

**WHITTIER CITY COUNCIL
REGULAR MEETING
TUESDAY, APRIL 16, 2013
7:00 PM
COUNCIL CHAMBERS
P-12 BUILDING**

MINUTES

1. CALL TO ORDER: Mayor Lunceford called the meeting to order at 7:00 pm.

2. OPENING CEREMONY: Mayor Lunceford led the Pledge of Allegiance.

3. ROLL CALL:

A. Council Members Present: Larry Bussman, Pete Heddell, Lester Lunceford, Dave Pinguoch, Mary Brenneman, Dan Blair and Becky Cotner

Mayor Lunceford asked that the record reflect a quorum for tonight's meeting.

B. Council Members Absent: None

C. Excused Absences: None

D. Administration Present: Brenda Krol, City Clerk and Tom Bolen, City Manager

Others present included: Brooks Chandler, City Attorney; Scott Korbe, Sue Miller, Fred Whittingham, Marilyn Heddell, Peter Denmark, Monty Irvin, Dave Goldstein, Lee Snider, Barbara Esminger, and Charlie Eldridge

4. APPROVAL OF MINUTES

A. 15 January 2013, Regular Meeting Minutes (amended version)

B. 29 January 2013, Special Meeting Minutes

C. 05 February 2013, Special Meeting Minutes

MOTION: Mary Brenneman made a motion to approve the meeting minutes for January 15th, January 29th and February 5th 2013 as written.

SECOND: Larry Bussman seconded the motion.

VOTE: Mary Brenneman: Yes, Larry Bussman: Yes, Pete Heddell: Yes, Dan Blair: Yes, Becky Cotner: Yes, Dave Pinguoch: Yes, Lester Lunceford: Yes

Motion passed 7-0.

5. APPROVAL OF REGULAR MEETING AGENDA

Pete Heddell added resolution #07-2013 to the agenda as 13C

MOTION: Larry Bussman made a motion to approve the regular meeting agenda for April 16th 2013 as amended to add 13C, resolution #07-2013.

SECOND: Mary Brenneman seconded the motion.

VOTE: Motion passed unanimously.

6. MAYOR'S REPORT

A. Mayor Report – Lester Lunceford

Mayor Lunceford gave a brief verbal report.

Mayor Lunceford said “as many of you know we had a marathon legislation at the last minute the last couple of nights this week and everyone was calling in and requesting funding for their various projects.”

Lester Lunceford said “the other night I was on the phone for 3 and ½ hours and Brooks was on the phone for another matter for about 2 hours, we finally got heard pitching our cases for our funding requests.”

Lester Lunceford said “its not looking good for us this time around, the Governor is cutting the budget by a billion dollars and is expected to cut the budget for the next four years an additional 8 billion dollars so we are going to be struggling for the next couple of years trying to get funding for our projects out here.”

Lester Lunceford said “I am proud to announce that we did continue to get funding for the extended tunnel hours unfortunately as many of you know this was supposed to have been put into the Department of Transportation's operating budget but for whatever reasons the State hasn't done that for the last 8 or 9 years that we have had the extended hours so we are having to go and asked for these hours every year.”

B. Vice Mayor Report – Dan Blair

None

7. CITY MANAGER'S REPORT

A. City Manager Report – Tom Bolen

See written manager's report in original council packet.

Tom Bolen briefly went over his written report and reported on the MOA with Eastern Aleutian Tribes, Ethics Board, Codification, Shakespeare Creek Restoration, the City's computer system, and the continued leaking of sensitive documents.

Tom Bolen said “in light of the comments in Juneau I sure would like to spend some cruise ship tax money and I'm seeking some guidance from the council on how to make decisions about how to spend that money.”

Councilor Becky Cotner suggested a public posting to get input from the community.

Tom Bolen agreed and stated that we could post for public notice and go through the suggestions at the Planning Commission meeting.

Dave Pinguoch suggested that the council move the agenda items that the City Attorney is here to address so that he may address them now and still be able to leave on the 9pm tunnel.

agenda item 14A and 14C followed the City Manager's report.

The council recessed for a 5 minute break at 8:22 pm
The council reconvened at approximately 8:30 pm

14. UNFINISHED BUSINESS

A. Legal opinion on utility corridor ownership

Brooks Chandler had prepared a 6 page document regarding the legal opinion on the utility corridor ownership but summarized it verbally.

Brooks Chandler said "my opinion is that the City of Whittier owns certain portions of the utilidor specifically those portions that lie underneath real estate that the City of Whittier owns."

C. Findings of investigation regarding confidential information being distributed to the public

Brooks Chandler gave a brief verbal report of his investigation and stated that he would make specific recommendations regarding police department policy of releasing records, employee policy regarding reporting accidents that occur with city vehicles and a policy regarding confidentiality of records and correspondence.

B. Memorandum of Understanding between the City of Whittier and Eastern Aleutian Tribes

MOTION: Pete Heddell made a motion to enter into a memorandum of understanding between the City of Whittier and Eastern Aleutian Tribes.

SECOND: Mary Brenneman seconded the motion.

VOTE: Motion passed unanimously.

AGENDA ITEM #7 - REPORTS

B. Directors Reports

▪ Harbor – Sue Miller

See written report in original council packet

Sue Miller briefly went over her written report and welcomed any questions.

▪ Public Safety – Dave Schofield

See written report in original council packet

▪ Public Works – Scott Korbe

See written report in original council packet

Scott Korbe touched briefly on his written report and welcomed any questions.

C. Commission Reports

▪ Planning

See original council packet for minutes from the last Planning meeting held on March 12th, 2013.

▪ **Port and Harbor**

Marilynn Heddell gave a brief verbal report of the February 19th 2013 Port and Harbor meeting.

Marilynn Heddell stated that the Port & Harbor Commission is currently working on a plan for kayak launching in the harbor.

Marilynn Heddell stated that the Port & Harbor Commission would like to recommend that the Council make a motion for the City Manager to find an independent firm to do a facility assessment.

Marilynn Heddell stated that the estimate that the City Manager gave to the Port and Harbor Commission was about 20,000 to 30,000.

MOTION: Pete Heddell made a motion directing the city manager to proceed with the facility assessment of all harbor facilities as he has suggested and in conjunction with that to follow the need for the Port & Harbor Master Plan and to set priorities for maintenance repair and replacement.

SECOND: Mary Brenneman seconded the motion.

VOTE: Motion passed unanimously.

8. CITIZENS' COMMENTS ON AGENDA ITEMS NOT SCHEDULED FOR PUBLIC HEARING

None

9. CONSENT AGENDA

None

10. PUBLIC HEARING (NON-ORDINANCE)

None

11. PRESENTATIONS

None

12. ORDINANCES

A. Introduction (first reading)

None

B. Public Hearings (second reading)

None

13. RESOLUTIONS

A. #05-2013 – A resolution requesting FY 2014 Payment in Lieu of Taxes (PILT) funding from the State of Alaska, Department of Commerce, Community and Economic Development.

MOTION: Pete Heddell made a motion to adopt resolution #05-2013.

SECOND: Mary Brenneman seconded the motion.

VOTE: Motion passed unanimously.

B. #06-2013 – A resolution authorizing the city manager to enter into a grant agreement with the State of Alaska Department of Commerce, Community and Economic Development.

MOTION: Mary Brenneman made a motion to adopt resolution #06-2013.

SECOND: Larry Bussman seconded the motion.

VOTE: Motion passed unanimously.

C. #07-2013 – A resolution authorizing the city manager to enter into a grant agreement with the State of Alaska Department of Transportation and Public Facilities

MOTION: Mary Brenneman made a motion to adopt resolution #07-2013.

SECOND: Pete Heddell seconded the motion.

VOTE: Motion passed unanimously.

14. UNFINISHED BUSINESS

A. Legal opinion on utility corridor ownership

B. Memorandum of Understanding between the City of Whittier and Eastern Aleutian Tribes

C. Findings of investigation regarding confidential information being distributed to the public

UNFINISHED BUSINESS WAS MOVED UP ON THE AGENDA IMMEDIATELY FOLLOWING THE CITY MANAGER REPORT.

Mayor Lunceford stated that in the interest of time because both he and Brooks Chandler had to leave he asked that the new business be handled in reverse order starting with E.

15. NEW BUSINESS

E. Ethics Committee request for consent from city council to make public a portion of the February 5th 2013 email between the city attorney and council members

MOTION: Pete Heddell made a motion to allow the Ethics Committee to make public a portion of the February 5th email between the city attorney and council members.

DISCUSSION: Becky Cotner suggested that the motion be amended to allow the entire email to be made public instead of a portion. Both the maker of the motion and the second agreed.

SECOND: Dave Pinguoch seconded the motion.

VOTE: Pete Heddell: Yes, Dave Pinguoch: Yes, Dan Blair: Yes, Mary Brenneman: No, Larry Bussman: Yes, Becky Cotner: Yes, Lester Lunceford: Yes.

Motion passed 6-1.

D. Ethics Committee request for public hearing

MOTION: Dave Pinguoch made a motion that the council authorizes the Ethics Committee to take the next step and hold the formal hearings.

SECOND: Pete Heddell seconded the motion.

DISCUSSION: Mayor Lunceford said “the only concern that I have is, I am all for transparency and the Ethics Board but I had a disturbing piece of information that was shared with me during the recent Sportsman Show at the Sullivan Arena that the chair of the Ethics Board was there telling a few people that he had the Mayor by the balls.”

Lester Lunceford told Dave Pinguoch “that was shortly after we appointed you as the chair of the Ethics Board and you didn’t have hardly any of the information and you are already telling members of the community that you have the Mayor by the balls”

Dave Pinguoch asked “and I said this at the Sportsman Show?”

Lester Lunceford replied “yes”

Dave Pinguoch said "I didn't attend the Sportsman Show so that would make that incorrect."

Lester Lunceford said "it was a close friend of yours that told me that."

Dave Pinguoch said "I didn't attend the Sportsman Show, I did not go there and I didn't make that statement any other time for the record."

Lester Lunceford said "well I would like to ask that person one more time then before I want to move on with you being the chair."

Dave Pinguoch said "I didn't ask to be the chair, the council voted me in."

Lester Lunceford said "it was mentioned that you were the only one that was unbiased on this council and then having heard this from a friend of yours it concerns me whether or not this council will get a fair hearing, not just me but the other three that also had ethics charges brought against them."

Dave Pinguoch said "it wasn't stated that I was unbiased, I think the statement was least conflicted and I think I made it clear to the other members of the Ethics Board that I am not totally impartial on this and I am doing my best to tell them that they need to take what I say as my opinion and not as guidance and they need to make their own decisions during this."

Dave Pinguoch said "I have spent twenty hours researching this to do it right."

Lester Lunceford said "I think that you have spent 20 hours to loop the words around to fit your needs and not really look at all the evidence."

Dave Pinguoch replied "using the word loophole let me read this" and Dave read the following aloud

"minimum guidelines, the worst thing you can do is to read the ethics law like a lawyer and look for loopholes, the principal difference between a government ethics code and other ordinances that an ethics code provides is only minimum requirements that is the least that is expected from government officials therefore other ethics provisions are not meant to be viewed or interpreted the way other laws are and if an ethics code does not clearly state that certain conduct is a violation that does not mean that conduct is appropriate it only means that it is not illegal."

Dave Pinguoch said "this is written by Richard Washburn who is a training manager for Mission on Public Integrity."

Lester Lunceford said "in the interest of fairness you have ethical complaints against four members of the council which is the majority and I don't see how without going outside that it can be done fairly."

VOTE: Dave Pinguoch: Yes, Pete Heddell: Yes, Larry Bussman: Yes, Dan Blair: Yes, Becky Cotner: Yes, Mary Brenneman: Yes, Lester Lunceford: Yes.

Motion passed 7-0.

B. Appointment to vacant Port & Harbor Commission seats

Mayor Lunceford appointed Paul Heimbuch and Monty Irvin to the vacant Port and Harbor Commission seats.

MOTION: Becky Cotner made a motion to appoint Paul Heimbuch and Monty Irvin to the vacant Port and Harbor Commission seats.

SECOND: Mary Brenneman seconded the motion.

VOTE: Becky Cotner: Yes, Mary Brenneman: Yes, Dan Blair: Yes, Dave Pinquoch: Yes, Pete Heddell: No, Larry Bussman: Yes, Lester Lunceford: Yes.

Motion passed 6-1.

Mayor Lunceford excused himself and turned the meeting over to Vice Mayor Dan Blair. Mayor Lunceford and Brooks Chandler left @ 10:01 pm.

A. WH Pacific contract amendment

MOTION: Pete Heddell made a motion to approve the proposed Shotgun Cove Road Contract Amendment #6 with WH Pacific.

SECOND: Mary Brenneman seconded the motion.

VOTE: Pete Heddell: Yes, Mary Brenneman: Yes, Dan Blair: Yes, Becky Cotner: Yes, Dave Pinquoch: Yes, Larry Bussman: Yes.

Motion passed 6-0.

C. Memorandum of Understanding between the City of Whittier and Begich Towers Condominium Association, Inc.

MOTION: Pete Heddell made a motion to authorize the City Manager to enter into the Memorandum of Understanding between the City of Whittier and Begich Towers Condominium Association, Inc. as amended changing the typo that was found from unit #310 to #301.

SECOND: Becky Cotner seconded the motion.

VOTE: Pete Heddell: Yes, Becky Cotner: Yes, Mary Brenneman: Yes, Dave Pinquoch: Yes, Larry Bussman: Yes, Dan Blair: Yes.

Motion passed 6-0.

16. COUNCIL DISCUSSION

Councilor Becky Cotner asked if a competitive bid was done on the new windows in the administration office.

Tom Bolen replied "it should have gone out for competitive bid but he had found no evidence that it did."

17. CITIZENS' DISCUSSION

None

18. COUNCIL AND ADMINISTRATIVE RESPONSE TO CITIZENS' COMMENTS

None

19. COUNCIL DIRECTION TO CITY MANAGER

MOTION: Becky Cotner made a motion to direct the city manager to pursue using the funds for the clinic remodeling but also to hold Eastern Aleutian Tribes responsible for submitting construction plans for remodeling the clinic

SECOND: Larry Bussman seconded the motion.

VOTE: Motion passed unanimously.

20. EXECUTIVE SESSION

None

21. ADJOURNMENT

MOTION: Mary Brenneman made a motion to adjourn at 10:37 pm.

SECOND: Becky Cotner seconded the motion.

VOTE: Motion passed unanimously.

Attest:

Brenda Krol
City Clerk

Dan Blair
Vice Mayor