion passed.

**g. Authorization of Professional Services Agreement With Axon Enterprises, Inc. in Support of Body Worn Cameras, Equipment, and Video Storage for the Kodiak Police Department**

In 2017 the City of Kodiak entered into a five-year agreement with Axon Enterprises Inc. (formerly Taser International) to provide body-worn cameras (BWCs), peripheral equipment, software and license fees, an electronic storage solution with redaction capabilities

(Evidence.com), and on-site training to equip the police department with BWCs. The agreement included full warranties on equipment and new camera replacement at 2.5 years and new cameras again at five years. The City paid \$18,184 at signing (\$13,359 was covered by grant money) with an understanding that approximately \$9,852 would be due each of the subsequent four years.

Councilmember Davidson MOVED to authorize a Professional Services Agreement with AXON Enterprises Inc. in support of body worn cameras, equipment, and video storage for the Kodiak Police Department in the amount of \$59,730 with funds from the General Fund, Police Department Uniformed Patrol account.

The roll call vote was Councilmembers Arboleda, Davidson, Mckenna-Foster, Walker, and Whiddon in favor. Councilmember Bishop was absent. The motion passed.

## **VI. STAFF REPORTS**

### **a. City Manager**

Manager Tvenge spoke of the positive subtle changes with new Library Director Madsen, who started at the City on July 25, 2018. Manager Tvenge said the Government Finance Officers Association of the United States and Canada has awarded the certificate of Achievement for Excellence in Financial Reporting to the City of Kodiak for its FY2017 comprehensive annual financial report (CAFR). He stated the Certificate of Achievement is the highest form of recognition in the area of governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management.

He said the Kodiak Island Borough School District requested the use of Baranof Park to sell concessions, collect gate admissions, and set up food vendors during the 2018 and 2019 sporting seasons for fundraising. He said this request is in line with the Kodiak City Code and the Joint Agreement for the Use and Operation of City of Kodiak, Kodiak Island Borough, and Kodiak Island Borough School District Facilities. He stated he would approve the request tomorrow, just in time for the football season opener between Kodiak High School and Homer High.

Manager Tvenge said the Aleutian Homes water and sewer phase VI project is going very well with the final sewer main and service completed yesterday. He said next week the water services will begin, followed by the curb and street pavement, and sidewalks will be last. The project is scheduled for completion in October.

Councilmember Davidson asked if the pavement work on Near Island would coincide with the Birch project. Manager Tvenge confirmed the project would be scheduled accordingly.

Councilmember Mckenna-Foster referenced Kodiak City Code (KCC) 12.08.010 Debris clearance required and KCC 10.16.020 additional parking regulations. He said he notified the City Manager about adhering to the code and keeping the sidewalks clear of vehicles. He asked if there has been any progress on the enforcement.

Manager Tvenge said the Kodiak Police Department has been addressing the issue and there have been some vehicles towed and there have been tickets issued.

**b. City Clerk**

City Clerk Marlar said the municipal election is coming soon and she announced the nominating petitions requirements and due date for filing, which is August 15, 2018, at 4:30 p.m. She reminded citizens that have recently moved within City limits to update their voter registration. She announced the upcoming meetings for the Council to include the joint work session on September 5; the Council work session on September 11; and the regular meeting on September 13.

Councilmember Davidson asked about the City residency voting requirements and residency requirements for candidate petitions. Clerk Marlar stated that a resident must live in the City for 30 days prior to the election to be eligible to vote and a potential candidate must reside within the City for one year prior to running for a Council seat.

**VII. MAYOR'S COMMENTS**

Mayor Branson commented that managing economic development and infrastructure needs are a balance. She said that the Birch Avenue project was needed and once completed will provide new infrastructure. She said they would work on the Near Island Plan and work too get that approved and revisit the Borough's comprehensive plan. She emphasized that process is important both within business and within one's personal life to be productive. She said she believes the role of elected officials is to ask questions and to problem solve. She said she appreciated Major Dave Davis's comments about the integrity, honesty, and teamwork of the Council and the City's good reputation.

**VIII. COUNCIL COMMENTS**

Councilmember Mckenna-Foster stated that he was not a statistician yet it seems he has been chosen to make Council comments first at each meeting, and he inquired if consideration could be given to mixing the comment rotation in the future. He said that he was unaware that there would be an amendment on the motion for the third party professional services contract. He stated the overall process to acquire a third party review was murky and he expressed his dissatisfaction of the process and outcome. He said a friend gave him a letter to read, and he read a letter from citizen Matt Van Daele dated August 7, 2018.

Councilmember Whiddon reported on the Fisheries Work Group meeting and said there was not a quorum but the meeting did proceed with the presenters, which allowed the presenters to share information with the community members in attendance. He spoke of the following topics: late run of salmon reds; Chignik petition; Julie Bonney's update; future updates from various entities; and ways to mitigate future halibut issues. He said it is a privilege to serve on the Council and he does not take his role for granted. He said his personal agenda is to make Kodiak a better place. He said getting all information when making a comment or decision is very important.

Councilmember Arboleda said she appreciates the City staff and department heads and the hard work they perform. She said a good portion of the Near Island road is highly used by fisherman and the native corporations. She thanked Aimee Williams, Director of Discover Kodiak for her work on the incoming cruise ships and tourism. She encouraged people to vote. She updated the public about the community event Warm August Nights this weekend and reminded them to be

safe. She commented about her role as a Councilmember and said she realizes she may not be able to please each person but she knows that at the end of the day she is at peace because her intentions are pure.

Councilmember Davidson wished everyone better fishing outcomes. He thanked Matt Van Daele for his Borough service. He stated he is disappointed with Matt's letter, which indicated he was treated unjustly. He said Matt has been given the opportunity to open his personnel file and have a third party review and has chosen not to.

Councilmember Walker thanked Public Works Director Craig Walton for dealing with the derelict cars and cleaning up areas within the City. He said he has seen crews working on streets and he thanked Engineer Melvin for his work on projects. He said it is important to vote, commented on the low turnout at the last election, and encouraged citizens to vote in the primary and municipal elections. He said he is saddened by the situation with Matt Van Daele, appreciates his service, knows he has a lot to give to the community, and hopes this is closure of this topic.

#### **IX. AUDIENCE COMMENTS**

None

#### **X. EXECUTIVE SESSION**

##### **a. Receive Update on City Litigation**

Councilmember Davidson MOVED to enter into executive session pursuant to Kodiak City Code 2.04.100(b)(1) to discuss legal matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the City.

The roll call vote was Councilmembers Arboleda, Davidson, Mckenna-Foster, Walker, and Whiddon in favor. Councilmember Bishop was absent. The motion passed.

Council entered into Executive Session at 8:45 p.m.

The Mayor reconvened the meeting at 9:55 p.m.

#### **X. ADJOURNMENT**

Councilmember Davidson MOVED to adjourn the meeting.

The roll call vote was Councilmembers Arboleda, Davidson, Mckenna-Foster, Walker, and Whiddon in favor. Councilmember Bishop was absent. The motion passed.

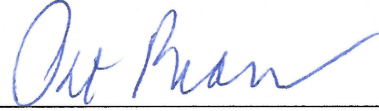
The meeting adjourned at 9:56 p.m.



AUGUST 9, 2018

8365

CITY OF KODIAK



MAYOR

ATTEST:



CITY CLERK

Minutes Approved: September 13, 2018

