

**MINUTES OF THE REGULAR COUNCIL MEETING
OF THE CITY OF KODIAK
HELD THURSDAY, SEPTEMBER 28, 2017
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, Randall C. Bishop, Gabriel T. Saravia, Richard H. Walker, and John B. Whiddon were present and constituted a quorum. Councilmember Charles E. Davidson was absent. City Manager Mike Tvenge, City Clerk Debra Marlar, 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 September 14, 2017, regular meeting as presented.

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

III. PERSONS TO BE HEARD

a. Public Comments

Renee Darrenkamp voiced support of Ordinance Nos. 1368 and 1369. She does not support raising the tax cap; she believes it will burden the businesses and the fishing industry. She provided estimates of the financial increases of a raised tax cap for a fishing vessel owner for fuel and bait costs, if the tax cap is increased. She commented that she does not support senior exemption changes.

Marion Owen, via telephone, said the seven percent sales tax levied on food is one of the highest in the nation. She said taxing food causes food insecurity. She supports removing sales tax on food and removing the sales tax cap all together with a three-to-four percent sales tax on other goods or services.

Daniel Miller, via telephone, said he was in the fishing industry for 40 years and participated on the Ports & Harbor Advisory Board. He commented that tour ships are not paying a sufficient fuel tax and he supports omitting the sales tax cap on fuel. He commented that senior citizens live on a fixed income and he supports continuing the exemptions they receive.

Tosha Simpler spoke about crossing the streets safely in Kodiak. She referred to the Washington State pedestrian crossing process, which includes flags. She said Kodiak deserves safe crossing, and she suggested implementing the same Washington pedestrian crossing program.

Kathy Simpler thanked the Mayor and Council for the Girl Scout nonprofit award. She gave an overview of their recent camp experience stating it helps Girl Scouts build character and confidence.

Ellen Simeonoff, General Manager of Kodiak Broadcasting, via telephone, said she agrees with many of Ms. Owen's comments. She suggested lowering the tax and omitting the tax on groceries, and that fishing exemptions be cost based. She said researching annexing outside the City limits is worthwhile. She feels every avenue should be explored for raising revenues. She suggested that citizens urge legislators to work on a state tax for online purchases.

Judi Kidder voiced opposition to an increase in sales tax; she commented that a home rule city is not able to levy a tax without a vote of the people. She stated she supports raising the sales tax cap.

Alex Turner said she is opposed to Ordinance No. 1367. She said if the ordinance is adopted it will be devastating to the local businesses, will drive people to shop elsewhere for products, and ultimately will decrease sales revenue for everyone in the town. She does not support program cuts to Parks and Recreation services. She suggested waiting to vote on the ordinance and to let the community make further creative suggestions. She thinks consolidating the City and the Borough may be an option to increase revenue.

Alexus Kwatcha shared his concern regarding the disrespectful and law breaking vagrants in the downtown area. He wants a solution, and he commented that relying on SB91 was not the only viable solution. He said he supports the plastic bag ban ordinance. He said there is fish oil in the harbor and there is a rat problem in the downtown area. He suggests charging higher rates for City land leases, such as the Matson lease, to increase revenue. He suggested a community hall event to discuss issues.

Bert Ashley, owner of F/V the Goldrush, he said his biggest expense is fuel. He said raising the sales tax cap would be burdensome to his operation. He said when he goes to Dutch Harbor it is cheaper, which is not where he wants to be. He understands a raise but urges the Council not increase the sales tax cap too high.

Chris Lynch said she owns several businesses downtown and read in the local newspaper that the sales tax revenue is down. She encouraged more support for business owners in the downtown area and expressed her concern regarding vagrants harassing her customers. She said she supports economic development and encourages ways for business owners to be competitive to help increase Kodiak revenue. She supports a community hall to get citizens involved, and she supports the repeal of SB91.

Tyler Randolph said he was born and raised in Kodiak and has several businesses. He said the sales tax issue affects the quality of life on Kodiak. He said he hopes the prominent business owners in the audience send a message to the Council. He said he supports consolidation and recommends dealing with the bum issue in the downtown area.

Debbie Refior said she has been in Kodiak 37 years. She spoke about the history of the car dealerships decline and hopes she does not have to close her business doors due to an economic downturn.

Paddy O'Donnell handed out a copy of Ordinance No. 1171. He supports a \$1500 tax cap over time and one percent across the board sales tax. He shared his concern regarding the recent tax increase and other increased costs including: phones surcharge increase, the harbor rates, the fishing tax, the state a fuel tax, a payroll tax, and the mill rate increase. He said this is a difficult time and commented that fishing vessels are going to the Aleutians.

Kevin Arndt said he supports the Ordinance No. 1368 regarding rentals. He supports not taxing food, he stated he recently purchased a restaurant and has become directly aware of the impact of sales taxes. He said he supports a tax cap to \$1000 and seven to an eight percent sales tax. He suggests a community forum to further discuss sales tax options.

IV. UNFINISHED BUSINESS

a. Second Reading and Public Hearing, Ordinance No. 1365, Amending Kodiak Municipal Code Title 7 Entitled "Health and Sanitation" to Adopt Chapter 7.40 Entitled "Marijuana Regulation," and Designating the Kodiak City Council as the City's Local Regulatory Authority on Marijuana

Mayor Branson read Ordinance No. 1365 by title. Alaska voters approved Ballot Measure 2 on November 4, 2014, which provided for general legalization of marijuana. Ordinance No. 1365 will designate the Kodiak City Council as the City's local regulatory authority on marijuana. Alaska Statute provides for the transfer of a portion of license application fees to the "local regulatory authority," and this ordinance will ensure collection of any available fees.

Councilmember Bishop MOVED to adopt Ordinance No. 1365.

Mayor Branson 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 Arboleda, Bishop, Saravia, Walker, and Whiddon in favor. Councilmember Davidson was absent. The motion passed.

b. Second Reading and Public Hearing, Ordinance No. 1366, Amending Kodiak Municipal Code Title 8 Entitled "Public Peace, Safety, And Morals" to Adopt Kodiak City Code 8.40, "Prohibited Acts Regarding Marijuana," to Prohibit the Extraction of Tetrahydrocannabinol ("The") or any Cannabinoid by Use of Materials or Methods Deemed Dangerous to Public Health and Safety, Unless Otherwise Permitted By Law

Mayor Branson read Ordinance No. 1366 by title. Alaska voters approved Ballot Measure 2 on November 4, 2014, which provided for general legalization of marijuana. Ordinance No. 1366 will prohibit the manufacture of marijuana products by use of solvents containing compressed flammable gases or solvent-based extraction methods. This will help protect the public health and safety against known and unreasonable risks of certain manufacturing processes of a legalized marijuana industry.

Councilmember Arboleda MOVED to adopt Ordinance No. 1366.

Mayor Branson 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 Arboleda, Bishop, Saravia, Walker, and Whiddon in favor. Councilmember Davidson was absent. The motion passed.

V. NEW BUSINESS

a. **First Reading, Ordinance No. 1367, Amending Kodiak City Code 3.08.120, "Maximum Taxable Sale," to Increase the Maximum Amount of a Sale Service or Rental That is Subject to City Sales Tax to \$3,000**

Mayor Branson read Ordinance No. 1367 by title. Since May 2016, City staff has provided updates regarding the City's fiscal outlook. The State of Alaska provides funding to the City of Kodiak through various sources – capital grants, shared revenues, PERS on-behalf payments, and other miscellaneous sources. Due to economic conditions within the State, the State of Alaska budget has been experiencing a shortfall over the past three fiscal years. This shortfall at the state level has impacted funding provided to the City of Kodiak. The City revenues are generated through sales tax, property tax, city charges for services, and intergovernmental revenues. Due to continual decreases in city intergovernmental revenues, City staff has presented data to the City Council and Mayor throughout eighteen work sessions to consider the implications to the City. These discussions culminated into the direction from Council to move forward with three ordinances:

- Increase minimum taxable sale from \$750 to \$3,000
- Hold the maximum taxable sale on real property commercial and real property residential rentals to \$750
- Eliminate the 2% discount allowed to early sales tax filers

Financial implications for increasing the sales tax minimum taxable sale from \$750 to \$3,000, maintaining a \$750 maximum sale amount for real property residential and commercial rentals, and eliminating the 2% discount offered for timely filing of sales tax returns are projected to increase City revenues by approximately \$5.8 million within the first full year of implementation.

Councilmember Whiddon MOVED to pass Ordinance No. 1367 in the first reading and advance to second reading and public hearing at the next special or regular meeting.

Councilmember Whiddon said he appreciates the citizen's comments. He said the Council does not take this lightly. He commented that he believes online sales have made it difficult for local businesses to generate revenue. He said discussion regarding taxes has occurred for two years. He said services that the City provides are costly and State funding is decreasing. He said the buying trends are changing nationally. He commented on the high level of services the City provides, including the water supply. He said it is important to ask what we want the community to look like in three-five years when prioritizing and budget planning.

Councilmember Whiddon MOVED to postpone Ordinance No. 1367.

Councilmember Walker said he supports the community forum. He said he wants everyone to be involved in the process.

Councilmember Saravia said he wants to have a date to bring the ordinance back to the Council. He shared he had suggested to bring the ordinance forward for community input and it had been successful.

Councilmember Whiddon MOVED to amend his primary amendment to postpone until a community forum is scheduled within 30 days.

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

The roll call vote on the primary amendment on the postponement was Councilmembers Arboleda, Bishop, Saravia, Walker, and Whiddon in favor. Councilmember Davidson was absent. The motion passed.

b. First Reading, Ordinance No. 1368, Amending Kodiak City Code 3.08.040, “General Exemptions” and Kodiak City Code 3.08.120, “Maximum Taxable Sale,” To Exempt Real Property Rentals Exceeding One Month and \$750.00 From City of Kodiak Sales Tax

Mayor Branson read Ordinance No. 1368 by title. Ordinance No. 1368 does not change the current tax structure for residential or commercial rental property. The ordinance is meant to protect rental property from escalating sales taxes with the intent to continue the City Council’s vision of maintaining affordable housing in our community. The sales tax cap for property rentals is set at \$750.

Councilmember Bishop MOVED to pass Ordinance No. 1368 in the first reading and advance to second reading and public hearing at the next special or regular meeting.

Councilmember Whiddon MOVED to postpone Ordinance No. 1368 until a community forum is scheduled within 30 days.

The roll call vote on the postponement was Councilmembers Arboleda, Bishop, Saravia, Walker, and Whiddon in favor. Councilmember Davidson was absent. The motion passed.

c. First Reading, Ordinance No. 1369, Repealing Kodiak City Code 3.08.160, “Administrative Costs and Reimbursements,” to Eliminate the 2% Deduction for Timely Filing of Sales Tax Returns and Remittance of Collected Sales Tax

Mayor Branson read Ordinance No. 1369 by title. Currently businesses within the City that collect and remit sales tax file returns quarterly. Included in this reporting is the option of retaining 2% of the tax collected to offset administrative costs; however not all businesses retain the 2% option. For those businesses that do retain the 2% option, the result is approximately \$200,000 in uncollected sales tax. This ordinance is scheduled to become effective January 1, 2018.

Councilmember Walker MOVED to pass Ordinance No. 1369 in the first reading and advance to second reading and public hearing at the next special or regular meeting.

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

d. Authorization of Professional Services Contract for Legal Services With Boyd, Chandler & Falconer, LLP

On January 14, 2017, during the planning work session the Council determined they would proceed with a Request for Proposal (RFP) for legal services in preparation of their legal services contract ending on June 30, 2017. In March 2017, a Request for Proposal for General Counsel Legal Services was released by the City Manager’s office. On April 11, 2017, Council discussed their preferred attorney selection process at a work session and determined membership of the Legal Counsel Review Committee. The closure period of the RFP was on May 2, 2017, and the City received proposals from seven law firms. In August, the Mayor, two City Councilmembers, the City Manager, and the City Clerk interviewed representatives of four firms under consideration as the City’s primary legal counsel. The firm of Boyd, Chandler & Falconer, LLP is the recommendation for legal services by the Legal Counsel Review Committee.

Councilmember Arboleda MOVED to authorize the contract dated September 28, 2017, with Boyd, Chandler & Falconer, LLP for professional legal services.

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

VI. STAFF REPORTS

a. City Manager

Manager Tvenge reported that the ice rink is closed while the ice is being prepared for the season and the NHL alumni hockey clinic and tournament clinics will be held October 13-15. He said this week the environmental agency requested municipalities submit for project funding and the City submitted projects, which included the water and sewer project, Aleutian home project VI, Lift stations three and four, and the Monashka Pumphouse.

b. City Clerk

Clerk Marljar encouraged the citizens to vote at the Municipal Election, on October 3, 2017. She shared with the public the City precincts are located at the Teen Center and Harbor buildings. She informed the public of the next scheduled work session and regular meeting.

VII. MAYOR’S COMMENTS

Mayor Branson said the budget has been discussed over the last 18 work sessions; she said the review has included discussions on revenues, exemptions, and budget cuts. She said the City is about infrastructure. She commented that water and sewer lines need to be replaced in front of businesses in the downtown area. She spoke about lobbying to get State funds needed for munic-

ipalities to balance their budgets. She said the funding for the Tustemena is in place. She said there are 75 waivers for the replacement of the ferry being worked on, and the timeframe will be four to five years until the ferry is replaced. She reminded people to vote at the October 3 municipal election. She said she looks forward to the community forum. She suggested two Councilmembers help the Manager and Clerk to set up the forum; Councilmembers Whiddon and Bishop volunteered. She said she will attend the Board of Fish meetings on Oct. 18. She thanked the public for their comments.

VIII. COUNCIL COMMENTS

Councilmember Walker thanked the public for attending the meeting. He said he looks forward to the forum, and he encouraged people to get information from the Clerk's Office if needed. He said downtown issues are a priority.

Councilmember Arboleda thanked everyone for their support on the Council. She encouraged people to vote on Election Day. She said she supports Tosha's pedestrian crossing ideas.

Councilmember Whiddon said the dais has a strong leadership team. He commented on the diligent staff that works for the City and praised the budget award to the Finance Department. He is encouraged by the public participation. He said the ordinances that were postponed were not scheduled to move forward until January 2018. He said the Fisheries Work Group helped facilitate a letter to the Board of Fish, which was sent by both governing bodies.

Councilmember Saravia thanked the community for its input. He thanked Mayor Branson for her strong leadership.

Councilmember Bishop thanked the public for their comments. He said the Council works for the citizens and the more ideas the better. He thanked staff and commented on the scenarios the Finance Department has prepared for review over the last 18 months. He encouraged people to vote on Election Day.

IX. AUDIENCE COMMENTS

Judi Kidder thanked the City staff for their work. She said she wished more people would get involved. She suggested radar guns for speeders on Baranof Street. She shared concern about the brush overgrowth that causes street accidents. She spoke about fines and charging more for ice time and putting the responsibility on the user groups to collect. She said there are many ways to reduce the costs.

Alex Turner asked about Parks and Recreation and Library services and stated if the services were open longer, they may generate funds. She suggested more than one tax-free day annually. She shared that many local businesses price match.

Tyler Randolph said the ordinances got their attention as business owners. He said the method of outreach is not effective from the City on meeting topics. He said the community forum is a good idea. He thanked the Council. He asked for information presented at previous meetings regarding sales tax.

Mary Forbes, via telephone, thanked the Council. She said knows what is going on with Council meeting topics because she listens to public radio and reads the Kodiak Daily Mirror.

X. EXECUTIVE SESSION

a. Discuss City Litigation

Councilmember Arboleda MOVED to enter into executive session pursuant to AS 44.62.310(c) (1) to discuss 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, Bishop, Saravia, Walker, and Whiddon in favor. Councilmember Davidson was absent. The motion passed.

The Council entered into executive session at 9:13 p.m.

Mayor Branson reconvened the meeting at 9:43 p.m.

XI. ADJOURNMENT

Councilmember Whiddon MOVED to adjourn the meeting.

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

The meeting adjourned at 9:43 p.m.

CITY OF KODIAK

MAYOR

ATTEST:

CITY CLERK

Minutes Approved: October 12, 2017

