

**MINUTES OF THE REGULAR COUNCIL MEETING
OF THE CITY OF KODIAK
HELD THURSDAY, MAY 24, 2018
IN THE BOROUGH ASSEMBLY CHAMBERS**

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

Mayor Pat Branson called the meeting to order at 7:30 p.m. Councilmembers Laura B. Arboleda, Charles E. Davidson, Daniel Mckenna-Foster, Richard H. Walker, and John B. Whiddon were present and constituted a quorum. City Manager Mike Tvenge, Deputy Clerk Michelle Shuravloff-Nelson, and Assistant Clerk Shannon Hamer were also present. Councilmember Randall C. Bishop was absent.

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 May 10, 2018, regular meeting as presented.

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

III. PERSONS TO BE HEARD

a. Proclamation: Declaring Salvation Army Week (May 14-20)

Councilmember Davidson read the proclamation, which recognized the Salvation Army for its service to Kodiak and throughout Alaska.

Major Davis of the Salvation Army accepted the proclamation. He said that the Salvation Army has been in Kodiak for 25 years, and he and his wife have been here for half of that time. He said that makes this a special proclamation for him; he thanked the community for the opportunities to serve and said it has been a privilege to be here.

b. Proclamation: Declaring Mental Health Month

Councilmember Mckenna-Foster read the proclamation, which recognized the importance of mental health treatment and encouraged the community to increase awareness and understanding of mental health, the steps one can take to protect their mental health, and the need for appropriate and accessible services for all people with mental illnesses.

Mary Guilas-Hawver of the Providence Kodiak Island Counseling Center accepted the proclamation. She stated the goal of Mental Health Month is to increase awareness of mental health disorders, encourage people to seek treatment by providing resources, and help to remove negative stereotypes of mental illness. She said that in an effort to reduce the stigma surrounding mental illness, there will be a screening of the film Resilience in the Kodiak Public Library Multi-purpose room on Thursday, May 31 at 5:30 p.m. with discussion following. She said people can call the counseling center for more information.

c. Proclamation: Declaring Safe Boating Week

Councilmember Arboleda read the proclamation, which urged residents who boat to wear Coast Guard-approved personal flotation devices and to practice safe boating habits.

Nicole Clark of the U.S. Coast Guard Auxiliary accepted the proclamation; she stated Safe Boating Week is part of a year-long effort to promote safe boating through awareness, education, and prevention. Ms. Clark stated that 80 percent of boating deaths are due to drowning, and wearing a life vest is the most effective life-saving method. She said that there has been an increase in drowning among paddle craft users. The Coast Guard Auxiliary has many resources including free vessel safety checks, boating safety classes, and free life jackets for day use.

d. Public Comments

Larry Van Daele commended the Council for choosing to use a third-party investigator to examine recent personnel decisions. He said he was confused about the decision due to comments at the last meeting stating that the Council could not get involved in personnel issues. He proceeded to ask several questions about how the investigation will work and how the findings of the investigation will be handled. Mr. Van Daele asked that Councilmembers who have made decisive comments on the issue exclude themselves from being on the selection committee.

Judi Kidder said at the last public meeting she gave examples of her personal experiences with the City that she believed demonstrated a lack of transparency. She stated that before the last work session, Councilmember Whiddon came to her house and cautioned her about testifying in public comment, due to the possibility of damaging an employee's reputation. She stated this was inappropriate and she was disturbed by this.

Jonathan Strong, an addiction counselor in Kodiak, commented on the marijuana ordinance. He had two sets of candies as an example to prove his point that it is impossible to tell when items have marijuana in them once they have left their original packaging. He urged the Council to keep the ban on marijuana edibles.

Alexis Kwatcha said that we should go back to shutting down roads downtown during Crab Fest. He said that it is an accident waiting to happen, people are not paying attention, and it is a matter of time before someone gets hit. He agreed with Larry Van Daele's comments and said there needs to be complete transparency.

Larry Ledoux said that today there was almost a tragedy at Baranof Park with the attempted abduction of a child. He thanked the KPD for their immediate response. He expressed appreciation of their professionalism. He thanked the City for hiring a wonderful Police Chief.

IV. UNFINISHED BUSINESS

a. Second Reading and Public Hearing, 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. The City recommended the Council take 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.

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

Councilmember Davidson MOVED to adopt Ordinance No. 1377.

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

V. NEW BUSINESS

a. First Reading, Ordinance No. 1378, Amending Title 5 With the Renumbering of KCC Chapter 7.40 to Chapter 5.24 and the Addition of New Sections for Marijuana Businesses, and Amending Chapter 8.48 to Reflect Alaska Marijuana Law

Mayor Branson read Ordinance No. 1378 by title. On November 4, 2014, Alaska voters passed Ballot Measure 2, An Act to Tax and Regulate the Production, Use, and Sale of Marijuana, which initiated the State and Statewide municipalities to begin to determine how to regulate marijuana on both State and municipal levels. Subsequently, the Council adopted Resolution No. 2016-16, Establishing a Marijuana Advisory Special Committee, to recommend guidelines for implementing taxation, regulation, production, sale, and use of marijuana within the Kodiak City limit. The Committee met nine times from June 2016 through April 2017 and brought forward for Council consideration regulations and policies governing marijuana establishments within the Kodiak City limit. Staff met with Kodiak Island Borough Planning officials to discuss zoning and land use regulations pertaining to marijuana. Staff then met with the City attorney and requested he draft an ordinance to include the recommendations accepted by the City Council in October 2017. The Council reviewed the ordinance at the May 10, 2018, work session, and further refinements were made.

Councilmember Arboleda MOVED to pass Ordinance No. 1378 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, Davidson, Mckenna-Foster, Walker, and Whiddon in favor. Councilmember Bishop was absent. The motion passed.

b. First Reading, Ordinance No. 1379, Approving a Terminal Operation Contract and a Pier II Use and Upland Agreement With American President Lines LTD

Mayor Branson read Ordinance 1379 by title. Ordinance No. 1379 authorizes the City of Kodiak to enter into the following agreements with American President Lines, LTD (APL): a Pier II Use and Upland Lease Agreement for a term of five years, plus an option for two five-year renewals upon mutual agreement; and a Terminal Operating Contract for a term of five years, plus two five-year renewals upon mutual agreement.

Councilmember Walker MOVED to pass Ordinance No. 1379 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, Davidson, Mckenna-Foster, Walker, and Whiddon in favor. Councilmember Bishop was absent. The motion passed.

c. Election of Deputy Mayor

Under the provisions of City Charter Article II, Section 2, the City Council shall elect one of its members as Deputy Mayor no sooner than thirty days, nor more than sixty days, from the beginning of the newly-elected Councilmembers' terms. On December 14, 2017, Councilmember Saravia was elected Deputy Mayor for a one-year term. On May 4, 2018, Deputy Mayor Saravia resigned as an elected official and the Deputy Mayor position is currently vacant. If a vacancy occurs in the office of Mayor, the Deputy Mayor serves until another Mayor is elected by the Council. If the office of Deputy Mayor becomes vacant, the Council shall elect from its members another Deputy Mayor for the completion of the unexpired term. The Deputy Mayor, when acting as Mayor, shall continue to have a vote as Councilmember; but the Deputy Mayor shall not have veto power.

Councilmember Davidson suggested that those who are interested submit their name and then the Council vote by blind ballot.

Councilmember Davidson was the sole member to submit his name.

Councilmember Whiddon MOVED to elect Councilmember Davidson as Deputy Mayor for the remainder of the one-year term ending in 2018.

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

d. Authorization to Cancel the June 28, July 26, and August 23, 2018, Regular Meetings and Authorize the City Manager to Schedule a Special Meeting if Needed

The regularly scheduled Council meetings for June, July, and August may be cancelled to reflect the summer meeting schedule. Elected officials and staff will attend the summer Alaska Municipal League conference August 21 through August 24. Staff discussed the meeting schedule with the Council at the May 8, 2018, work session, and Council recommended

cancelling the June 28, July 26, and August 23, 2018, regular meetings and scheduling a special meeting if needed.

Councilmember Arboleda MOVED to cancel the June 28, July 26, and August 23, 2018, regular meetings and authorize the City Manager to schedule a special meeting if needed.

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

e. Direct the Mayor and Two Councilmembers to Pursue an Independent, Third-party Review of the Process Followed in Recent Personnel Decisions

The City of Kodiak cannot discuss the reasons for any personnel action or the steps that lead to employees being terminated during a probation period. The City takes any personnel action only after careful consideration following a formalized process set out in the Personnel Rules and Regulations. In response to citizen concerns, the Council will pursue a thorough, independent, third-party review of the process followed in the termination of the former Deputy Manager.

Councilmember Davidson MOVED to confirm the Mayoral appointments of Councilmember Charles Davidson and Laura Arboleda and direct the Mayor and appointed Councilmembers to select a reviewer to pursue a thorough, independent third-party review of the process followed in the termination of the Deputy Manager and provide the general outcome of the review once it has been completed.

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

VI. STAFF REPORTS

a. City Manager

Manager Tvenge said that the City Parks and Recreation Department has been busy cleaning, planting, and hanging the banners in preparation for Crab Fest. He said that two weeks ago the Police Department and Fire Department organized a bike rodeo at Wal-Mart, which was a great opportunity to teach bike safety. He said that last weekend the annual Torch Run was held and raised over \$2,200 for Special Olympics. Mr. Tvenge acknowledged that after 11 years KPD Officer Holden is moving from his role as School Resource Officer to assist in policing downtown. He said that Color with KDP will be this Saturday at Fisherman's Hall from 12:30 until 2 p.m. Mr. Tvenge said that Finance Director Kelly Mayes' last day with the City is tomorrow. He said she has done great work, and that there will be a luncheon tomorrow at noon to wish her well.

b. City Clerk

Deputy Clerk Shuravloff-Nelson said that on May 29 there will be a Community Forum in the Kodiak Public Library at 7 p.m. She said there is a Fisheries Work Group Meeting on May 30 in

the Assembly conference room at 10 a.m. She announced the Council work session and regular meeting schedule for June.

VII. MAYOR'S COMMENTS

Mayor Branson stated that she has no bias in the personnel situation, and she is the one who called for the independent review. She said she believes this will give the public the answers being sought. She said she would provide the third party reviewer with the questions written by Larry Van Daele. Mayor Branson said the committee will recommend the reviewer and anticipates reports will be provided to the Council and an outcome reported to the community. She congratulated Tino Bormuel at the Waste Water Treatment Plant for being the State's 2018 Large Systems Manager of the Year. She said on May 29 there will be a community forum on annexation/consolidation/merger given by a State local boundary commission representative. Mayor Branson gave a report of her business and meetings in Washington, D.C. last week, including discussion on expanding the Coast Guard housing, the Salmon and Cod disaster funds, and the Fire Hall and WWTP infrastructure needs. She stated that this weekend is the Crab Festival and Memorial Day.

VIII. COUNCIL COMMENTS

Councilmember Mckenna-Foster said he is not comfortable being a part of the statement released by the City that made claims affirming the Manager's recent personnel decisions because he wasn't involved in it. He expressed concern over the City lacking some contracts for professional services. Mr. Mckenna-Foster said the comment about a Councilmember approaching a member of the public was concerning to him, and that it deserves attention. He said he is finding resistance, even as a Councilmember, to getting information from the City.

Councilmember Whiddon wished Kelly Mayes good luck and thanked her for her work as Finance Director. He spoke of the Coast Guard's value in our community and how the population and need for resources is growing. He agreed that housing is a huge issue. He talked about Memorial Day and reminded everyone why we have this holiday. He asked people to think of those who serve and have served.

Councilmember Arboleda thanked Kelly Mayes for her work in the Finance Department. She encouraged the public to stay safe and support local businesses during Crab Fest. She said the Alutiiq ground-breaking ceremony is happening tomorrow at 4 p.m. at the park. Ms. Arboleda stated that she and other Councilmembers were voted onto this Council and, therefore, trusted by the people to make the best decisions for the community; she assured the public that her decisions as a part of the Council can be trusted.

Councilmember Davidson said that it is troubling to be called non transparent. He said everything he does is because he loves this community. He again encouraged the public to read the City Charter and Code. He wished everyone a fun Crab Fest. He thanked Kelly Mayes for her hard work.

Councilmember Walker welcomed Daniel to the Council. He said along with new USCG ships there are several USCG infrastructure projects going on. He said there is going to be a boon with state money going to our Coast Guard. He said we should be thankful for all we have and

thankful on Memorial Day to those who have served. He said Kelly has done a great job with the budget and thanked her for her work. He said not everybody knows about the rules and regulations the Council has to follow and learning the process takes time. He encouraged participation in new Councilmember orientation and working as a team. He said he would like to have more people show up to the meetings to talk about a variety of topics. He said he is proud to work with the Council, and they are all people of character. He wished the public a good Crab Fest weekend.

IX. AUDIENCE COMMENTS

Judi Kidder said that it would be nice to see the Mayor at the Memorial Service at the American Ceremony at 11 a.m. She again referenced her previous comments about Councilmember Whiddon. She stated her belief that the dismissed employee did not know the reason for his dismissal. She said she wants to see an investigation where the Council is completely hands off. She said the Borough had been in a similar situation and they did a lot to be transparent. She said the City hasn't done that, and these are the kinds of things that cause the public to lose faith in local government.

Dick Rohrer said that he is a big proponent of kids coming back to Kodiak. He said when Matt was hired, it clicked with the community and with him and seemed like an ideal situation; but perhaps it wasn't the best fit. He suggested the Council look at whether the Deputy Manager's position is necessary. He said it appears there was a lack of communication between the Manager and Deputy Manager. Mr. Rohrer said the Council should be involved when there is a communication issue.

Kelly Mayes thanked all the City staff for everything over the last three years and said she thinks they are a wonderful team. She said she didn't know what to expect when she came here, but everyone was helpful and friendly and she felt very supported. She commended the Council on their volunteer work for the community.

Nicole Clark, via telephone, said she was very impressed with the amount of discussion during the meeting tonight. She thanked the Council for all they do and understands it is thankless at times, but rewarding. She looks forward to the results of the independent investigation. She thanked KDP for their quick response to the situation at Baranof Park today.

Mayor Branson said the word transparency has been heard over and over again with both the City and Borough. She stated to the public that their doors are open at all times and transparency goes both ways. She invited individuals who have questions that are not being answered to contact her or the Council.

X. ADJOURNMENT

Councilmember Davidson MOVED to adjourn the meeting.

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

The meeting adjourned at 9:13 p.m.

CITY OF KODIAK

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MAYOR

ATTEST:

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CITY CLERK

Minutes Approved: June 14, 2018

