

**MINUTES OF THE REGULAR COUNCIL MEETING
OF THE CITY OF KODIAK
HELD NOVEMBER 17, 2005,
IN THE BOROUGH ASSEMBLY CHAMBERS**

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

Mayor Carolyn L. Floyd called the meeting to order at 7:30 p.m. Councilmembers Charles E. Davidson, Josefina F. Rosales, Gabriel T. Saravia, Thomas D. Walters, and David M. Woodruff were present and constituted a quorum. Councilmember Dennis A. McMurry was absent. Councilmember Davidson left at 8:18 p.m. City Manager Linda L. Freed, City Clerk Debra L. Marlar, and Deputy Clerk Kris Williams were also present.

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

II. PREVIOUS MINUTES

Councilmember Walters MOVED, seconded by Councilmember Saravia, to approve the minutes of the October 27, 2005, regular meeting as presented.

The roll call vote was Councilmembers Davidson, Rosales, Saravia, Walters, and Woodruff in favor. Councilmember McMurry was absent. The motion passed.

III. AGENDA AMENDMENT

None

IV. PERSONS TO BE HEARD

a. Public Comments

Brian Kincade, Manager of Kodiak Wireless, spoke about the sublease authorization between Kodiak Wireless and ACS Wireless scheduled later in the meeting. He requested that the provision requiring Kodiak Wireless to remit 40% of any sublease revenue to the City be reduced, stating the 40% remittance would create a hardship for Kodiak Wireless, which had a \$600,000 investment in the lease site.

Bruce Schactler commended the City Council for Resolution No. 05-45, Requesting the North Pacific Fishery Management Council Consideration of Community Concerns in the Pending Gulf of Alaska Rationalization Program, which was scheduled later in the meeting. He suggested that the first RESOLVED clause did not adequately express the City's position that Gulf Rationalization should be stopped for 18 months.

V. UNFINISHED BUSINESS

a. Second Reading and Public Hearing, Ordinance No. 1197, Amending Kodiak City Code Section 1.12.010 Concerning the General Penalty for City Code Violations and Kodiak City

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Code Section 3.08.270 Concerning Prohibited Acts, Penalties, and Remedies Related to the Collection of City Sales Tax

Mayor Floyd read Ordinance No. 1197 by title. The City Council has discussed additional penalties for egregious violations of the City's Sales Tax Code on multiple occasions. At the May 24, 2005, work session, after reviewing a request from City staff that additional penalties be incorporated into City Code, the Council directed staff to work with the City Attorney to have an ordinance drafted that would allow the City to obtain injunctive relief and/or seek criminal penalties for egregious sales tax violations. Ordinance No. 1197 will incorporate these penalties into City Code. Ordinance No. 1197 was passed in the first reading at the October 27, 2005, Council meeting.

Councilmember Rosales MOVED, seconded by Councilmember Davidson, to adopt Ordinance No. 1197.

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

The roll call vote was Councilmembers Davidson, Rosales, Saravia, Walters, and Woodruff in favor. Councilmember McMurry was absent. The motion passed.

b. Second Reading and Public Hearing, Ordinance No. 1198, Repealing Kodiak City Code Chapter 8.52 Gambling Prohibited and Enacting Kodiak City Code Chapter 8.52 Gaming Regulations

Mayor Floyd read Ordinance No. 1198 by title. At the February 24, 2005, regular Council meeting, the City Council moved to adopt Ordinance No. 1180, revising the City's gambling regulations. After the public hearing, the Council moved to postpone action on Ordinance No. 1180 until after it was discussed at a future work session. The ordinance was then discussed at the May 24th work session. Based on that discussion, City staff worked with the City to attorney to completely rewrite the City's gambling regulations, rather than revise them. Ordinance No. 1180 has been replaced by Ordinance No. 1198, which establishes City of Kodiak gaming regulations. The new regulations are very brief, deferring to State regulations in all aspects, except one. Ordinance No. 1198 was passed in first reading at the October 27, 2005, Council meeting.

Councilmember Walters MOVED, seconded by Councilmember Saravia, to adopt Ordinance No. 1198.

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

The roll call vote was Councilmembers Davidson, Rosales, Saravia, Walters, and Woodruff in favor. Councilmember McMurry was absent. The motion passed.

c. Second Reading and Public Hearing, Ordinance No. 1199, Amending City Code Section 3.12.070 Exceptions to Bidding Requirements and Enacting Kodiak City Code chapter 8.52 Gaming Regulations

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Mayor Floyd read ordinance No. 1199 by title. In working on the request for proposals for the boat yard/travel lift operator, the City attorney found that City Code does not explicitly include the authority to use a request for proposal procurement process. As a result, the attorney drafted an ordinance that will explicitly provide for this type of procurement process in City Code, and he has recommended the adoption of the ordinance before the request for proposals for the boat yard/travel lift operator is issued. Ordinance No. 1199 was passed in first reading at the October 27, 2005, Council meeting. However, the ordinance title, as passed in the first reading, needed to be amended to conform to the ordinance, and staff recommended that after the motion was made and seconded to adopt Ordinance No. 1199, an amendment motion be made to strike all words following the words "Bidding Requirements" in the agenda title.

Councilmember Walters MOVED, seconded by Councilmember Woodruff, to adopt Ordinance No. 1199.

Councilmember Walters MOVED, seconded by Councilmember Saravia, to amend Ordinance No. 1199 by striking all words following the words "Bidding Requirements" in the agenda title.

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

The roll call vote on the amendment was Councilmembers Davidson, Rosales, Saravia, Walters, and Woodruff in favor. Councilmember McMurry was absent. The amendment passed.

The roll call vote on the main motion was Councilmembers Davidson, Rosales, Saravia, Walters, and Woodruff in favor. Councilmember McMurry was absent. The motion passed.

VI. NEW BUSINESS

a. Resolution No. 05–40, Supporting House Bill 83, Retaining the Alaska Seismic Hazards Safety Commission

Mayor Floyd read Resolution No. 05–40, by title. The Alaska Seismic Hazards Safety Commission held its first meeting in Anchorage on October 28th. The purpose of the Commission is to continue to prepare Alaska, the nation's most seismically active state, against future earthquakes. Governor Murkowski recently appointed the nine members of the Commission, joining with all other western states in establishing a state-level seismic advisory body. The commission is charged with advising decision-makers at all levels of government, and the private sector, about ways to reduce earthquake risks and disseminating information on earthquake risk mitigation to the public. While the Commission recently began to meet, it is in sunset status and will cease to function as of June 30, 2006, unless it is extended by the Alaska State Legislature. House Bill 83 will extend the life of the Commission for an additional three years. Resolution 05–40 supports the passage of House Bill 83.

Councilmember Davidson MOVED, seconded by Councilmember Walters, to adopt Resolution No. 05–40.

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The roll call vote was Councilmembers Davidson, Rosales, Saravia, Walters, and Woodruff in favor. Councilmember McMurry was absent. The motion passed.

b. Resolution No. 05-41, Certifying the FY'06 Shared Fisheries Business Tax Program Application To Be True and Correct

Mayor Floyd read Resolution No. 05-41, by title, which certifies that the City of Kodiak's FY'06 Shared Fisheries Business Tax Program Application is true and correct and adopts the standard form application for FY'06 – the fifth year that the standard form application has been used.

Councilmember Woodruff MOVED, seconded by Councilmember Saravia, to adopt Resolution No. 05-41.

The roll call vote was Councilmembers Davidson, Rosales, Saravia, Walters, and Woodruff in favor. Councilmember McMurry was absent. The motion passed.

c. Resolution No. 05-42, Adopting the 2005 Comprehensive Economic Development Strategy

Mayor Floyd Read Resolution No. 05-42, by title. The Kodiak Chamber of Commerce has a contract with both the City of Kodiak and the Kodiak Island Borough to provide economic development planning. Part of the Chamber's responsibility is the preparation of a Comprehensive Economic Development Strategy (CEDS). A completely revised Strategy was completed in June 2001, and updates are completed annually. Resolution 05-42 documents the City's approval of the 2005 annual update to the Strategy.

Councilmember Saravia MOVED, seconded by Councilmember Walters, to adopt Resolution No. 05-42.

The roll call vote was Councilmembers Davidson, Rosales, Saravia, Walters, and Woodruff in favor. Councilmember McMurry was absent. The motion passed.

d. Resolution No. 05-43, Authorizing a Permit for the Use of the Downtown Office by the Crewmen's Association

Mayor Floyd read Resolution No. 05-43 by title. At the October 25th work session, Councilmember Davidson requested that the City Council consider allowing the newly-created Crewman's Association to use the downtown bathroom office space for a temporary period of approximately eight months as a location for collecting data on those involved in Gulf of Alaska fisheries, as rationalization of the fisheries is considered by the North Pacific Fishery Management Council. The Kodiak Police Department recently moved a computer work station into the space to make it fully function as a sub-station. The work station was provided to the City by the State of Alaska for the purpose of producing missing children flyers and similar items. The computer is tied into the Kodiak Police Department's records management system, and, as such, cannot be used by anyone else. Staff does not believe that it is the best use of City time and funds to remove the equipment that has just been installed in this office space. It is staff's recommendation that the Crewmen's Association be provided with space in Fishermen's Hall for their requested purpose.

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The resolution failed due to lack of a motion.

e. Resolution No. 05-44, Requesting the Civil Settlement of the Exxon Valdez Oil Spill Be Reopened

Mayor Floyd read Resolution No. 05-44, by title. The issue of reopening the Exxon Valdez oil spill civil suit was raised at the City Council's October 27th regular meeting. The Council agreed that a resolution supporting the reopening of the civil suit should be placed on the November 17th regular meeting agenda for consideration. Based on the discussion of a draft resolution at the October 27th meeting, the current resolution before the Council has been revised to reflect that funds received, if the civil suit is reopened, should not be used for additional property acquisition.

Councilmember Walters MOVED, seconded by Councilmember Saravia, to adopt Resolution No. 05-44.

The roll call vote was Councilmembers Davidson, Rosales, Saravia, Walters, and Woodruff in favor. Councilmember McMurry was absent. The motion passed.

f. Resolution No. 05-45, Requesting North Pacific Fishery Management Council Consideration of Community Concerns in the Pending Gulf of Alaska Rationalization Program

Mayor Floyd read Resolution No. 05-45 by title. On November 1, 2005, the City Council met with the Kodiak Island Borough Assembly in a joint work session and discussed the variety of fisheries issues that are facing the community. The primary topic of discussion was the proposed Gulf of Alaska rationalization program, which was pending before the North Pacific Fishery Management Council (NPFMC). After public comments and considerable conversation on the topic, it was suggested that a joint resolution be developed reiterating the position expressed in common resolutions addressed to the NPFMC last year. Resolution No. 05-45 builds on the resolution passed by the City Council last December, addressing the NPFMC's proposed Gulf of Alaska rationalization program, and takes into account the concerns expressed by Council members and the public since last year's resolution was adopted and presented to the NPFMC.

Councilmember Davidson MOVED, seconded by Councilmember Walters, to adopt Resolution No. 05-45.

Councilmembers discussed the proposed resolution.

Councilmember Woodruff MOVED, seconded by Councilmember Walters, to amend the first RESOLVED clause of Resolution No. 05-45 to read: Delay adoption of a Gulf of Alaska rationalization program until the Council has conducted its 18-month review of the Bearing Sea crab rationalization plan to enable the public to evaluate and comment on the impacts of crab rationalization and to enable the Council to make appropriate adjustments to the Gulf rationalization program in response.

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The roll call vote on the amendment was Councilmembers Davidson, Rosales, Saravia, Walters, and Woodruff in favor. Councilmember McMurry was absent. The amendment passed.

Councilmember Woodruff MOVED, seconded by Councilmember Walters to amend Resolution No. 05-45 by adding item 10 from the November 17, 2005, letter from the United Fishermen's Marketing Association, Inc. as an additional RESOLVED clause to read: Consider, analyze, evaluate, and include all major sectors and gear types together, at the same time, and in combination with each other as an interconnected fishery, as the Council proceeds with the process of developing and implementing a rationalization regime for GOA groundfish.

The roll call vote on the amendment was Councilmembers Davidson, Rosales, Saravia, Walters, and Woodruff in favor. Councilmember McMurry was absent. The amendment passed.

The roll call vote on the resolution as amended was Councilmembers Davidson, Rosales, Saravia, Walters, and Woodruff in favor. Councilmember McMurry was absent. The motion passed.

g. Authorization of Amendment No. 1 to Pillar Mountain Lease No. 11 With Kodiak Wireless

In May 2004, subsequent to City Council approval, a lease between Kodiak Wireless and the City of Kodiak was executed for a 3,200 square foot parcel of land on top of Pillar Mountain. The lease site contains cellular telephone communication equipment, including a tower and equipment building. Staff have been discussing the possibility of tying the City's new Pillar Mountain public safety communication equipment building into the Kodiak Wireless equipment building to provide backup power for the City's building. Amendment 1 to the lease will formalize this arrangement, if the project turns out to be technically feasible.

Councilmember Davidson MOVED, seconded by Councilmember Walters, to authorize Amendment No. 1 to Pillar Mountain Lease No. 11 with Kodiak Wireless.

The roll call vote was Councilmembers Davidson, Rosales, Saravia, Walters, and Woodruff in favor. Councilmember McMurry was absent. The motion passed.

h. Authorization of a Sublease Under Pillar Mountain Lease No. 11, Between Kodiak Wireless and ACS Wireless

In October, the City received a request from Kodiak Wireless to grant permission to sublease space in their communication building and tower on Pillar Mountain to ACS Wireless. The proposed sublease agreement has been reviewed by the City attorney, and he believes that the sublease is consistent with the lease between the City and Kodiak Wireless. The attorney recommended that three conditions be placed on the approval of the sublease. In addition, the City Council needs to determine the lease rate to the City from the sublease. Other similar subleases have been required to provide 50% of the sublease revenue to the City of Kodiak.

Councilmember Walters MOVED, seconded by Councilmember Saravia, to authorize a sublease between Kodiak Wireless and ACS Wireless under Pillar Mountain Lease No. 11 subject to the following conditions:

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1. Approval of the sublease does not release Kodiak Wireless from any of its obligations under its lease with the City.
2. The sub-lessee agrees to comply with all terms of the City's lease with Kodiak Wireless regarding the use of the premises, insurance, and environmental requirements.
3. The insurance provided by Kodiak Wireless must cover the activities of the sub-lessee.
4. Kodiak Wireless shall remit to the City of Kodiak 40% of any revenues collected monthly.

Councilmembers expressed varying opinions about the amount of the sublease revenue Kodiak Wireless should remit to the City.

Councilmember Davidson left the meeting at 8:18 p.m.

Councilmember Woodruff MOVED, seconded by Councilmember Walters to amend motion condition No. 4 from 40% to 30%.

The roll call vote on the amendment was Councilmembers Rosales, Saravia, Walters, and Woodruff in favor. Councilmembers Davidson and McMurry were absent. The amendment passed.

The roll call vote on the main motion was Councilmembers Rosales, Saravia, Walters, and Woodruff in favor. Councilmembers Davidson and McMurry were absent. The motion passed.

i. Authorization of Vehicle Bid Awards

Funds were included in the FY'06 budget to replace two ½ ton 4X4 pickups in the Public Works Department, two Police 4X4 Special Service vehicles in the Police Department, and one ½ ton 4X4 pickup in the Port and Harbor Department. Bids for these vehicles were received from four vendors and were opened on November 4, 2005. The results of the bid opening were:

- **Kodiak Motors** – three (3) 2006 ½ ton 4X4 Ford pickups at \$18,289 each and two (2) Police 4X4 Ford Special Service vehicles at \$29,078 each.
- **Cal Worthington** – three (3) 2006 ½ ton 4X4 Ford pickups at \$20,627 each and two (2) Police 4X4 Ford Special Service vehicles at \$26,841 each.
- **Alaska Sales and Service** – three (3) 2006 ½ ton 4X4 Chevrolet pickups at \$18,594 each and two (2) Police 4X4 Chevrolet Special Service vehicles at \$31,835 each.
- **Southern Alaska Dodge Jeep Chrysler Toyota** – three (3) ½ ton 4X4 Dodge pickups at \$24,826 each.

Councilmember Walters MOVED, seconded by Councilmember Woodruff, to authorize the bid award to Kodiak Motors for three (3) 2006 ½ ton 4X4 Ford pickups at \$18,289 each and two (2) Police 4X4 Ford Special Service vehicles at \$29,078 each, as the low bidder for the 4X4 pickups and the low bidder for the Special Service Vehicles when the 10% local bidder preference is applied per Kodiak City Code Section 3.12.060. Funds to come from the General fund, Police Department, Uniformed Patrol Sub-Department; General Fund, Public Works Department, building Inspection Sub-Department; Water Utility Fund, Water Utility Department, Water Sub-Department; and Boat Harbor Fund, Boat Harbor Department, Administration Sub-Department.

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Councilmember Walters suggested that in the future, the City should seek more fuel efficient vehicles.

The roll call vote was Councilmembers Rosales, Saravia, Walters, and Woodruff in favor. Councilmembers Davidson and McMurry were absent. The motion passed.

j. Authorization of Change Order No. 4 to the Alder/Natalia Improvement Project No. 00-12

Change order No. 4 addresses time and materials work that was not covered by the construction bid and a partial reconciliation of materials for the Alder Lane/Natalia Way Improvement project. The change order includes the following ten items:

1. Reconstruction of access (stairs and tram) to 118 Hillcrest for \$22,597.73
2. Construction of concrete retaining wall at 118 Hillcrest for \$21,376.23
3. Reconstruction of access to 210 Hillcrest for \$11,072.50
4. Reconstruction of access to 212 Hillcrest for \$2,764.18
5. Reconstruction of sewer service under structure at 212 Hillcrest for \$435.13
6. Addition of handrails to access at 108 and 110 Natalia for \$635.22
7. Construction of concrete panels around electrical transformer at intersection of Alder and Natalia for \$597.66
8. Lowering of the electrical box in sidewalk at intersection of Alder and Rezanof for \$506.46
9. Completion of the rockery transitions between new retaining wall and existing grade at the top and bottom of Hillcrest for \$1,323.59

Councilmember Woodruff MOVED, seconded by Councilmember Saravia, to authorize Change Order No. 4 to the Alder/Natalia Improvement Project No. 00-12 in the amount of \$404,473.90, with funds coming from the Capital Projects Fund, Street Improvement Fund, Alder/Natalia Improvement Project.

Councilmembers discussed the change order and voiced concern about the additional project costs. They suggested that future contracts contain a provision to address accountability of professional engineering firms and contractors who are awarded City construction contracts and bids. Manager Freed said the issue will be added to the Council's upcoming planning work session agenda.

The roll call vote was Councilmembers Rosales, Saravia, Walters, and Woodruff in favor. Councilmembers Davidson and McMurry were absent. The motion passed.

VII. CITY MANAGER'S REPORT

Manager Freed thanked City employee, Mike Schilbach for 15 years of service as a firefighter and EMT. She also commended the public works department for their snow removal efforts during the season's first snow storm and encouraged citizens to plow their driveways to the sides and back of their property, not out into the street. She also congratulated Finance Director Mary Munk and Senior Accountant Marian Royall who were presented with the Government Finance Officers Association Distinguished Budget Presentation Award.

VIII. MAYOR'S COMMENTS

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Mayor Floyd reported more snow was predicted, encouraged everyone to be careful while driving, and noted the community was enjoying the City's ice rink. She also reported that she and Councilmembers had recently returned from the Alaska Municipal League conference in Anchorage where the following priorities for the Legislature were identified: community revenue sharing, PERS/TERS relief, no unfunded mandates, and more funding for education. She reported a community forum on fish rationalization will be held November 22, 2005, at the Elk's Lodge.

IX. COUNCIL COMMENTS

Councilmembers thanked the public works crew for their snow removal efforts during the recent snow fall and encouraged people to move their vehicles off the road so the plows could more effectively remove snow. Councilmembers voiced concern about the potential effects to the community of a Gulf of Alaska rationalization program. Councilmembers wished everyone a happy holiday season.

X. AUDIENCE COMMENTS

Steve Branson, president of the Crewmen's Association, thanked the City Council for their hard work. He encouraged the public to attend the upcoming educational rally on fish rationalization. He spoke about the Crewmen's Association's need for office space downtown in late December and early January to collect data from fishermen about the affects of fish rationalization. He also suggested a method to reduce the rat population.

The City Clerk announced the next Council work session and regular meeting will be held December 13th and 15th.

XI. ADJOURNMENT

Mayor Floyd adjourned the meeting at 9:25 p.m.



ATTEST:

Debra Marler

CITY CLERK

Carolyn Floyd
MAYOR

Minutes Approved: December 15, 2005