

**MINUTES OF THE REGULAR COUNCIL MEETING
OF THE CITY OF KODIAK
HELD THURSDAY, MAY 10, 2018
IN THE BOROUGH ASSEMBLY CHAMBERS**

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

Mayor Pat Branson called the meeting to order at 7:31 p.m. Councilmembers Laura B. Arboleda, Randall C. Bishop, Charles E. Davidson, Richard H. Walker, and John B. Whiddon were present and constituted a quorum. City Manager Mike Tvenge, City Clerk Debra Marlar, and Assistant Clerk Shannon Hamer 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 April 26, 2018, regular meeting as presented.

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

III. PERSONS TO BE HEARD

a. Proclamation: Police Week and Peace Officers Memorial Day

Councilmember Arboleda read this proclamation, which urged all citizens and patriotic, civic, and educational organizations to recognize police officers, past and present, who by their faithful and loyal devotion to their responsibilities, have rendered a dedicated service to their community.

Police Chief Putney accepted the proclamation.

b. Proclamation: EMS Week

Councilmember Whiddon read this proclamation, which urged residents to recognize the value and the accomplishments of emergency medical services providers.

Deputy Fire Chief Dorner accepted the proclamation.

c. Presentation of Funding From Sun'aq Tribe of Kodiak to the City for Maintenance of Routes for Mission Road and Shelikof Street

The Sun'aq Tribe of Kodiak and the City of Kodiak have entered into multiple agreements to include various City roads into the Bureau of Indian Affairs (BIA) Tribal Transportation Program. Beginning in 2007, a portion of Mill Bay and Mission Road were included. On May 25, 2016, Shelikof Street was included, which was extended for three years by Council on

August 10, 2017. These agreements with Sun'aq Tribe of Kodiak could bring Federal funding to Kodiak for street improvements.

On April 17, 2018, the City Manager entered into maintenance of routes agreement with the CEO of Sun'aq Tribe for these roads, which outlined the eligible maintenance activities under the Tribal Transportation Program. On April 26, 2018, the City was notified that the Sun'aq Tribe of Kodiak received federal funding in the amount of \$7,500 for Mill Bay and Shelikof Road.

Randy Boskofsky of the Sun'aq Tribe presented the \$7,500 check to the City Clerk, and said he looks forward to continuing the collaboration between the City and the Sun'aq Tribe.

d. Public Comments

Mary Ruskovich said she had over 30 letters with her from individuals who care deeply about this community and about Matt Van Daele. She stated that Van Daele is a courageous, respectful, and honorable human being. Ms. Ruskovich said the community is asking why this happened and why the Council is allowing this decision to move forward. Ms. Ruskovich said the Council has a duty and obligation to step in when they see a decision being made that negatively impacts those in this community and the future of Kodiak. She said that she and Matt love this community, and he is an asset to Kodiak and a very loyal person. Ms. Ruskovich believes Matt and the people of Kodiak deserve to know what has happened. She asked the Council to look at both sides and to explain what happened. Ms. Ruskovich ended with a quote by Tennyson.

Bonnie Dillard stated that she supports what Ms. Ruskovich said regarding Matt Van Daele. She said she is deeply concerned because she believes this community needs young, intelligent, hard-working people and fresh ideas. She said when we treat them this way we are putting ourselves at risk because we are eliminating the brightest and the best. Ms. Dillard said she is deeply disturbed that we are losing someone like this, and that we might lose the whole family, because no one can afford to live in Kodiak without a job. She asked the Council to examine this issue and consider reinstating Matt Van Daele.

Judy Kidder stated her opinion that the City lacks transparency. She said the City is not providing information readily, and information is not easily accessible from the City like she believes it is from the Borough. Ms. Kidder believes that as an employee Matt deserves to know why he was let go and to be able to defend himself. She stated she has known Matt for quite some time and said he has integrity and vision for this community. Ms. Kidder said she cannot imagine him doing anything that would cause him to be fired. She suggested that if there is any way to step back and look at this from the bigger picture that the Council should do that with the interest of the future of Kodiak at heart. She believes the community needs Matt. Ms. Kidder voiced concern about the tone and example this sets for other employees.

Alexis Kwatcha stated that Matt is one of our own, a born and raised child of this community. He said he had a very good working relationship with him, and that he has a very good vision for this community. He said it frustrates him to see kids that grew up here, moved away, and came back to make a difference being pushed to the side. He believes we need to invest in people that will stay here. He said there needs to be transparency, and it should be out in the open for everyone to digest because it is very hard to swallow. Mr. Kwatcha stated that he is also very concerned about the derelict boat at the boatyard. He said he does not want it sitting there taking

up space and accumulating a bill that no one is going to pay. Mr. Kwatcha pointed out that on April 4 black cod fishing was shut down for the Gulf of Alaska. He said black cod has been the driving force for the fisheries in this community and makes fishing viable.

Jennifer Culbertson stated she has been a government employee for over 20 years. She said that during this time she never lost sight of the fact that she was a public servant, and she would never have made a decision that affected another employee based on anger or personal issues. Ms. Culbertson said she cannot imagine why Matt was fired. She said she knows him personally and has worked with him, and believes Matt has a lot of integrity and is a hard worker. She said she is not seeing transparency, and told the Council that as public servants, they have a duty to serve the public and be transparent. Ms. Culbertson said she would appreciate hearing why Matt was fired, and if there was no good reason, she would like to see him reinstated.

Linda Madsen thanked the Council for their willingness to serve. She voiced concern about the sudden and unexplained termination of Matt Van Daele. Ms. Madsen believes Mr. Van Daele demonstrates the highest ideals and character to be able to serve our community well in the present and for the long run. She spoke of his listening and problem solving skills, talents as a manager, and love and commitment to Kodiak. She stated that Matt is an Alaskan and a confident leader who has a right to protect his professional reputation. Losing his talents would be a big loss to this community. Madsen doesn't believe our town can afford to forfeit what Matt can and is willing to give to this community. She requests and urges the City Council with their mandated role of ultimate authority to work to bring about the reinstatement of Matt Van Daele.

Zoya Herrnsteen via telephone said she was shocked by the termination of Matt Van Daele. She said she hopes the City is considering reinstatement. She believes it would be in the best interest of the community, as Matt is thoughtful, articulate, intelligent, hard working, and listens to the needs of the community. Ms. Herrnsteen said the City needs people like Matt making decisions for the future. She said that the citizens of Kodiak deserve an explanation regarding Matt's termination. She stated that he has given much to the community, and it would be in the best interest of Kodiak to give him his job back.

Jonathan Strong stated his comments related to the last work session where local marijuana regulations were discussed. He said he was on the City's Marijuana Advisory Committee and the Borough's Marijuana Task Force, and he is a certified addiction counselor. When it comes to pedestrian pathways, he believes the State regulations regarding pedestrian pathways from a marijuana facility to a school or church really refers to more urban areas. In Kodiak, he stated, the pedestrian pathways are not as defined, so he recommended the City adopt the buffer zone concept, which is measuring from the marijuana facility to another prohibited area 500 feet in a straight line. Mr. Strong believes that if you just use buffer zones it is easier for the marijuana facilities to measure where they can operate. He thanked the Council for their service and time.

IV. UNFINISHED BUSINESS

- a. **Continued Second Reading and Public Hearing, Ordinance No. 1375(SUB), Levying Taxes in the Amount of 2 Mills and Appropriating Funds for the Expenses and Liabilities of the City of Kodiak for the Fiscal Year Commencing on the First Day of July 2018 and Ending on the Thirtieth Day of June 2019**

Mayor Branson read Ordinance No. 1375(SUB) by title. Ordinance No. 1375(SUB) provides for the adoption of the City of Kodiak's FY2019 budget. The budget document, which supports the ordinance, estimates all sources of revenue the City anticipates receiving between July 1, 2018, and June 30, 2019. The budget document also establishes an operating and capital expenditure plan for FY2019 that is based on staff's assessment of operational and community needs, and the Council's FY2019 budget goals. Staff made the FY2019 budget presentation to Council and the public during a special budget work session on March 10, 2018. Staff recommends Council adopt Ordinance No. 1375(SUB) after the second reading and public hearing.

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, Davidson, Walker, and Whiddon in favor. The motion passed.

b. Second Reading and Public Hearing, Ordinance No. 1376, Amending Chapter 3.28 of the Kodiak City Code to Condition Future Deposits Into the City Enhancement Fund on the Existence of a Minimum Fund Balance of Six Months of General Fund Operating Expenditures

Mayor Branson read Ordinance No. 1376 by title. This ordinance amends Chapter 3.28 Enhancement Fund deposits and adds additional criteria for inflation-proofing the Enhancement Fund. Over the most recent two fiscal periods, the City has been reviewing ways to provide services in a more efficient manner and to rebuild the fund balance of the General Fund. The City of Kodiak's Municipal Code Chapter 3.28 provides that at the completion of the prior year audit and issuance of financial statements, should the General Fund have a surplus, then one half of this surplus is transferred to the Enhancement Fund in the succeeding fiscal year. This ordinance amends the code to only transfer one-half of the General Fund surplus when the fund balance of the General Fund reaches six months of budgeted operating expenses. Other additional changes to this code section relate to inflation-proofing. A section was added to further clarify the transfers between the Enhancement Fund and the General Fund to ensure that inflation-proofing was achieving the desired results.

Councilmember Davidson MOVED to adopt Ordinance No. 1376.

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, Davidson, Walker, and Whiddon in favor. The motion passed.

V. NEW BUSINESS

a. First Reading, Ordinance No. 1377, Amending the Senior Citizen Sales Exemption and Ordinances Relating to the Procedure for Verifying Exempt Buyers

Mayor Branson read Ordinance No. 1377 by title. Since May 2016, City staff has been providing updates regarding the City's fiscal outlook, which have included reviewing each sales tax exemption offered by the City. During this review of sales tax exemptions, the City

recommended to the Council a closer look at strengthening the requirements for the senior sales tax exemption. Ordinance No. 1377 provides for the following changes to this exemption: lengthening residency requirements from 30 days to 365 days; requiring a power of attorney for certified use on behalf of the senior; not allowing exemptions for tobacco, alcohol, or marijuana purchases; written warnings and civil penalties for failure to appropriately collect taxes; and a requirement that the seller shall confirm the eligibility by checking the names on the certificate and government issued identification card. All previously issued senior exemption cards are valid through December 31, 2018.

Councilmember Bishop MOVED to pass Ordinance No. 1377 in the first reading and advance to second reading and public hearing at the next regular or special Council meeting.

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

b. Authorization of Bid Award for FY2019 Petroleum Products

Each year the Public Works Department issues bids for the City's petroleum products. Bids were opened on April 24, 2018, for FY2019 petroleum products. Two bids were received. Petro Marine Services was the low bidder for unleaded gasoline and North Pacific Fuel was low bidder for heating and equipment fuel.

Councilmember Davidson MOVED to authorize award of the City's FY2019 petroleum products bid to Petro Marine Services for unleaded gasoline at \$2.67 per gallon and to North Pacific Fuel for heating and equipment fuel at \$2.395 per gallon and diesel ultra low sulfur at \$2.445 per gallon with funds coming from each department's FY2019 line items.

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

c. Appointment to Parks and Recreation Advisory Board

The student position on the Parks and Recreation Advisory Board is vacant, and an application has been received for appointment to the student position. The student application for the Parks and Recreation Advisory Board requires endorsement by the Student Council, which is relayed by the Student Council Advisor. The ex-officio student position term is set at the time of appointment. Appointment is made by the Mayor and confirmed by the Council.

Councilmember Whiddon MOVED to confirm the Mayoral advisory board appointment to the Parks and Recreation Advisory Board as stated.

Mayor Branson clarified that this appointment is through May 2019.

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

d. Appointment of Applicant to Fill Vacant Council Seat

Councilmember Gabriel Saravia resigned his seat on the City Council effective May 4, 2018. Kodiak City Code requires the Council to fill the position within 30 days. The position was advertised in the newspaper and via public service announcements on the radio. Daniel Mckenna-Foster was the sole applicant and was interviewed by the Council at the April 24 work session.

Councilmember Bishop MOVED to appoint Daniel Mckenna-Foster to the vacant seat on the City Council for a term ending when the October 2, 2018, election has been certified.

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

VI. STAFF REPORTS

a. City Manager

Manager Mike Tvenge stated that he has approved the activities for the 2018 Crab Festival and parade, and waived the permit fee. He said the Crab Festival 60th anniversary will take place May 24-28, 2018. Mr. Tvenge stated that the Public Works and Parks Departments have been cleaning and planting flowers downtown. He said the Birch Street project continues to go well, and Birch Street will be closed by Memorial Day to through traffic. He said that the City has two employees retiring this month: Library Specialist Ellie Werbe and Public Works Director Mark Kozak. Mr. Tvenge stated that both employees will be missed and he thanked them for their hard work and dedication. He said that on May 22, 2018, at 7:30 p.m. there will be a speaker at the Kodiak Public Library discussing the tsunami inundation maps and evacuation routes.

b. City Clerk

Clerk Marlar stated that upcoming meetings include a May 22 work session, and a May 24 regular meeting. She said the Mayors will decide Friday if there will be a May joint work session. She said there is also a community forum on combining local governments on May 29 at 7 p.m. in the library.

Councilmember Whiddon added that there is a May 30 Fisheries Work Group Meeting at 10 a.m.

VII. MAYOR'S COMMENTS

Mayor Branson stated that she and Mayor Rohrer have been discussing having a community forum about consolidation, unification, and annexation so that community members are educated and have the information they need about each of these processes. She said this will be held at the Kodiak Public Library on May 29, 2018, at 7 p.m. and she invites the public to come.

Mayor Branson congratulated Public Works Director Mark Kozak on his retirement and 30 years with the City. She said he has done a wonderful job and amazes her with his knowledge. She congratulated Ellie Werbe as well and said she has done a great job as the children's librarian. Mayor Branson welcomed Daniel Mckenna-Foster as a new Councilmember and stated that she looks forward to working with him and knows he cares greatly about this community. Mayor Branson stated that the City Finance Director Kelly Mayes is going to be leaving soon, and said she has done a great job, and thanked her for her service to the City.

Mayor Branson stated that the Kodiak City Charter is clear that the City Manager, not the Council, is responsible for personnel decisions for the City. She said policy setting and budget decisions are the role of the Council. She said she knows that everyone wants to know what happened, but in order to protect the City, the employee, and to follow personnel laws there must be confidentiality. Mayor Branson assured the public that the decision was made fairly and by protocol.

VIII. COUNCIL COMMENTS

Councilmember Walker thanked and congratulated Mr. Kozak and wished good luck to his replacement Craig Walton. He thanked all of the City employees for doing what they do.

Councilmember Davidson said congratulations and thank you to Mr. Kozak. He said the City will be at a loss in his absence but Craig will do a great job. He also thanked Ellie for her tremendous work at the library. He said he knows the community is having a hard time with what happened, but the citizens appointed the Council to follow the City Charter, which means their abilities on personnel decisions are limited. He said he hopes the community experiences healing and understanding soon.

Councilmember Arboleda congratulated Ms. Werbe and Mr. Kozak on their retirements and said good luck to Craig Walton in his new position. She also congratulated Daniel Mckenna-Foster and thanked him for stepping up. She said she looks forward to working with him.

Councilmember Whiddon congratulated Mr. Kozak for 30 years with the City. He said he can't think of a time Mark couldn't come up with an answer, and without his presence he can't even imagine where we would be as a community. He said they are expecting great things from Craig Walton. He thanked Daniel Mckenna-Foster for stepping up. Councilmember Whiddon said there was an Economic Development Committee meeting yesterday, and they decided to put on a community-wide economic summit in October to help decide where the City needs to go as far as economic activities. He stated that if he was in the position of the public, he would be feeling the same way and have a lot of the same questions regarding the former deputy manager. He said there are specific restrictions on what Council can and cannot do when it comes to employee matters and they have to abide by those. He said they have complete faith in the manager and are confident that the decision he has made is in the best interest of the City.

Councilmember Bishop congratulated Mr. Kozak on 30 years with the City and Ms. Werbe on her retirement. He recognized Ted Hansen and Paul Sorongon for their work in the Building Department. He thanked the community members who participated in the community clean up. He thanked Daniel Mckenna-Foster for getting involved and said he looks forward to working with him. He wished a happy Mother's Day to all the mothers.

IX. AUDIENCE COMMENTS

Larry Van Daele acknowledged his conflict of interest, as he is Matt's father. Regarding Matt's termination, he asked: Was it of the people, by the people, and for the people? He said he knows that this is a personnel matter, and the Council doesn't think they can do anything about it but he thinks that is wrong. Van Daele stated that the manager is an employee of the Council, and if

something he does isn't right they have the right and the duty to correct his actions. He spoke about checks and balances in the local government. He questioned whether all the new employees will feel secure in their jobs during the probationary period.

X. EXECUTIVE SESSION

a. City-Ocean Beauty Lease Agreement – Post-Termination Issues

Councilmember Arboleda MOVED to enter into executive session pursuant to KCC 2.04.100(b)(1) and (c) 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, Bishop, Davidson, Walker, and Whiddon in favor. The motion passed.

The City Council entered into executive session at 8:38 p.m.

Mayor Branson reconvened the regular meeting at 8:58 p.m.

XI. OATH OF OFFICE TO NEWLY APPOINTED COUNCILMEMBER

KCC 2.28.080 requires elected officials to take and subscribe to the Oath of Office. The City Clerk administered the Oath of Office to Daniel Mckenna-Foster, the City's newly appointed Councilmember.

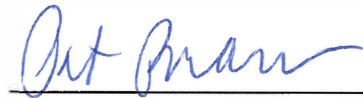
XII. ADJOURNMENT

Councilmember Mckenna-Foster MOVED to adjourn the meeting.

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

The meeting adjourned at 9 p.m.

CITY OF KODIAK



MAYOR

ATTEST:



CITY CLERK

Minutes Approved: May 24, 2018

