



THE CITY OF WHITTIER

Gateway to Western Prince William Sound

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**WHITTIER CITY COUNCIL
REGULAR MEETING
TUESDAY, MAY 21, 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, Mary Brenneman, Dan Blair and Becky Cotner

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

B. Council Members Absent: Dave Pinguoch

Mayor Lunceford also stated that in the packets is a written request from Councilor Pinguoch asking to be excused from tonight's meeting.

MOTION: Larry Bussman made a motion to excuse Dave Pinguoch from tonight's meeting.

SECOND: Becky Cotner seconded the motion.

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

Motion passed 6-0.

C. Excused Absences: Dave Pinguoch

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

Others present included: Kris Knauss, Scott Korbe, Dave Schofield, Eula Schofield, Sue Miller, Dave Goldstein, Charlene Arneson, Charlie Eldridge, Monty Irvin, Peter Denmark, Marion Dye, Mike Bender, Marilyn Heddell, Mike Schultz, Brandy Bender, Bill Rome, Victor Shen, Vincent Shen, Stephanie Burgoon and Cole Haddock

4. APPROVAL OF MINUTES

None

5. APPROVAL OF REGULAR MEETING AGENDA

MOTION: Pete Heddell made a motion to approve the regular meeting agenda for May 21st 2013 as amended to add 13F, resolution #13-2013, to add URS Reed Middleton under new business #15A and also to move presentations to right after the approval of the agenda so that the City's lobbyist Kris Knauss can make it out this evening since the tunnel is closing at 9pm tonight.

SECOND: Mary Brenneman seconded the motion.

VOTE: Motion passed unanimously.

11. PRESENTATIONS

A. Kris Knauss – Juneau Lobbyist – The economy and State budget

Kris Knauss gave the council a verbal report.

6. MAYOR'S REPORT

A. Mayor Report – Lester Lunceford

See written letter from Mayor Lunceford in original council packet.

Mayor Lunceford read aloud for the record a letter he had prepared for the community, titled Transparency in Government.

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 welcomed any questions he also ask that Council make a motion approving travel for him and the Mayor to Washington D.C.

MOTION: Mary Brenneman made a motion to approve travel to Washington D.C. for Mayor Lunceford and City Manager Tom Bolen on June 10th and 11th 2013.

SECOND: Becky Cotner seconded the motion.

VOTE: Motion passed unanimously.

Tom Bolen touched briefly on the issue of sales tax on rentals.

Tom Bolen stated that this has become a subject of great debate and conversation around the community.

Tom Bolen said "my concern at this moment is to always try to follow code."

Tom Bolen said "if code is inappropriate, unfair, unpopular or badly worded or whatever council at least has the option to revise code."

Tom Bolen said "so the conversation today is to try and get a sense from all of you as to how the community wants to deal with this issue because there are a number of people who are upset."

Tom Bolen read aloud the section of the code that refers to sales tax on rentals.

Tom Bolen said “so the first part of the sentence is about an informal rental agreement of less than 90 days and the second half is about a formal rental agreement more than 90 days, but all of it is about property which is being sold.”

Tom Bolen said “this is not an exemption for people to not pay sales tax on a rental, so this is what code says, this is what I intend to enforce.”

Tom Bolen said “if this is not what the community or the council wants I need you to inform me and administration with draft an appropriate ordinance to change code.”

Tom Bolen stated that he is not the bad guy just the messenger and he invited any input from the council and community.

Mary Brenneman stated that she would like an ordinance drafted to eliminate the sales tax on rentals.

There was some brief discussion regarding the sales tax on rentals.

Marion Dye stated that she had circulated a petition opposing the sales tax on rentals and received over a hundred signatures.

Mayor Lunceford agreed with Councilor Brenneman and stated that he would suggest asking the City Manager to draft an ordinance eliminating the sales tax on rentals.

The rest of the Council agreed to have the City Manager bring an ordinance back to the next meeting that eliminates the sales tax on rentals.

B. Director’s Reports

▪ **Finance Report – March 2013 – Sally Schug**

See March 2013 finance report in original council packet

▪ **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

Dave Schofield briefly went over his written report and welcomed any questions.

▪ **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 April 9th, 2013.

Charlene Arneson gave a brief verbal report of the May 13th public meeting that the Planning Commission held for the Commercial Vessel Passenger (CVP) Fund Project Nominations.

Charlene Arneson stated that there were some good and encouraging nominations and ideas submitted for the use of the CVP funds.

See Charlene Arneson's written report regarding the May 13th public meeting.

Charlene Arneson also stated that the Planning Commission had reviewed and worked hard on updating the Hazard Mitigation Plan and that it was submitted to FEMA (Federal Emergency Management Agency).

Charlene Arneson reported that FEMA was please with the update and no changes were needed so in the near future the Planning Commission will be asking Council to adopt the updated Hazard Mitigation Plan by resolution.

▪ **Port and Harbor**

See original council packet for minutes from the last Port and Harbor meeting held on February 19th 2013.

Marilynn Heddell gave a brief verbal report on the most current Port & Harbor meeting that was held earlier this evening prior to the Council meeting.

Marilynn Heddell reported that the Port & Harbor Commission went over the Harbor Facilities assessment and that it should be before Council later in the agenda this evening for approval.

Council recessed for a 10 minute break at 8:59pm
Council reconvened from break at 9:14 pm

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

None

9. CONSENT AGENDA

None

10. PUBLIC HEARING (NON-ORDINANCE)

None

11. PRESENTATIONS

A. Kris Knauss – Juneau Lobbyist – The economy and State budget

Lobbyist Kris Knauss gave his verbal report earlier, following the approval of the agenda.

12. ORDINANCES

A. Introduction (first reading)

1. #02-2013 – An ordinance amending WMC section 2.70.048 to require exempt service city employees to promptly report accidents and to require all employees to provide written accident reports

2. **#03-2013 – An ordinance amending WMC section 2.08.350 to prohibit disclosure of confidential information**
3. **#04-2013 – An ordinance amending WMC chapter 3.32 to specify when competitive procurement is not required**
4. **#05-2013 – An ordinance amending WMC section 2.70.390 to change the date for an annual evaluation from the employee’s anniversary date to no later than October 31**
5. **#07-2013 – An ordinance amending WMC Title 3, Chapter 3.32 to provide procedures for proper use of municipal corporate credit cards**
6. **#08-2013 – An ordinance approving amendments #1 for the FY 2013 budget of revenue and appropriations as necessary for the budget**

Councilor Pete Heddell noticed that there was not an ordinance #06-2013 and asked why.

City Clerk, Brenda Krol replied “ordinance #06-2013 was drafted to eliminate #15, the sales tax on rentals but that the Manager decided to pull it from the agenda.

MOTION: Pete Heddell made a motion to introduce ordinances #02-2013, #03-2013, #04-2013, #05-2013, #07-2013, and #08-2013 and to set the public hearing date for those ordinances for June 18th 2013.

SECOND: Becky Cotner seconded the motion.

VOTE: Motion passed unanimously.

B. Public Hearings (second reading)

None

13. RESOLUTIONS

A. #08-2013 – A resolution stating the rate of levy, date of equalization and date when taxes become delinquent for the 2013 tax role.

MOTION: Becky Cotner made a motion to adopt resolution #08-2013.

SECOND: Mary Brenneman seconded the motion.

VOTE: Motion passed unanimously.

B. #09-2013 – A resolution authorizing the City Attorney to take all necessary actions to recover unpaid debts owed by Timothy Melican & Associates, Inc. d/b/a The Magic Bus to the City of Whittier

MOTION: Becky Cotner made a motion to adopt resolution #09-2013.

SECOND: Mary Brenneman seconded the motion.

VOTE: Motion passed unanimously.

C. #10-2013 – A resolution setting the date for a special election to recall Mayor Lester Lunceford

Peter Denmark stated that in reading the resolution as it’s titled he would like the recall to be described as it is in the recall application and the recall petition which would read “to recall Councilor Lester Lunceford as Mayor”.

MOTION: Pete Heddell made a motion to adopt resolution #10-2013 as amended.

SECOND: Dan Blair seconded the motion.

VOTE: Motion passed unanimously

D. #11-2013 – A resolution authorizing the City Manager to enter into an agreement with Loomis Armored –US, LLC

MOTION: Larry Bussman made a motion to adopt resolution #11-2013.

SECOND: Mary Brenneman seconded the motion.

VOTE: Motion passed unanimously

E. #12-2013 – A resolution authorizing the City Manager to enter into a lease agreement for the strip of land near the ferry terminal

MOTION: Becky Cotner made a motion to adopt resolution #12-2013.

SECOND: Pete Heddell seconded the motion.

DISCUSSION: Pete Heddell stated that in the title of the resolution the word department is misspelled.

Becky Cotner stated that she believes the City would benefit more to keep the strip of land near the ferry terminal and use it for parking for those visiting the triangle area instead of leasing it out.

VOTE: Becky Cotner: No, Pete Heddell: No, Dan Blair: No, Mary Brenneman: No, Larry Bussman: abstain, Lester Lunceford: No

Motion failed 5-1 abstain

F. #13-2013 – A resolution of the Whittier City Council authorizing the City Manager to enter into an agreement with PND Engineering, Inc. to provide design and other services to facilitate the replacement of the Whittier Passenger (Tour Boat) Float, and for related purposes

MOTION: Pete Heddell made a motion to adopt resolution #13-2013.

SECOND: Becky Cotner seconded the motion.

VOTE: Motion passed unanimously.

14. UNFINISHED BUSINESS

None

15. NEW BUSINESS

A. URS Reed Middleton

Tom Bolen asked that new business be dealt with tomorrow when the Council reconvenes so that the Council has time to look over the handout that he gave to everyone regarding URS.

16. COUNCIL DISCUSSION

Mary Brenneman asked the City Clerk just to clarify “that first recall petition was that rejected?”

City Clerk, Brenda Krol said “whoever picks up a petition has to be the one to gather the signatures for the petition that they pick up and the first petition in question had signatures on it that were obtained from someone other than the person who picked the petition up so those signatures were not acceptable and were crossed off.”

17. CITIZENS' DISCUSSION

Mr. Haddock told Mayor Lunceford "in regards to your statement here, you advised me that it was not the procedure to contact you on facebook and that I was to apply through the City Clerk."

Mr. Haddock told Mayor Lunceford "that was not the case, you actually asked for my resume, provided your city email address and also advised me that you had received my resume and that it was in review of the council." "I have confirmation in conversation in writing from you that stated you had received my resume and it was being presented to the council, so why on May 1st was there only one resume provided to the council?"

Mayor Lunceford replied "because I told you to submit your resume to the City Clerk."

Mr. Haddock said "no sir you didn't."

Mayor Lunceford said "that's your opinion."

Mr. Haddock said "sir I have it in writing, right here."

Mayor Lunceford said "good, I'm glad because you're going to need it."

Mr. Haddock asked "how do you say one thing but another you don't?" "You say you received it, you have my resume and"

Mayor Lunceford interrupted and said "I received your resume through facebook."

Mr. Haddock replied "no sir you did not."

Mary Brenneman asked "why would a professional apply for a job on facebook?"

Mr. Haddock said "I never applied through facebook; there is no written documentation that shows that my resume, my application and my cover letter was ever provided through facebook." "It was sent to the Mayor's email address here in Whittier."

Mary Brenneman asked "and that was January 8th?"

Mr. Haddock replied "January 9th, January 8th was when we had the conversation, January 9th was when I sent it."

Mary Brenneman said "That's interesting because we didn't post it until the 15th."

Mayor Lunceford said to Mr. Haddock "correct me if I'm wrong, our conversation over the telephone did you not tell me that you had no experience as City Manager."

Mr. Haddock replied "the question was, do you have experience in business running, this side of a business and the answer is yes I do."

Mayor Lunceford said "I don't believe that was my question and the reason I don't believe that was my question is because we have been through countless interviews, with countless city managers in the past and most of those questions deal with previous experience as a city manager and we eliminate a lot of the applicants if they don't have previous experience."

Mayor Lunceford told Mr. Haddock “when you told me that you had no experience as a city manager, I told you to submit your resume to the city clerk, did I not?”

Mr. Haddock replied “you did not tell me to submit my resume to the city clerk.”

Mayor Lunceford said “fine that is your opinion.”

Mr. Haddock replied “no that is my statement.”

Mayor Lunceford asked Mr. Haddock “did you contact any other council member and ask them if you could send your resume to them?”

Mr. Haddock replied “no sir, why would I do that?”

Mayor Lunceford said “I’m asking why you would just send it to one individual, the mayor, who has absolutely no more power than these individuals up here?”

Councilor Becky Cotner asked the administration what the posting said as far as where to submit resumes.

Tom Bolen answered “it said to submit resumes to the City Clerk.”

Councilor Becky Cotner asked the City Clerk if she had received Mr. Haddock’s resume.

City Clerk, Brenda Krol replied “no.”

Peter Denmark spoke briefly about the recall petition and the Mayor’s written report.

Peter Denmark thanked Mayor Lunceford for his written report and told him “I certainly do appreciate the sentiment but I do take exception to some of the ideas that you tried to forward here.”

Peter Denmark said “when you’re discussing transparency the conversation that you just had with Mr. Haddock certainly goes beyond offering any latitude or proper direction.”

Peter Denmark said “the letter that the city attorney wrote to the council that was made public a few weeks ago pretty much states that an illegal meeting was held and transparency cannot be conveyed through an illegal meeting and that is the basis for the recall petition.”

Peter Denmark said “at least one illegal meeting took place during the hiring of Tom Bolen.”

Peter Denmark told Mayor Lunceford “to dig deeper into your report you mentioned that signatures on the recall petition were obtained illegally and we have already established that, that isn’t true.”

Peter Denmark said “There is process and if anybody feels that they were coerced into signing the recall petition or their signature was coerced or purchased in any way shape or form there is recourse for them to remove their signatures from the petition and I strongly urged them to do so.”

Peter Denmark said to Mayor Lunceford “I do appreciate you allowing me to speak, I know that you don’t like, perhaps what I am offering here but it is all the more important for an elected official to make it a point to be truthful and in context and the transparency issues are significant and in my opinion validated by the response here.”

Peter Denmark finished by saying “I thank you for the time to speak.”

Mike Bender spoke briefly and said “I don’t know all of the ins and outs, assorted details or dirty tricks that have gone on but this whole thing stinks.”

Mayor Lunceford agreed.

Mike Bender told Mayor Lunceford “the time and effort, Lester that you put into your response, had you put that into the proper dismissal of our previous city manager we would not be here today.”

Dave Goldstein spoke briefly about the recall petition.

Charlene Arneson spoke briefly regarding the levee.

Mayor Lunceford thanked Charlene Arneson for all her hard work.

The City Council recessed the meeting at 10:37pm on May 21st 2013.

The City Council reconvened at 7pm on May 22nd 2013.

CALL TO ORDER: Mayor Lunceford called the meeting to order at 7pm on May 22nd.

Mayor Lunceford asked that the record reflect that Council recessed last night at 10:37pm.

OPENING CEREMONY: Mayor Lunceford led the Pledge of Allegiance.

COUNCIL MEMBERS PRESENT: Pete Heddell, Becky Cotner, Dan Blair, Mary Brenneman and Lester Lunceford

COUNCIL MEMBERS ABSENT: Dave Pinguoch and Larry Bussman

ADMINISTRATION PRESENT: Brenda Krol, City Clerk and Tom Bolen, City Manager

OTHERS PRESENT INCLUDED: Scott Korbe, Dave Schofield, Marilynn Heddell, Sue Miller, Barbara Ensminger and Brooks Chandler

15. NEW BUSINESS

A. URS Reed Middleton

Tom Bolen stated that his intent yesterday was to draft a resolution and in a rush, he had neglected to do that so he does not have a resolution prepared for the approval of this contract.

Tom Bolen said “so we can talk about this and make a decision on who we think we should hire but as far as approving a contract tonight I think I am stuck.”

Tom Bolen gave a brief verbal summary and then suggested that council allow him a little time to draft a resolution real quick for approval of this contract tonight.

City Clerk, Brenda Krol assigned #14-2013 as the resolution number for approval of this contract.

18. COUNCIL AND ADMINISTRATIVE RESPONSE TO CITIZENS’ COMMENTS

None

19. COUNCIL DIRECTION TO CITY MANAGER

None

20. EXECUTIVE SESSION

- A. Investigation regarding confidential information being distributed to the public**
- B. Passage Canal Development Leases**
- C. Whittier Inn lawsuit**

MOTION: Pete Heddell made a motion to go into executive session at 7:11 pm on 1) matters that pertain to the lawsuit by the Whittier Inn, 2) negotiations with Passage Canal Development (PCD) regarding lease disputes on the grounds that to discuss these matters in public may have an adverse effect on City finances and 3) to discuss the City Attorney's report on his investigation into the matter of an improperly released police report on the grounds that this matter is at this time confidential and subject to attorney/client privilege and that to discuss it in public may prejudice the character of the person or persons referred to in the report.

SECOND: Becky Cotner seconded the motion.

VOTE: Pete Heddell: Yes, Becky Cotner: Yes, Dan Blair: Yes, Mary Brenneman: Yes, Lester Lunceford: Yes.

Motion passed 5-0.

MOTION: Becky Cotner made a motion to go back into regular session at 9:50 pm

SECOND: Mary Brenneman seconded the motion.

VOTE: Motion passed unanimously.

Mayor Lunceford asked that the record reflect that council went into an executive session to discuss lawsuits and investigation into our code on the distribution of reports.

MOTION: Becky Cotner made a motion to make the confidential information from the investigation made public pending three minor changes.

SECOND: Mary Brenneman seconded the motion.

VOTE: Motion passed unanimously.

MOTION: Pete Heddell made a motion to adopt resolution #08-2013.

SECOND: Mary Brenneman seconded the motion.

VOTE: Motion passed unanimously.

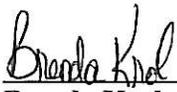
21. ADJOURNMENT

MOTION: Mary Brenneman made a motion to adjourn at 9:52 pm.

SECOND: Becky Cotner seconded the motion.

VOTE: Motion passed unanimously.

Attest:



Brenda Krol
City Clerk



Dan Blair
Vice Mayor/Acting Mayor