

I. CALL TO ORDER

The Regular Meeting of the Dillingham City Council was held on Thursday, May 1, 2014, at the Dillingham City Council Chambers, Dillingham, Alaska. Mayor Alice Ruby called the meeting to order at 7:03 p.m. A workshop preceded the meeting at 6:30 p.m. for a review of the March financial statements.

II. ROLL CALL

Mayor Alice Ruby was present.

Council Members present and establishing a quorum (a quorum being four):

- Holly Johnson, Seat A
- Chris Maines, Seat B
- Bob Himschoot, Seat C – attended via teleconference
- Keggie Tubbs, Seat D
- Tracy Hightower, Seat E
- Paul Liedberg, Seat F

Staff in attendance:

- Rose Loera, City Manager
- Carol Shade, Finance Director
- Dan Pasquariello, Chief of Police/Sergeant at Arms
- Jody Seitz, Planning Director
- Janice Williams, City Clerk

III. APPROVAL OF MINUTES

- A. Regular Council Meeting – April 3, 2014

MOTION: Chris Maines moved and Tracy Hightower seconded the motion to approve the minutes of April 3, 2014.

VOTE: The motion to approve the minutes of April 3, 2014 passed unanimously.

IV. APPROVAL OF CONSENT AGENDA

There was no consent agenda.

APPROVAL OF AGENDA

MOTION: Keggie Tubbs moved and Tracy Hightower seconded the motion to approve the agenda.

VOTE: The motion to approve the agenda passed unanimously.

V. STAFF REPORTS

A. City Manager Report

City Manager Loera reported on the following:

Vacancies – advertising for a buildings and grounds (B&G) supervisor and assistant; B&G supervisor moved out to the landfill;

Landfill – City sent its first payment for the incinerator which is due to arrive on the September barge; compactor due to arrive by end of May, worked with CH2M Hill on renewal of landfill permit;

ADEC – continue to work on notice of violations at the lagoon; testing procedures now in place;

Insurance Claim for the Dock – insurance will cover all the damage costs of \$342K, less the \$25K deductible;

Erosion at the Kananak Cemetery – concerned erosion within about four feet from the road; road not owned by the City;

State's intended Use Plan for both Alaska Clean Water Fund and Drinking Water Fund -- City is eligible to apply for loans for both water and landfill projects; for water it would be a match for municipal matching grant, would subsidize up to 75% of \$1M with 1% interest; landfill eligible up to \$2M;

MOTION: Keggie Tubbs moved and Chris Maines seconded the motion to have Code Committee review existing code and recommend whether to make the additions outlined in the City Attorney's memo (re: Property Tax Exemption for Senior Citizens and Disabled Vets).

VOTE: The motion passed unanimously.

Out of the Office - week of May 5, available by phone and email, and Carol Shade to be left in charge; and

ADEC Quality Assurance Plan – will be sending a revised facility plan, contracted with CH2M Hill for Phase 2 and 3 of the lagoon projects.

B. Standing Committee Reports

Paul Liedberg, Chair for Code Review Committee, reported the main focus of the meeting was to discuss the draft ordinance on private access that included the amendments brought forward at the April 3 Council meeting. The amendments were not voted on by the committee.

Bob Himschoot, Chair of the Finance and Budget Committee reported the committee had recommended the two resolutions in the packet: award audit services, and set school funding level; reviewed proposed landfill rates; discussed potential for the City to purchase some heavy equipment from a local contractor; and reviewed FY15 budget.

VI. PUBLIC HEARINGS

Mayor Ruby opened the public hearing, noting Ordinance Nos. 2014-06, 2014-07, and 2014-08 were up for adoption.

A. Adopt Ordinance No. 2014-06, An Ordinance of the Dillingham City Council Amending Chapter 18.16 of the Dillingham Municipal Code to Provide a System of

Permits and Reviews to Respond to a Variety of Land Use Activities and Creating New Title 19, Material Site Regulation

- B. Adopt Ordinance No. 2014-07, An Ordinance of the Dillingham City Council Authorizing the Sale of Tax Foreclosed Property to the Former Record
- C. Adopt Ordinance No. 2014-08, An Ordinance of the Dillingham City Council Amending Title 17 of the Dillingham Municipal Code to Allow for Private Access to Certain Subdivisions and Establish Minimum Standards for Private Access to Subdivisions and to Amend Definitions and Make Other Amendments to Platting Requirements

Russell Nelson:

- spoke in favor of Ordinance No. 2014-08 (SUB-2), that it was a good compromise, and although felt it was pretty restrictive could live with it; and
- noted the ordinance would help with development of native allotments in the City.

Misty Savo:

- spoke in favor of Ordinance No. 2014-08 (SUB-2), appreciated all the efforts the Planning Commission and Subdivision Access Committee spent on it; ordinance wasn't perfect, but could accept it.

Robin Samuelsen:

- spoke on Ordinance No. 2014-08 (SUB-2) on behalf of himself, Connie Timmerman, and his daughter, thanked the Subdivision Access Committee for working with the City on it, and urged the Council to pass it.

There being no other public comments, the public hearing closed.

VII. CITIZEN'S DISCUSSION (Prior Notice or Agenda Items)

Steve Shade, resident on Squaw Creek Road:

- commented he has been using his personal plow truck to grade road and snow since the State abandoned it;
- noted the residents at the end of Squaw Creek Road needed legal access to their properties so people could develop their lands and improve their homes; fifty years and still no legal access; and
- commented he was paying taxes but getting no services.

Dan Boyd, resident on Squaw Creek Road:

- commented he was interested on the history of the road, how the State acquired maintenance of it, and was it legal for them to abandon it.

Mayor Ruby reported she did not have an answer for him at this time, but had written down his comments.

VIII. ORDINANCES AND RESOLUTIONS

- A. Adopt Ordinance No. 2014-06, An Ordinance of the Dillingham City Council Amending Chapter 18.16 of the Dillingham Municipal Code to Provide a System of Permits and Reviews to Respond to a Variety of Land Use Activities and Creating New Title 19, Material Site Regulation

MOTION: Keggie Tubbs moved and Chris Maines seconded the motion to adopt Ordinance No. 2014-06.

MOTION: Keggie Tubbs moved and seconded the motion to amend Ordinance No. 2014-06 by substituting Ordinance No. 2014-06 (SUB-1).

VOTE: The motion to amend Ordinance No. 2014-06 by substituting Ordinance No. 2014-06 (SUB-1) passed unanimously.

VOTE: The motion to adopt the amended Ordinance No. 2014-06 (SUB-1) passed unanimously.

- B. Adopt Ordinance No. 2014-07, An Ordinance of the Dillingham City Council Authorizing the Sale of Tax Foreclosed Property to the Former Record

MOTION: Chris Maines moved and Keggie Tubbs seconded the motion to adopt Ordinance No. 2014-07.

VOTE: The motion to adopt Ordinance No. 2014-07 passed unanimously.

- C. Adopt Ordinance No. 2014-08, An Ordinance of the Dillingham City Council Amending Title 17 of the Dillingham Municipal Code to Allow for Private Access to Certain Subdivisions and Establish Minimum Standards for Private Access to Subdivisions and to Amend Definitions and Make Other Amendments to Platting Requirements

MOTION: Keggie Tubbs moved and Holly Johnson seconded the motion to adopt Ordinance No. 2014-08.

MOTION: Keggie Tubbs moved and Chris Maines seconded the motion to amend Ordinance No. 2014-08 by substituting Ordinance No. 2014-08 (SUB-2).

Mayor Ruby clarified this was strictly her proposed substitute based on the result of discussion at the April 10 Code Review Committee with additional input from the guests in the audience.

Discussion:

- commented the City's Attorney suggested that the Council determine if the amendments were substantive and allowed for adequate public notice; and
- noted the Attorney clarified there was no limit to the number of amendments that could be made, but avoid straying from the original intent of the ordinance.

MOTION: Paul Liedberg moved to amend section 17.19.050.F. to replace 12 feet with 16 feet as recommended by the Code Committee and Planning Commission in the original ordinance that was introduced.

The motion failed for lack of a second.

MOTION: Chris Maines called for the question. *(Clerk Note: Effectively stops all debate.)*

The motion failed for lack of a second.

Paul Liedberg asked to go on record that he continued to support a 16 foot road standard. He gave the example if there were ten lots with 12-13 homes on the lots, there was a potential for well over 100 trips a day; the road should be wide enough to accommodate that much traffic, including fire and EMS vehicles. He noted he could not support a 12 foot road, whether it was a private or public road. If the road was to receive the City's stamp of approval, the City still had some responsibility to those residing on the road to provide a road corridor that provided for safety for pedestrians and be an adequate size for traffic.

Discussion:

- reported substitute 2 would allow for at least a 50 foot easement with a 12 foot improved driving surface accessing up to six lots; a 14 foot improved driving surface accessing up to 10 lots; and a 20 foot finished surface accessing more than 10 lots;
- noted the private access roads would not be maintained by the City, but by the homeowner; and
- thanked those who had worked together to come up with a compromise.

VOTE: The motion to amend Ordinance No. 2014-08 by substituting Ordinance No. 2014-08 (SUB-2) passed with Tracy Hightower, Holly Johnson, Bob Himschoot, Keggie Tubbs, and Chris Maines voting in favor and Paul Liedberg opposed.

VOTE: The motion to adopt Ordinance No. 2014-08 (SUB-2) passed with Tracy Hightower, Bob Himschoot, Chris Maines Holly Johnson, and Keggie Tubbs in favor and Paul Liedberg opposed.

D. [PLACEHOLDER] Ordinance No. 2014-09, An Ordinance of the Dillingham City Council Authorizing the Disposal of Municipal Property to Lyle and Silke Smith *(Clerk Note: This ordinance was introduced April 3, 2014, and is up for a public hearing and adoption June 5, 2014, to allow for a 30-day posting period.)*

E. Introduce Ordinance No. 2014-10, An Ordinance of the Dillingham City Council Authorizing the Disposal of Municipal Property to Ben McDowell dba Motive Power Marine by Lease

MOTION: Chris Maines moved and Holly Johnson seconded the motion to introduce Ordinance No. 2014-10.

Manager Loera reported Ben McDowell was the only person to submit a RFP to lease Lot 4 at the harbor. He was currently leasing Lot 3. The ordinance, if approved, would allow him to expand his operation to Lot 4, 30,000 square feet to be used for boat storage. His current lease

for Lot 3 required that he build a permanent structure within a period of time. He had recently asked for an extension to the end of the year to build a 60' X 100' structure.

VOTE: The motion to introduce Ordinance No. 20141-10 passed unanimously.

- F. Adopt Resolution No. 2014-23, A Resolution of the Dillingham City Council Establishing the Level of Funding for the Dillingham City School District for the Fiscal Year Ending June 30, 2015

MOTION: Keggie Tubbs moved and Chris Maines seconded the motion to approve Ordinance No. 2014-23.

VOTE: The motion to approve Resolution No. 2014-23 passed unanimously.

- G. Adopt Resolution No. 2014-24, A Resolution of the Dillingham City Council Authorizing the City Manager to Execute a Contract with Altman, Rogers & Co. to Provide Audit Services for FY2014, FY2015, and FY2016

Manager Loera reported both auditing firms were experienced, but Altman Rogers presented the lower bid. She reported in the sentence starting with "Now, therefore, be it resolved" to strike the word telephonically from "and a presentation to the Council, telephonically,".

MOTION: Keggie Tubbs moved and Holly Johnson seconded the motion to approve Ordinance No. 2014-24.

VOTE: The motion to approve Resolution No. 2014-24 passed unanimously.

IX. UNFINISHED BUSINESS

- A. Citizen Committee Appointments – No Letters of Interest on File

1. Cemetery Committee, 4 Seats Open
2. Planning Commission, 2 Seats Open
3. Parks and Recreation Committee, 3 Seats Open
4. Library Advisory Board, 1 Seat Open

There were no letters of interest on file.

- B. Landfill Update

Manager Loera referred to the informational flyer to all box holders regarding new changes at the landfill starting June 1, and encouraging citizens to recycle. She reported the Finance and Budget committee was in the process of reviewing some proposed landfill rates. She asked to recommend assigning Code with a task to amend code to add a penalty for improper dumping.

MOTION: Keggie Tubbs moved and Chris Maines seconded the motion to assign the Code Committee to review a proposed revision to Section 8.04 regarding improper dumping of refuse.

VOTE: The motion passed unanimously.
C. Order on Appeal – Annexation

Manager Loera commented there was nothing new to report at this time.

D. Reschedule Strategic Planning Session to October or November

Mayor Ruby commented the strategic planning session would be moved to after the October election.

X. NEW BUSINESS

A. Liquor License Renewal – Willow Tree Inn

Mayor Ruby commented the City's role was to either protest the license or do nothing. The State would judge whether the objection was adequate. If objecting, the City would have to provide a reason why.

Manager Loera commented the State had notified the City that the license had expired, had contacted the owners to close pending their hearing date. The City asked the Police to follow up to be sure the business was not serving liquor.

Discussion ensued:

- asked to clarify if the liquor license owner must also be resident of Dillingham;
- noted the Willow Tree was open during Beaver Round-Up, concerned the firm was operating without a liquor license after their license expired December 31 (*discovered later the State allows for a two-month grace period*); shouldn't the State have notified the City earlier than March 10;
- commented the State was the regulatory agent, and would expect the State would take the appropriate action if liquor license had expired;
- commented in favor of protesting the renewal of the license if in fact the business had been operating without a license for two to three months;
- objected to the business operating without a license for some time, but not to the issuance of the license, and felt strongly penalties and such should be applied; and
- commented issues with unpaid sales tax or conducting illegal activity, such as serving to minors, would be more in line with protesting the renewal of the license, although serving without a license was serious.

MOTION: Paul Liedberg moved and Bob Himschoot seconded the motion to not protest the renewal, but direct City Manager to bring to the State's attention the City's concern the business had operated without a license for several months, and to confirm adequate penalties had been rendered.

Discussion:

- voiced concern there was not enough information to make an informed decision.

MOTION: Keggie Tubbs moved and Bob Himschoot postponed action on liquor license renewal for a Special Council Meeting the following week and to provide the Manager with a list of questions for the State.

VOTE: The motion to postpone the liquor license for a Special Council meeting passed unanimously.

B. Squaw Creek Road Update

Manager Loera commented this item would be reviewed in the executive session.

C. Action Memorandum No. 2014-05, Authorize the City Manager to Award the Purchase of a Compactor – 1996 Caterpillar Model 816F

MOTION: Keggie Tubbs moved and Holly Johnson seconded the motion to approve Action Memorandum No. 2014-05.

VOTE: The motion to approve Action Memorandum No. 2014-05 passed unanimously.

XI. CITIZEN'S DISCUSSION (Open to the Public)

Russell Nelson thanked the Council for working through the lengthy process [private access ordinance] and his family appreciated it as well.

Rae Belle Whitcomb:

- commented in the past if a local business was late on its renewal, it was not issued a new license if their State license was not active;
- commented over half of her business was selling the vegetable starts she grew herself, and there was a sales tax exemption for home grown vegetables but not starts; opined the starts would fall under arts and crafts, which was exempt from sales tax; asked the Council to review her situation which was similar to several other growers; and
- reported since the State stopped maintaining the Squaw Creek Road earlier in the year, the school buses no longer came down the road, children were having to walk it; a resident in that area was using his own equipment to keep it maintained; understood there were easement and native allotment issues, but other substandard roads were being maintained by the City; as a contributor to the tax base should have some road services.

Jerry Ball:

- encouraged the City to do something to see [Squaw Creek] the road was maintained; owned an apartment building for which the City was collecting property tax and sales tax on the rentals; road was deplorable and a hazard to those who traveled on it.

Dan Boyd:

- commented a fuel provider was hesitant to deliver fuel until they had checked out the condition of the road; concerned other businesses would consider the road hazard enough not to deliver services.

Kevin Johnson:

- commented the airport sewer extension was on the City's project list for a number of years, there have been multiple sewer failures in that area; he was looking to see if there were Tribal funds available to tie SAFE into the City's system.

XII. COUNCIL COMMENTS

Keggie Tubbs:

- commented the Squaw Creek Road problem was a complicated issue, and several years ago the Tribe made it a priority, but could not get all the land owners to agree on an access route; and
- commented he would not vote to accept a road that was substandard.

Chris Maines:

- commented several residents were hoping the shooting range could be opened for more hours; and suggested possibly providing a separate access.

Paul Liedberg:

- thanked staff for all the good work.

Tracy Hightower: no comment

Holly Johnson:

- commented she was glad to see the ordinance on material sites was squared away.

Bob Himschoot:

- commented he was so appreciative of the EMS volunteers from Dillingham and Aleknagik who responded to his daughter's house fire.

XIII. MAYOR'S COMMENTS

Mayor Ruby:

- asked if there was any objection to sending a review of the code regarding vegetable starters to the Code Committee; none stated;
- commented the Squaw Creek Road issue was very complicated, and suggested it might be in order for a community leader to organize the homeowners and invite the City to participate;
- would be absent for the first meeting in June; and
- asked everyone to join in a moment to silence to recognize those individuals lost.

XIV. EXECUTIVE SESSION

A. Legal Matter

1. Update from the Public Safety Department

2. Squaw Creek Road – Review Legal Opinion

MOTION: Keggie Tubbs moved and Holly Johnson seconded the motion to enter into executive session to discuss Legal Matters, Update from the Public Safety Department and Squaw Creek Road – Review Legal Opinion [9:08 p.m.].

(The meeting recessed for a short break.)

VOTE: The motion to enter into executive session passed unanimously.

Mayor Ruby invited Manager Loera, Chief Pasquariello and City Clerk Williams into the executive session.

MOTION: Keggie Tubbs moved and Tracy Hightower seconded the motion to come out of executive session [10:22 p.m.].

GENERAL CONSENT: The motion to come out of executive session passed without objection.

XV. ADJOURNMENT

Mayor Ruby adjourned the meeting at 10:22 p.m.

Keggie Tubbs Mayor Pro Tempore

Mayor Alice Ruby

ATTEST: [SEAL]

Bernadette Packa, Acting City Clerk
Janice Williams, City Clerk

Approval Date: 6.5.14

