

**I. CALL TO ORDER**

The Regular Meeting of the Dillingham City Council was held on Thursday, April 3, 2014, at the Dillingham City Council Chambers, Dillingham, Alaska. Mayor Alice Ruby called the meeting to order at 7:10 p.m. A workshop preceded the meeting at 5:30 p.m. for presentations from the Alaska Municipal League on the City's insurance coverage and from the auditing firm of BDO USA LLC on the FY13 Audit.

**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  
Donnie McIntire, Chief of Police/Sergeant at Arms  
Jody Seitz, Planning Director  
Janice Williams, City Clerk

The City's Attorney, Brooks Chandler, attended via teleconference.

**III. APPROVAL OF MINUTES**

- A. Regular Council Meeting – March 13, 2014
- B. Special Joint Meeting of Planning Commission and City Council – March 19, 2014

**MOTION:** Keggie Tubbs moved and Chris Maines seconded the motion to approve the minutes of March 13, 2014.

**VOTE:** The motion to approve the minutes passed unanimously.

**MOTION:** Keggie Tubbs moved and Paul Liedberg seconded the motion to approve the minutes of March 19, 2014.

**MOTION TO AMMEND:** Holly Johnson moved and Paul Liedberg seconded the motion to amend the minutes to change the regular meeting to special joint meeting in the first sentence and add Robert Heyano under the guest list.

VOTE: The motion to approve the amendments to the minutes passed unanimously.

VOTE: The motion to approve the amended minutes passed unanimously.

#### IV. APPROVAL OF CONSENT AGENDA

There was no consent agenda.

#### APPROVAL OF AGENDA

MOTION: Keggie Tubbs moved and Holly Johnsons seconded the motion to approve the agenda revised April 1.

VOTE: The motion to approve the agenda as revised April 1 passed unanimously.

#### V. STAFF REPORTS

##### A. City Manager Report

City Manager Loera reported on the following:

- Vacancies - senior patrol officer, corrections supervisor dispatcher, harbor and dock; applied for a number of BBEDC seasonal positions for library, harbor, buildings and grounds, and finance;
- Landfill – City will need a larger incinerator than originally approved for purchase; operation will require continuous feed during the summer peak season; looking at scheduling shifts; will need to erect a building around the incinerator due to its size; time frame to be in operation around February 2015; starting June 1, 2014, landfill permit will only allow for open burning of paper and non-treated wood;
- Squaw Creek Road – looking to get with stakeholders; there are issues with easements and it's a narrow road;
- Notice of Violation at Lagoon and Landfill – work proposed for the summer will address a number of violations especially at the lagoon;
- AM 2014-03 – follow up from last meeting; Council approved a budget amendment in the FY2014 mid-year budget to add the purchase a loader, but the actual purchase had not been formalized;
- Project Manager – worked with staff to plan for this year's projects including work at the landfill, outfall erosion at Snag Point, waste water treatment plant aeration, septic receiving station, and flow meters;
- DMV closed until April 20 – staff member out for training;
- Public Safety Building – will be discussing site location at next week's meeting;
- Water, Sewer, Road requests – in addition to Squaw Creek Road, several community members have asked City to assume the responsibility for the centralized sewer system behind Windmill Hill Grill.

##### B. Standing Committee Reports

Paul Liedberg, Chair of Code Review Committee, noted the committee had been mainly occupied with the material sites ordinance that was up for introduction.

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Alice Ruby, for Finance and Budget Committee:

- noted the Supt. had delivered the school budget, and the school was asking for the same amount as last year;
- would schedule a review of the school budget April 28 at F&B meeting, and explain the complicated funding formula;
- would be reviewing landfill rates with the new changes due to go into effect; and
- noted finance to move fire donations to the ambulance fund.

## VI. PUBLIC HEARINGS

Mayor Ruby opened the public hearing on Ordinances 2014-04 and 2014-05 (SUB-1).

- A. Adopt Ordinance No. 2014-04, An Ordinance of the Dillingham City Council Amending the Dillingham Municipal Code to Consistently Apply the Title of Six Year Capital Improvement Plan
- B. Adopt Ordinance No. 2014-05 (SUB-1), An Ordinance of the Dillingham City Council Amending Chapter 4.15 of the Dillingham Municipal Code to Allow Limited Exceptions to the Deadline for Filing an Assessment Valuation Appeal and Defining the Circumstances in Which a Request for Such an Exception Will be Considered and Granted

There being no comments the public hearing closed.

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

Russell Nelson [speaking on proposed Ordinance No. 2014-08] reported his daughter's plat submitted Nov. 2012 had been denied due to the lack of a public access easement in City code. He noted the City had formed a Subdivision Access Committee in Feb. 2013 and after much discussion, and comprises came up with a list of recommendations. The Planning Commission in their review allowed for private access, but in their recommendations they were making it too expensive for subdividers and allottees to provide access. He was also concerned with the proposed change on cul-de-sacs.

Deb Nelson [speaking on proposed Ordinance No. 2014-08] brought forward that the proposed cul-de-sac amendment from "a diameter of 60 feet" to "a radius of 60 feet" would drastically increase the cost for a builder from \$5,000 to \$21,000.

Dagen Nelson, speaking on the ordinance on driveways, noted there was no one size fits all, never knew the City could make exceptions to a rule to build up to the proposed [road] standards. He voiced his concern that no one had included the monetary costs associated with the proposed standards as backup information. If the ordinance wasn't approved, questioned what would happen to access now that was already listed down, used by the City, will the City bring those roads up to standard at the City's expense.

Robert Heyano [speaking on Ordinance No. 2014-08] urged the Council not to adopt the ordinance in its present form. Commented it had been about four years since his daughter first approached the City to help with some issues with her property in an existing subdivision.

Tommy Tilden, speaking on Ordinance No. 2014-08, when land became available after ANCSA the City saw a shot in the growth of developing land due to private land becoming available to the public. He cautioned to keep in mind that safety be a consideration for road standards to get ambulances and fire trucks down those lanes. He recommended using other regional offices, like BBNA, to help solve some of these issues.

The citizen's discussion closed at 7:42 p.m.

### III. ORDINANCES AND RESOLUTIONS

- A. Adopt Ordinance No. 2014-04, An Ordinance of the Dillingham City Council Amending the Dillingham Municipal Code to Consistently Apply the Title of Six Year Capital Improvement Plan

MOTION: Keggie Tubbs moved and Chris Maines seconded the motion to adopt Ordinance No. 2014-04.

VOTE: The motion to adopt Ordinance No. 2014-04 passed unanimously.

- B. Adopt Ordinance No. 2014-05 (SUB-1), An Ordinance of the Dillingham City Council Amending Chapter 4.15 of the Dillingham Municipal Code to Allow Limited Exceptions to the Deadline for Filing an Assessment Valuation Appeal and Defining the Circumstances in Which a Request for Such an Exception Will be Considered and Granted

MOTION: Keggie Tubbs moved and Holly Johnson seconded the motion to adopt Ordinance No. 2014-05 (SUB-1).

VOTE: The motion to adopt Ordinance No. 2014-05 (SUB-1) passed unanimously.

- C. *PLACEHOLDER*. Ordinance No. 2014-07, An Ordinance of the Dillingham City Council Authorizing the Sale of Tax Foreclosed Property to the Former Record *(Clerk Note: This ordinance was introduced March 13, and is up for a public hearing and adoption May 1, 2014, to allow for a 30-day posting period.)*

- D. Introduce 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 Paul Liedberg seconded the motion to introduce Ordinance No. 2014-06.

Paul Liedberg reported on the proposed ordinance that established a tiered level of permitting for a material site that was based on size and level of activity. The ordinance included regulations dealing with issues such as excavating below the ground water table, visual screening of the excavation from the road, dust control, and a reclamation plan.

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Comment was made with small operators already burdened with meeting federal and state laws, this ordinance would mainly respond to the public demand for larger operations to have some development guidelines. The committee had invited regional organizations and developers to the meetings.

VOTE: The motion to introduce Ordinance No. 2014-06 passed unanimously.

- E. Introduce 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: Tracy Hightower moved and Bob Himschoot seconded the motion to introduce Ordinance No. 2014-08.

Bob Himschoot commented he had a list of amendments to introduce.

Mayor Ruby recommended without the amendments in front of the full Council, to introduce the ordinance and bring back the amendments to the next Council meeting as a substitute ordinance, and pass it by the Code Review Committee before the next meeting.

Discussion:

- requested clarification on the number of times an ordinance could be amended before it was adopted, understood it to be two only, staff to follow up.

A copy of the proposed changes were given to the City Clerk to incorporate into the current ordinance.

VOTE: The motion to introduce Ordinance No. 2014-08 passed unanimously.

- F. Introduce Ordinance No. 2014-09, An Ordinance of the Dillingham City Council Authorizing the Disposal of Municipal Property

MOTION: Keggie Tubbs moved and Chris Maines seconded the motion to introduce Ordinance No. 2014-09.

City Manager Loera reported this ordinance would authorize the City to dispose of a small piece of City-owned property, 670 square feet, to Lyle and Silke Smith that butted their property.

VOTE: The motion to introduce Ordinance No. 2014-09 passed unanimously.

- G. Adopt Resolution No. 2014-18, A Resolution of the Dillingham City Council Approving Task Order No. 1 with CH2M Hill to Inspect Pennram Model PHCA-1700 Incinerator and to Continue Work on Assurances that this System Will Bring the Dillingham Landfill into Compliance with State of Alaska Department of Environmental Conservation (AkDEC)

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MOTION: Keggie Tubbs moved and Holly Johnson seconded the motion to approve Resolution No. 2014-18.

City Manager Loera noted this resolution was intended for the prior Council meeting agenda, and was a cleanup item.

VOTE: The motion to approve Resolution No. 2014-18 passed unanimously.

- H. Adopt Resolution No. 2014-19, A Resolution of the Dillingham City Council Approving the 2014 BBEDC Community Block Grant (CBG) for Matching State and Federal Grant Funds

MOTION: Chris Maines moved and Tracy Hightower seconded the motion to approve Resolution No. 2014-19.

City Manager Loera reported this resolution was a cleanup item, and would authorize the City to use the BBEDC CBG grant of \$250,000 to match the State's matching grant to continue the work needed at the sewage lagoon or landfill.

Keggie Tubbs and Mayor Ruby disclosed that they worked for BBEDC, but would not gain financially from adoption of the resolution.

VOTE: The motion to approve Resolution No. 2014-19 passed unanimously.

- I. Adopt Resolution No. 2014-20, A Resolution of the Dillingham City Council Approving the Transition of the Dillingham Municipal Landfill from Open Burning Municipal Waste to Compacting and Incineration

MOTION: Chris Maines moved and Holly Johnson seconded the motion to approve Resolution No. 2014-20.

City Manager Loera reported she was asking approval for a new budget to cover the cost of a different model than the one originally approved by the Council, to purchase some gravel for an existing and additional cell, and to purchase a piece of equipment to compact the waste.

Paul Liedberg reported the new incinerator would have to be well managed to ensure only the items that could be burned were burned in order to meet the emission standards.

VOTE: The motion to approve Resolution No. 2014-20 passed unanimously.

- J. Adopt Resolution No. 2014-21, A Resolution of the Dillingham City Council Requesting FY15 Payment in Lieu Taxes Funding from the Department of Commerce, Community and Economic Development

MOTION: Keggie Tubbs moved and Holly Johnson seconded the motion to approve Resolution No. 2014-21.

VOTE: The motion to approve Resolution No. 2014-21 passed unanimously.

- K. Adopt Resolution No. 2014-22, A Resolution of the Dillingham City Council Accepting the Year End Audit for the Fiscal Year Ending June 30, 2013

MOTION: Keggie Tubbs moved and Paul Liedberg seconded the motion to approve Resolution No. 2014-22.

VOTE: The motion to approve Resolution No. 2014-22 passed unanimously.

**IX. UNFINISHED BUSINESS**

A. Citizen Committee Appointments

- 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

Mayor Ruby noted she had received a letter of interest from Gregg Marxmiller interested in serving on the Planning Commission and was recommending his appointment.

MOTION: Keggie Tubbs moved and Tracy Hightower seconded the motion to concur with the Mayor's recommendation.

VOTE: The motion to concur passed unanimously.

**X. NEW BUSINESS**

- A. Adopt Action Memorandum No. 2014-03, Authorizing the Purchase of a New Loader

MOTION: Keggie Tubbs moved and Chris Maines seconded the motion to approve Action Memorandum No. 2014-03.

City Manager Loera reported the Council had approved a budget amendment to the FY 2014 mid-year budget to add the purchase of a new loader, and the action memorandum would approve the actual purchase.

VOTE: The motion to approve Action Memorandum No. 2014-03 passed unanimously.

- B. Adopt Action Memorandum No. 2014-04, Authorizing the City to Collaborate with Nushagak Electric for a Community Clean-Up May 9, 10, and 11

MOTION: Tracy Hightower moved and Holly Johnson seconded the motion to approve Action Memorandum No. 2014-04.

VOTE: The motion to approve Action Memorandum No. 2014-04 passed unanimously.

*(The meeting recessed from 8:30 - 8:33 p.m. for a short break.)*

C. Order on Appeal – Annexation

Attorney Brooks Chandler reported on the court case filed by the Village of Ekuk in which Judge Douglas had issued a recent decision that the annexation should have been processed by the Local Boundary Commission (LBC), the legislative review method, instead of submitting the question to the voters in Dillingham. They would have had 45 days to veto the decision of the LBC. She stated the territory the City had attempted to annex had no voters living there, therefore, it should have gone to a decision of the legislators. He noted advice given by LBC staff to the LBC that they could not order this petition to the legislators, was an incorrect reading in state statute. The court has ordered the LBC to process the annexation petition by legislative review. However, they have also indicated the LBC was supposed to order the City of Dillingham to refile the annexation petition. This would substantially from scratch redo the entire process up to another hearing before LBC. The decision was not final. The LBC had ten days to ask Judge Douglas to change her mind, and it would be in the best interest of the City to do so also. The Judge would then have 30 days to decide if she should change anything that had been written.

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

Gregg Marxmiller:

- thanked the Council for his appointment to the Planning Commission, and commented he would work hard to the best of his ability.

Julie Baltar:

- commented she had served on the Subdivision Access Committee, noting the BIA Division of Transportation would have been a good resource, noting they focused on safety;
- commented transportation safety on Windmill Hill needed to be made a priority; and
- commented the school buses were not using the Squaws Creek Road and was concerned about the safety of the children walking the road.

Mike Davis:

- reported his classes were following SB21, an upcoming ballot issue, and would brief the Council if they were interested at a future time.

Tommy Tilden:

- commented he had voted for the fish tax, and thought the process the City followed was clear, open and honest, and lots of attempts made to involve everyone;
- commented he was disappointed with the Judge's decision, and was in favor of appealing the decision, noting he was appreciative of the services provided to him as a fisherman.

**XII. COUNCIL COMMENTS**

Chris Maines: no comment

Keggie Tubbs: no comment

Tracy Hightower:

- thanked everyone that attended the meeting and provided their input.

Paul Liedberg:

- thanked City staff for all their hard work, doing a great job; and
- referred to the Library report and thanked the volunteers and staff for all the activities they do for the community, noting they don't get enough thanks.

Bob Himschoot: no comment

Holly Johnson: no comment

**II. MAYOR'S COMMENTS**

Mayor Alice Ruby:

- recommended appointing Chris Maines, Holly Johnson, and Keggie Tubbs to the Board of Equalization.

**MOTION:** Keggie Tubbs moved and Tracy Hightower seconded the motion to concur with the Mayor's recommendation to appoint Chris Maines, Holly Johnson, and Keggie Tubbs to the Board of Equalization.

**VOTE:** The motion passed unanimously.

- thanked staff, especially public works for keeping up with roads and other issues; and
- asked for a moment of silence to recognize all those lost since the last meeting.

**XIV. EXECUTIVE SESSION**

A. Legal Matter

1. Order on Appeal – Annexation

**MOTION:** Keggie Tubbs moved and Holly Johnson seconded the motion to move into executive session for the purpose of discussing an order on appeal on annexation [8:53 p.m.].

**GENERAL CONSENT:** The motion to move into executive session passed without objection.

*(The meeting recessed for five minutes for a break.)*

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

MOTION: Keggie Tubbs moved and Holly Johnson seconded the motion to come out of executive session [9:24 p.m.].

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

Mayor Ruby noted Chris Maines had left during the executive session to attend to a family emergency.

**XV. ADJOURNMENT**

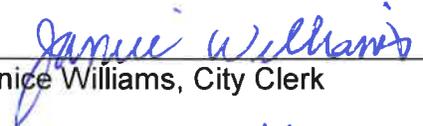
Mayor Ruby adjourned the meeting at 9:24 p.m.



Mayor Alice Ruby

ATTEST:

[SEAL]



Janice Williams, City Clerk

Approval Date: May 1, 2014