

**MINUTES OF THE REGULAR COUNCIL MEETING  
OF THE CITY OF KODIAK  
HELD DATE, THURSDAY, MARCH 29, 2007  
IN THE BOROUGH ASSEMBLY CHAMBERS**

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

Mayor Carolyn L. Floyd called the meeting to order at 7:32 p.m. Councilmembers Charles E. Davidson, Dennis A. McMurry, Josefina F. Rosales, Gabriel T. Saravia, and Thomas D. Walters were present and constituted a quorum. Councilmember David M. Woodruff was absent. City Manager Linda L. Freed, City Clerk Debra L. Marlar, Deputy Clerk Barbara J. Volpe, Chief of Police T. C. Kamai, and Fire Chief Andy Nault were also present.

After the Pledge of Allegiance, Salvation Army Sergeant Major David Blacketer gave the invocation.

**II. PREVIOUS MINUTES**

Councilmember Davidson noted a correction to the February 22, 2007, minutes for the roll call vote for item h.

Councilmember Davidson MOVED to approve the minutes of the February 22, 2007, regular meeting as corrected.

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

**III. AGENDA AMENDMENT**

None.

**IV. PERSONS TO BE HEARD**

**a. Proclamation: Declaring Women's History Month**

Councilmember Rosales read the proclamation, which was accepted by Lorna Arndt. The proclamation focuses on the contributions and roles women have played throughout history.

**b. Public Comments**

**Jim Pickett** read a statement regarding his termination as volunteer firefighter with the City Fire Department. The statement raised questions regarding insurance and dual-service volunteer policies. He distributed an information packet to the Council and requested that the Council look into the matter.

**Jone Suleski** spoke in support of Jim Pickett.

**Curt Law** spoke in support of Jim Pickett.

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**Kiela Pickett** spoke in support of Jim Pickett.

**Jessica Kepley** spoke in favor of Jim Pickett.

**Rick Gifford** spoke in support of Resolution No. 07-11.

**Margaret Hall**, via telephone, spoke in support of Jim Pickett.

**Clarence Selig** spoke in opposition to police station and jail being built on Near Island.

**Louise Stutes**, via telephone, spoke in support of Jim Pickett.

**John Klemczak** spoke in support of the travel lift.

**Miriam Rosenn** expressed confusion about the informational newspaper ads regarding the building of the police station on Near Island. At Mayor Floyd's request, Manager Freed explained that the Council had directed that the ads be published as a means to disseminate information to the public regarding proposed Near Island building projects, including the new police station/jail.

**Stormy Stutes** spoke in support of the travel lift and acknowledged the hard work of City Manager Freed and Harbormaster Owen.

**Christy Malutin** spoke in support of Jim Pickett.

**Mary Forbes** spoke in opposition to building the post office on Near Island due to increased traffic volume. She also expressed disappointment in the Council's choice of Near Island for the police station and jail.

**Wally Johnson**, via telephone, spoke in opposition to building the police station on Near Island.

**Jack Mann** spoke in opposition to building the police station on Near Island.

**Iver Malutin** spoke in opposition to building the police station on Near Island. He spoke in favor of the travel lift. He also spoke in support of volunteers generally and Jim Pickett specifically.

**Lisa Polito**, via telephone, spoke in opposition to moving the "bulk of City's emergency services to Near Island."

**Steven Ames** spoke in opposition to building the police station on Near Island; he spoke in support of the City providing the land and constructing the infrastructure for a boatyard and travel lift but spoke in opposition to the City purchasing the actual lift.

**Tanya Valerio**, via telephone, spoke in support of Near Island for police station and jail. She also applauded City officials for not discussing personnel issues in public.

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**Lorna Arndt** spoke in support of Jim Pickett. She made disparaging remarks about staff and elected officials. She also suggested that parents pay the fees to operate the 911 system.

**V. UNFINISHED BUSINESS**

**a. Second Reading and Public Hearing, Ordinance No. 1216, Establishing Supplemental Appropriation No. 1 to the Budget for the Fiscal Year Commencing on the First Day of July 2006 and Ending on the Thirtieth Day of June 2007**

Mayor Floyd read Ordinance No. 1216 by title. This ordinance is the first amendment, or supplement, to the current year's budget. It makes a number of changes in the FY07 budget, reflecting increased revenues and expenditures, new project/grant funding, and movement of funds to more accurately reflect current City operations. The most significant items in the supplemental budget are several equipment purchases and funds to pay for increased operating expenses that have occurred due to staff shortages and extraordinary winter weather.

Councilmember Rosales MOVED to adopt Ordinance No. 1216.

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, McMurry, Rosales, Saravia, and Walters in favor. Councilmember Woodruff was absent. The motion passed.

**b. Second Reading and Public Hearing, Ordinance No. 1217, Amending Kodiak City Code 3.08.170**

Mayor Floyd read Ordinance No. 1217 by title. The City Finance Department is currently updating and revising the City's Sales Tax Application and recommends that the Council implement a change to the sales tax code to clarify partial payments. Currently, Kodiak City Code Section 3.08.170, Penalty & Interest, states that partial payments shall be credited first to penalty and interest, then to the tax obligation originally due. It is not clear what chronological order should be used in application of the payment. In all other payment applications within the City of Kodiak, payments are applied to the oldest balances in order of penalty, interest, and then the original amount due on the account. Currently, based on the language in City Code, if a sales tax account is delinquent for prior quarters, but payment is made for the current quarter, the payment is applied to the current quarter. Therefore, old balances remain unpaid with little consequence. The current method leaves no incentive to pay past due account balances nor is it consistent with all other payment applications within the City of Kodiak. The proposed Code change clarifies the application method for sales tax payments by stating the chronological order that will be used, making this Code section consistent with standard procedures in applying payments to delinquent accounts. The City attorney drafted the proposed revision to the sales tax code.

Councilmember Walters MOVED to adopt Ordinance No. 1217.

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

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

**c. Authorization of Juneau Lobbyist Contract with Capitol Associates**

Norm Gorsuch, of Capitol Associates, has provided Juneau lobbying services for the City since 1998. During past legislative sessions, Mr. Gorsuch has provided good tracking and support services for several bills of significant interest to the City, as well as supporting the City's capital improvement project funding requests. The monthly fee for contract services, since 1998, has been \$2,000 per month. With this contract, Capitol Associates has asked for an increase in their fee to \$3,000 per month. No other changes are proposed in the FY07-08 contract. Funds to continue the contract at the current rate are included in the current budget. Approval of this contract was postponed from the February Council meeting in order to give the Mayor and Councilmembers a chance to discuss the contract and fee request with Mr. Gorsuch during the recent legislative trip to Juneau.

Councilmember Walters MOVED to amend the motion to authorize a Juneau Lobbyist Contract with Capitol Associates through June 30, 2008, by striking \$2,000 and inserting \$2,500.

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

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

**VI. NEW BUSINESS**

**a. Resolution No. 07-7, Authorizing the City to Submit to the Qualified Voters of the City at the October 2, 2007, City Election the Question of Amending Article II, Section 8 of the Kodiak City Charter to Provide That Absences From Regular Council Meetings Must Be Unexcused To Cause the Office of Mayor or Councilmember To Be Vacated, and To Provide the Manner in Which Absences May Be Excused**

Mayor Floyd read Resolution No. 07-7 by title. Article II, Section 8 of the Kodiak City Charter provides that if the Mayor or any member of the Council is absent from four consecutive regular Council meetings, the Council may declare the office vacant. This Charter section also requires automatic vacation of office if the Mayor or a Councilmember is absent from more than one half of all regular meetings held within any six-month period. At previous work sessions, the Council discussed that circumstances beyond the control of an elected official may occur that requires the official to be absent from a Council meeting. The Council also voiced consensus to submit to qualified City voters a ballot proposition at the October 2, 2007, regular election to amend Charter Article II, Section 8. The Charter amendment would provide that absences from regular Council meetings must be unexcused to cause the office of Mayor or Councilmember to be vacated, and would provide that the Council, by ordinance, shall establish the grounds for excusing an absence.

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If adopted, Resolution No. 07-7 would submit to qualified City voters at the October 2, 2007, regular City election, Proposition No. 1, Amendment of Kodiak City Charter Article II, Section I, To Provide That Absences From Regular Council Meetings Must Be Unexcused to Cause the Office of Mayor or Councilmember to Be Vacated, and to Provide the Manner in Which Absences May Be Excused.

Councilmember Davidson MOVED to adopt Resolution No. 07-7.

Councilmembers voiced varying opinions about the Resolution and expressed their desire to further discuss the issue.

Councilmember McMurry MOVED to postpone the matter until the May regular meeting.

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

**b. Resolution No. 07-8, Authorizing the City to Submit to the Qualified Voters of the City at the October 2, 2007, City Election the Question of Amending Article X, Section 2 of the Kodiak City Charter to Provide That the Term of Office of Mayor or Councilmember Begins at the Next Regular Council Meeting Following the Certification of the Election and Upon Taking the Oath of Office**

Mayor Floyd read Resolution No. 07-8 by title. City Charter Article X, Section 2, provides that the terms of office of the Mayor and Councilmembers shall begin on the first Tuesday after their election. Under current practice, the term of office does not begin until after the election has been certified and the official has taken the oath of office, as required by the Kodiak City Code. This practice allows enough time for absentee ballots to be returned to the Clerk's Office and for the election to be canvassed by a duly appointed canvass board. If the voters pass the ballot proposal authorized by this resolution, the term of office would begin at the next regular Council meeting following the certification of the election and upon taking the oath of office.

If adopted, Resolution No. 07-8 would submit to qualified City voters at the October 2, 2007, regular City election Proposition No. 2, Amendment of Kodiak City Charter Article X, Section 2, Concerning the Time When the Term of Office of Mayor or Councilmember Begins.

Councilmember Rosales MOVED to adopt Resolution No. 07-8.

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

**c. Resolution No. 07-9, Authorizing the City to Submit to the Qualified Voters of the City at the October 2, 2007, City Election the Question of Amending Article X, Section 7 of the Kodiak City Charter to Make Its Qualifications for Voting in City Elections Consistent With Federal and State Law**

Mayor Floyd read Resolution No. 07-9 by title. City Charter Article X, Section 7, describes qualifications to vote in City elections that are inconsistent with the qualifications required under State law, permitting only persons whose names appear on the tax rolls of the City to vote on

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questions of the City borrowing money that is to be paid or secured by taxes or special assessments. Restricting the vote on questions of the City borrowing money to persons whose names appear on the tax rolls of the City conflicts with decisions of the United States Supreme Court and provisions of State law. It has been the practice of the City to determine qualification to vote in a general obligation bond election in accordance with the governing Federal and State law, instead of in accordance with Article X, Section 7, of the Kodiak City Charter.

If adopted, Resolution No. 07-9 would submit to qualified City voters at the October 2, 2007, regular City election Proposition No. 3, Amendment of Kodiak City Charter Article X, Section 7, Concerning Qualifications to Vote in City Elections.

Councilmember Walters MOVED to adopt Resolution No. 07-9.

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

**d. Resolution No. 07-10, Authorizing the Issuance of a Permit to the Alaska Department of Fish and Game for Use of Public Property in Conjunction With the 2007 Salmon Celebration**

Mayor Floyd read Resolution No. 07-10 by title. The Alaska Department of Fish and Game has requested use of the St. Paul Harbor spit for their annual Salmon Celebration, scheduled for May 11, 2007. This celebration is the culmination of one of the Department's educational programs, "Salmonids in the Classroom." Using the Spit as the location for the Salmon Celebration allows the entire community to participate in the celebration and requires Council approval for its use.

Councilmember Davidson MOVED to adopt Resolution No. 07-10.

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

**e. Resolution No. 07-11, Urging the Alaska State Legislature to Create the Kodiak Narrow Cape Public Use Area**

Mayor Floyd read Resolution No. 07-11 by title. This resolution urges the creation, by the Alaska State Legislature, of the Narrow Cape Public Use Area. The Kodiak Island Borough Assembly adopted a similar resolution on March 15, 2007, in support of bills introduced by Senator Gary Stevens and Representative Gabrielle LeDoux, to create the public use area. The Kodiak Island Borough has requested that the City Council also pass a supporting resolution.

Councilmember Davidson MOVED to adopt Resolution No. 07-11.

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

**f. Authorization of Professional Services Contract With USKH for Final Design of the Kodiak Police Station With Jail, Project No. 04-23**

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In November 2006, the City Council adopted Resolution No. 06-36, selecting Near Island as the location for the new Kodiak police station. However, at that same meeting, the Council failed to approve a contract, in the amount of \$960,771, for architectural and engineering services for the final design of the building on the Near Island site. Since then the City Council has met numerous times and evaluated several alternative sites for the construction of the new police station. Based on all the information currently available, the Council directed staff to place on this agenda consideration of a contract for final design of a new police station on the Near Island site. The Council also directed staff to place ads in the newspaper to present accurate information about the reasons the Council is reconsidering a design contract for this site. The contract before the Council is materially different from the contract considered by the City Council at the November 2006 meeting in that its price has escalated approximately \$80,000 in the intervening months. The scope of work to be performed under the contract takes the building through final design and bidding of the project for construction, but does not include construction administration.

Councilmember Rosales MOVED to authorize a professional services contract with USKH for architectural and engineering services for the final design of the new Kodiak Police Station With Jail, Project No. 04-23, on Near Island in the amount of \$1,036,314, with funds coming from the Capital Projects Funds, Public Safety Fund, Municipal Building Engineering and Design Project.

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

**g. Authorization of Amendment to the Professional Services Contract With PND for Engineering and Design for the Travel Lift/Boat Yard**

In January 2007, the Council referred the travel lift/boatyard project back to the Port and Harbors Advisory Board (PHAB) for additional review and possible revision to the scope of the project. The PHAB has met twice since then to discuss a revised scope of work for the project, which results in a reduced project cost (estimated cost is \$13 million). The PHAB's recommendation was presented to the Council at the March 27, 2007, work session. The revised project scope of work necessitates a budget amendment of \$40,000 to cover the additional presentations and public meetings PND has attended in the last several months, organize the contract documents identifying EDA and non-EDA work, and meet other EDA grant requirements.

Councilmember Walters MOVED to authorize Amendment No. 1 to the professional services contract with PND for engineering and design for the travel lift/boat yard project in the amount of \$40,000, with funds coming from the Capital Projects Funds, Port and Harbor Improvement Fund, Marine Lift Project.

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

**h. Authorization of Professional Services Contract for Dam Safety Inspections With Golder Associates Inc.**

Dams regulated by the Alaska Department of Natural Resource (ADNR) are required to undergo safety inspections every three to five years depending on their downstream hazard classification. The Monashka Dam Complex, Pillar Dam Complex, and Upper Bettinger (Upper Reservoir)

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Dam are all subject to the dam safety inspection requirement. Current inspections must be completed by August 2007. In addition, required emergency action plans for both the Upper Bettinger Dam and the Pillar Dam Complex need to be updated and submitted for final approval by the ADNR Dam Safety Engineer. Golder Associates Inc. completed the 2004 Periodic Safety Inspections for all three dam complexes. With their firsthand knowledge of the dam complexes, staff requested a proposal from them to perform the current inspections and emergency action plan updates on a time-and-material basis with a not-to-exceed cost of \$68,000.

Councilmember Rosales MOVED to authorize a professional services contract with Golder Associates Inc. for periodic dam safety inspections in the amount of \$68,000, with funds coming from the Capital Projects Funds, Water Improvement Fund, Periodic Dam Safety Inspection Project.

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

## **VII. Staff Reports**

### **a. City Manager**

Manager Freed announced that a recovered property auction will be held through an Anchorage company, concurrent live and on the Internet at 11 a.m. on March 31, 2007. The public will be able to view items prior to the auction.

She thanked Brock Simmons, KPD, for his five years of service. Manager Freed thanked Parks and Recreation Department volunteers Heggie and Christensen for their work at Coon Field. She also noted the City does not own Coon Field.

Manager Freed informed the public of a brochure in upcoming City utility bills regarding the Y utility project. She also noted the Alaska Department of Transportation's (ADOT) Y project has been proposed for delay to 2009. She explained the consequences of such a delay, which will cause the need for duplication of work and increased expense. She encouraged community members to send their comments to ADOT.

### **b. City Clerk**

Clerk Marlar informed the Council and public of Councilmember Woodruff's absence due to medical treatment in Anchorage. She listed the dates of the next Council work session and regular meeting.

## **VIII. MAYOR'S COMMENTS**

Mayor Floyd spoke of the recent meetings in Juneau with State officials attended by herself, Manager Freed, and Councilmembers McMurry and Woodruff, at which City officials emphasized the need for the Y project moving forward this year, as previously promised by the State. She extended best wishes to Councilmember Woodruff. The Mayor commended Manager Freed on her tenure as manager, recently becoming the City's longest-serving individual in the posi-

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tion. Mayor Floyd encouraged the public to watch for kids with the advent of better weather. She also wished KVOK well on their current fundraiser.

## IX. COUNCIL COMMENTS

Councilmember McMurry extended his best wishes to Councilmember Woodruff. He inquired whether an executive session can be called without public notice. City Clerk Marlar explained the notice requirements.

Councilmember Rosales acknowledged the difficult working conditions at the police station and noted that moving forward with construction of the new facility is important for the safety of the community. She also extended her good wishes and prayers to Councilmember Woodruff and thanked Manager Freed for her hard work.

Councilmember Davidson extended his good wishes to Councilmember Woodruff. He expressed disappointment with the selection of the Near Island site for the police station. He also requested a discussion for reviewing the policy dealing with volunteer firemen, as well as for utility late fees.

Councilmember Walters agreed with Councilmember Davidson regarding late fees and suggested review of other fees as necessary. He expressed appreciation for those who made comments on issues discussed at the current meeting. Councilmember Walters extended an apology to Jack Mann for earlier comments. He noted that there will always be opposition to any decision made by the Council. Councilmember Walters also noted the community's support for Jim Pickett and expressed his appreciation for Mr. Pickett's past service. He explained that there is no animosity between the City and Borough, noting the intent to work on Fire Department issues in an upcoming joint work session. He also noted that there are laws prohibiting the Council from discussing personnel matters in a public forum. Councilmember Walters expressed appreciation for the work of City staff, especially that of Manager Freed and Fire Chief Nault. He wished Councilmember Woodruff good luck in his medical treatment.

Councilmember Saravia wished good luck to Councilmember Woodruff. He expressed thanks to Mr. Pickett for his past work. He encouraged everyone to come to speak about issues, pointing out that the Council needs to try to serve the majority of citizens, not just those few who make comments. Councilmember Saravia commented on the diversity of the community and the Council, noting that it does not preclude the Council from making decisions and being collegial. He also noted that the City and Borough are different governments serving different constituents.

## X. AUDIENCE COMMENTS

**Janet Warneke**, via telephone, spoke in support of Jim Pickett.

**Alexus Kwachka** reiterated his opposition to the travel lift project.

**Lisa Peterson** spoke in support of Jim Pickett.

**Scott Arndt** spoke in support of Jim Pickett.

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**Clarence Selig**, via telephone, admonished Councilmembers Saravia and Walters for some of their comments.

**Jenny Sargent**, via telephone, spoke in favor of the Selief Lane site for the police station and jail. She also spoke in support of volunteer EMTs who serve outside of City limits.

**T. C. Kamai**, Chief of Police, thanked the Council for moving forward with the police station design contract and acknowledged the difficulty of their decision.

**Iver Malutin** urged the Council to figure out how to deal with increased traffic to and from Near Island, as it will adversely affect fishermen.

**XI. ADJOURNMENT**

Mayor Floyd adjourned the meeting at 10:31 p.m.

CITY OF KODIAK

  
MAYOR

ATTEST:

  
CITY CLERK



Minutes Approved: April 26, 2007