

**MINUTES OF THE REGULAR COUNCIL MEETING  
OF THE CITY OF KODIAK  
HELD THURSDAY, MARCH 12, 2020  
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. Randall C. Bishop, Laura B. Arboleda, Charles E. Davidson, Richard H. Walker, and John B. Whiddon were present and constituted a quorum. Councilmember Haines was excused and not considered absent due to his attendance to a National League of Cities Conference in Washington, D.C. on behalf of the City. City Manager Mike Tvenge, City Clerk Nova Javier, and Deputy Clerk Michelle Shuravloff-Nelson were also present.

Salvation Army Corps Sergeant Major Dave Blacketer gave the invocation and the Pledge of Allegiance was recited.

**II. PREVIOUS MINUTES**

Councilmember Whiddon MOVED to approve the minutes of the February 27, 2020, regular meeting as presented.

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

**III. PERSONS TO BE HEARD**

**a. Public Comments**

**Les James** spoke in opposition to Ordinance No. 1394 and the importance of annually reviewing the impacts of marijuana within the community.

**Dennis Symmons** thanked the Council for sending two engaged representatives to SWAMC. He said he served on the Kodiak Island Borough Marijuana Task Force and he appreciated and supported the Council's decision on the ordinance. He commended them for not being afraid to move forward and he stressed the importance to reassessment as needed.

**Patrick O'Donnell** via telephone supports edibles by prescription only. He stated he is concerned edibles will adversely affect the youth in the community.

**Cheryl Boehland** said she is pleased that coronavirus updates have been forthcoming.

**Janiese Stevens**, owner of Wildflower, said she supports the adoption of the Ordinance No. 1394. She is in support of education for the youth and is willing to participate in presenting information in the future as needed.

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**b. Proclamation: Choose Respect**

Councilmember Arboleda read the proclamation, which encouraged all citizens to stand up against sexual assault, domestic violence, and child sexual abuse.

**Ellamy Tiller**, Outreach Advocate from the Kodiak Women's Resource and Crisis Center, came forward to accept the proclamation and thanked the Mayor and Council for the support.

**IV. UNFINISHED BUSINESS**

**a. Second Reading and Public Hearing, Ordinance No. 1393, Amending Chapter 3.08 Sales Tax Amending Title 3 And Chapter 3.08 Sales Tax To: 1) Adopt The Alaska Remote Sellers Sales Tax Code By Reference; 2) To Add And Amend Definitions In Section 3.08.280; 3) To Extend The Time For Filing A Final Return By 15 Days In Section 3.08.140(G); 4) To Eliminate The Registration Deposit In Section 3.08.080; 5) To Add A Late Filing Penalty Of Twenty Five Dollars To Section 3.08.170; And 6) To Provide For Extensions Of Time For Filing Returns, Repayment Plans, And Amended Returns**

Mayor Branson read Ordinance No. 1393 by title. The South Dakota vs. Wayfair U.S. Supreme Court case redefined sales tax across many states and local governments. On June 21, 2018, the U.S. Supreme Court upheld the state of South Dakota's right to require online sellers to collect and remit sales tax on orders delivered to that state.

On November 14, 2019, the Council adopted Resolution No. 2019-23 which authorized the City to enter into an intergovernmental agreement to form a commission for a centralized administration of collection of sales tax imposed by remote sellers. Resolution No. 2019-23 also authorized the City Manager to enter into the Alaska Intergovernmental Remote Sellers Sales Tax Agreement and per Article V of the intergovernmental agreement, the next step for the City is to delegate the remote seller sales tax registration, exemption certification, collection, remittance, and audit authority to the "Commission" by ordinance or resolution. This ordinance meets the terms of the agreement which also require adoption of certain uniform provisions by reference for collection and remittance of municipal sales tax applicable to sales made by remote sellers.

Councilmember Arboleda **MOVED** to adopt Ordinance No. 1393.

Mayor Branson closed the regular meeting, opened and closed the public hearing when no one came forward to testify, and reopened the regular meeting.

Councilmember Davidson stated he supports Ordinance No. 1393 for the fairness it provides local and remote vendors.

Councilmember Whiddon **MOVED** to amend Ordinance No. 1393 by substitution.

The following changes were made in the substituted ordinance:

- Ordinance Title, corrected typo, Section 3.08.280 Definitions
- Section 3.08.080(b), Change from city clerk to finance director
- Section 3.08.170(e), changed city manager to finance director

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- Reporting of waivers of penalty to the manager
- Under 3.08.162 Amended returns, References to the Commission were changed to the City
- Sections 3.08.164 and 3.08.166, change city clerk to finance director

The roll call vote on the amendment was Councilmembers Arboleda, Bishop, Davidson, Walker, and Whiddon in favor. Councilmembers Haines was excused. The motion passed.

The roll call vote on the main motion as amended was Councilmembers Arboleda, Bishop, Davidson, Walker, and Whiddon in favor. Councilmembers Haines was excused. The motion passed.

**b. Second Reading and Public Hearing, Ordinance No. 1394 Amending Title 5 Business Licenses and Regulations, Chapter 5.24 Marijuana Regulations by Repealing Section 5.24.040 Manufacture and Sale of Marijuana Edibles Prohibited**

Mayor Branson read Ordinance No. 1394 by title. On November 4, 2014, Alaska voters passed Ballot Measure 2, An Act to Tax and Regulate the Production, Use, and Sale of Marijuana, which initiated the State and Statewide municipalities to begin to determine how to regulate marijuana on both State and municipal levels. Subsequently, the Council adopted Resolution No. 2016–16, Establishing a Marijuana Advisory Special Committee, to recommend guidelines for implementing taxation, regulation, production, sale, and use of marijuana within the Kodiak City limit. The Committee met nine times from June 2016 through April 2017 and brought forward for Council consideration regulations and policies governing marijuana establishments within the Kodiak City limit. One of the regulatory recommendations of the Committee was to prohibit the sale of edibles within the City of Kodiak and, along with the recommendation, advocated to the Council to revisit the topic again within a year. The City Council desires to get substantial public input before lifting the prohibition and before allowing the sale of marijuana edibles within the City limits.

Councilmember Bishop MOVED to adopt Ordinance No. 1394.

Mayor Branson closed the regular meeting and opened the public hearing.

**Cheryl Boehland** stated she supports edibles to be sold in Kodiak.

**Les James** shared that his father set examples for drug-free life styles and he does not support Ordinance No. 1394. He expressed his concern regarding edibles that look like Girl Scout cookies at a local marijuana shop.

**Alan Schmitt** said he is 66 years old and stated marijuana was prevalent in his youth. He said responsible adults should be able to enjoy legal products in the privacy of their homes. He supported the passage of the ordinance.

Mayor Branson closed the public hearing after testimony and reopened the regular meeting.

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Councilmember Whiddon said he will not support the adoption of the ordinance due to the concern for the youth within the community. He noted that if the ordinance passes, said he will make sure that portion of the taxes generated will be committed to an education program.

Councilmember Davidson spoke about responsible parenting and not penalizing or preventing the usage for adults.

Councilmember Bishop shared that he respected his fellow Councilmembers' comments and shared that edible information is available through social media. He stated there is a local business owner that has been responsible and he thinks the change is inevitable.

Councilmember Walker commented that education and packaging is important. He said he does support moving forward with the ordinance.

Councilmember Whiddon said he did meet with a local business owner and one in-state and viewed the stores and said the edible products are highly regulated.

Councilmember Arboleda stated the edibles are tested and regulated. She said she is protective of her child and younger family members and understands the concerns stated. She highlighted that the industry to produce edibles is highly regulated and products are labeled, which she supported as a safer alternative than non-regulated.

Councilmember Davidson said he understands the concerns and stated that the products are from the creator.

The roll call vote was Councilmembers Arboleda, Bishop, Davidson, and Walker in favor. Councilmember Whiddon opposed. Councilmembers Haines was excused. The motion passed.

**V. NEW BUSINESS****a. Resolution No. 2020-09, Authorizing Suits for Recovery of Delinquent Sales Tax**

Mayor Branson read Resolution No. 2020-09 by title. Kodiak City Code Chapter 3.08 establishes criteria for all aspects of levying, collecting, filing, and remitting sales tax and sales tax returns. For delinquent filers, the finance department will provide mail correspondence, certified mail correspondence, phone calls and other collection avenues to ensure that sales tax compliance is adhered to for all persons engaged in selling or renting property or rendering services subject to the tax imposed by Chapter 3.08.

Kodiak City Code 3.08.230 provides that the City may recover sales taxes in an action against the person selling or renting the property or services.

Councilmember Arboleda MOVED to adopt Resolution No. 2020-09.

Councilmember Whiddon said this resolution creates fairness for doing business within the City.

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

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**b. Authorization to Purchase Radios in the Amount of \$248,314.38 With Motorola Solutions**

The City of Kodiak operates VHF portable radios utilizing Motorola equipment which was purchased as early as 2005. These portable radios are carried by Police Officers, Firefighters, Harbor Officers, and Public Works Employees while conducting their day-to-day job assignments. These radios also play a pivotal role in communications during large-scale community wide emergencies. Current portable radios are obsolete and are not capable of meeting future FCC mandates and State of Alaska ALMR requirements. The City applied for and received State of Alaska grant funding to cover the entire cost of this purchase.

Councilmember Walker MOVED to authorize the purchase of radios in the amount of \$248,314.38 with Motorola Solutions from the account Subscriber Radio Replacement PN 4060 machinery & equipment and authorize the City Manager to execute documents on behalf of the City.

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

**VI. STAFF REPORTS****a. City Manager**

Manager Tvenge said City staff is working on the FY2021 budget preparation. He provided information on a recent break in a water main and he said the source had been determined. He provided an update on the Tsunami Sirens proposals. He shared the insurance requirements for the Shipyard marine lift and he referred the public to the Harbor for further information. He said they have been working on providing Coronavirus updates.

**b. City Clerk**

City Clerk Javier informed the public of the next scheduled Council work session and regular meeting. She shared information regarding the next Fisheries Work Group meeting and the Future Fire Station Steering Committee.

**VII. MAYOR'S COMMENTS**

Mayor Branson shared that the City's website has updated information regarding on the Coronavirus (COVID-19). She said she appreciates the work of staff. She commented on barrels of gas prices and replacement on the Tustemena funding. She said it is important to be aware of the cost shifting from the State and said the Alaska Municipal League (AML) is working to help communities provide resources and advocacy.

**VIII. COUNCIL COMMENTS**

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Councilmember Walker thanked the Public Works for their work on the water main. He thanked Fire Chief Mullican and Police Chief Putney for their work and commitment. He spoke about the reality of the Coronavirus.

Councilmember Davidson spoke about fear of COVID-19 and encouraging citizens to get a good source of information. He spoke about the March for Respect and encouraged community involvement.

Mayor Branson stated the March for Respect was pending with the updates of COVID-19.

Councilmember Arboleda reminded the public to wash their hands stay healthy and to drive carefully.

Councilmember Whiddon thanked Dennis Symmons for his comments regarding SWAMC and he highlighted the fisheries topics were Marticulture and ocean acidification. He spoke about some of the advantages and resources on Kodiak Island that are not always available in rural Alaska. He spoke briefly about a decorated USCG pilot.

Councilmember Bishop thanked staff for the work on the information regarding the Coronavirus. He reminded everyone the importance of hygiene.

**IX. AUDIENCE COMMENTS**

**Tim Putney** spoke briefly about his 17 years in law enforcement and cautioned stereotyping for unlawful or drug behavior within the youth. He spoke about individual choices and that it was not always about nature vs. nurture.

**Cliff Davidson** via teleconference said he appreciates the ice removal from both local and state agencies.

**X. EXECUTIVE SESSION****a. City Manager's Performance Evaluation**

Annually, the City Council reviews the performance of the City Manager. In accordance with the Open Meetings Act, the City Manager does not object to the evaluation being done in executive session.

Councilmember Davidson MOVED enter into executive session, as authorized by Kodiak City Code Section 2.04.100(b)(2), to conduct the City Manager's annual performance evaluation.

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

Mayor recessed the meeting at 8:30 p.m.

The Mayor reconvened the meeting to order at 9:48 p.m.

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**XI. ADJOURNMENT**

Councilmember Whiddon MOVED to adjourn the meeting.

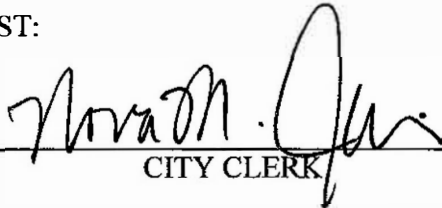
The roll call vote was Councilmembers Arboleda, Bishop, Davidson, Walker, and Whiddon in favor. Councilmembers Haines was excused. The motion passed.

The meeting adjourned at 9:48 p.m.

CITY OF KODIAK

  
MAYOR

ATTEST:

  
CITY CLERK

Minutes Approved: April 9, 2020