



# THE CITY OF WHITTIER

*Gateway to Western Prince William Sound*

P.O. Box 608 • Whittier, Alaska 99693 • (907) 427-2327 • Fax (907) 472-2404

**WHITTIER CITY COUNCIL  
REGULAR MEETING  
TUESDAY, NOVEMBER 21, 2017  
7:00 PM  
COUNCIL CHAMBERS  
P-12 BUILDING**

## MINUTES

### 1. CALL TO ORDER

Mayor Daniel Blair called the meeting to order at 7:00 p.m.

### 2. OPENING CEREMONY

Mayor Daniel Blair led the Pledge of Allegiance.

### 3. ROLL CALL

**A. Council members present and establishing a quorum:** Monty Irvin, Debra Hicks, Dave Dickason, Peter Denmark, Victor Shen, David Pinguoch and Daniel Blair.

**B. Council Members Absent:**

**C. Administration Present:**

Mark Lynch, City Manager  
Annie Reeves, Assistant City Manager  
Scott Korbe, Public Works Director  
Holly Wells, City Attorney  
Anmei Goldsmith, Attorney

Kyle Sinclair, Harbormaster  
Krista Fish, City Clerk  
John Janik, Finance Officer  
David Schofield, Public Safety

**Others Present:** Naelene Matsumiya, Greg Clifford, Camden Yehle, Carl Hall

### 4. APPROVAL OF MINUTES

October 17, 2017 Regular Meeting Minutes

**MOTION:** David Pinguoch made a motion to approve the October 17, 2017, Regular Meeting Minutes as is.

**SECOND:** Debra Hicks

**DISCUSSION:** None

**VOTE:** Motion passed unanimously.

**5. APPROVAL OF REGULAR MEETING AGENDA**

**MOTION:** David Pinguoch made a motion to approve the Regular Meeting Agenda with some changes moving presentation 12 to 5a and 18b to 5b.

**SECOND:** Debra Hicks

**DISCUSSION:**

**VOTE:** Motion passed unanimously

**A. Whittier Tunnel Surface & Drainage Improvements project.**

The Presenter, Camden Yehle, with Brooks & Associates, presented the Whittier Tunnel Surface & Drainage Improvements project. Camden Yehle introduced Carl Hall, Engineer for this project. The project is to improve the drainage and a few other things for the tunnel to extend the life of the tunnel drainage system. Camden discussed the repairing and improvements to the tunnel and the tunnel closures. Council followed along in the packet.

David Schofield had a few concerns about getting emergency vehicles thru and Camden and Carl answered them.

**B. Appointment to Port & Harbor Commission.**

Dan Blair nominated Ron Graham to the Seat D position.

**VOTE:** No objections.

**6. MAYOR'S REPORT**

**A. Mayor's Report by Mayor Daniel Blair**

The Mayor reported that they attended the workshop for the budget, it was very informative. They also did our priorities for local, state and federal. One of the messages that he got is that, even though we are just beginning as a community to become more responsive in our infrastructure and better prepared and trying to improve the local experience with our trails and in the very beginning of adding much needed infrastructure to help people that visit our community to enjoy and have a good experience just like we do. It is expensive to maintain that equipment, it emphasizes the importance of planning and getting on with our comprehensive plan, so that we keep our finances focused towards continuing to grow and create infrastructure that has good value toward the community and our visitors.

The Mayor also stated that Ted Spencer had a guy up here in the fall do a video and it is a really neat demo. He mentioned that it was a thrill to see what he thinks is the beginning of the real story of Passage Canal in Whittier. He is looking forward to seeing the final product that will allow us to showcase this beautiful place that we live in.

**B. Vice Mayor Report by Vice Mayor Dave Pinguoch**

None

**7. MANAGER’S REPORT**

**A. City Manager’s Report- Mark Lynch**

See written report in Original Council Packet.

The City Manager opened his report by introducing Krista Fish, the City Clerk.

Mark said that he received an email from NRSC that stated that we did not meet the requirements for assistance at this time for the levee. He will be emailing them back to find out why.

**B. City Attorney’s Report**

None

**C. School District Report**

City Manager handed out the School Report to the Council at the meeting.

**D. Director’s Reports**

**1. Financial report – John Janik**

None

**2. Harbormaster Report – Kyle Sinclair**

The Harbormaster stated that they completed the railing and the lighting on the Harbor. Starting 12/5/2017 the Harbor will start closing its office Tuesdays and Wednesdays, The office will remain open on weekends. The Harbor watches and patrolling of the Harbor will be open as normal.

**3. Director of Public Safety Report – Dave Schofield**

See written report in original packet.

**4. Public Works Report – Scott Korbe**

See written report in original packet.

**5. Public Safety Building Report – Terry Morrison**

None

**8. COMMISSION/COMMITTEE REPORTS**

**A. Planning Commission**

Approved minutes in packet.

**B. Port & Harbor Commission**

Approved minutes in packet.

**C. Parks & Recreation Committee**

Councilman Dickason stated that he went to a meeting with CRW and saw the initial design for the park. CRW made a few minor adjustments. Expecting the final plan around the 1<sup>st</sup> of December.

**D. Prince William Sound Aquaculture Corp.**

None

**E. Regional Citizen's Advisory Council**  
None

**9. CITIZENS COMMENTS ON AGENDA ITEMS NOT SCHEDULED FOR PUBLIC HEARING**

None

**10. APPROVAL OF CONSENT CALENDAR**

None

**11. PUBLIC HEARINGS (NON-ORDINANCE)**

**12. PRESENTATIONS**

- A. Whittier Tunnel Surface & Drainage Improvements Project  
Item was moved to 5A.

**13. ORDINANCES**

**Introduction (1<sup>st</sup> reading)**

**#06-2017 – An Ordinance adopting an operating and capital budget for the fiscal year 2018.**

**MOTION:** David Pinguoch made a motion to introduce Ordinance #06-2017 intended for public hearing December 19<sup>th</sup>, the regular meeting.

**SECOND:** Victor Shen

**DISCUSSION:** The City Manager discussed the changes he made to the budget from the work session on November 7, 2017. Council discussed this further.

**VOTE:** Motion passed unanimously.

**#07-2017 – An Ordinance creating Whittier Municipal Code Sections 17.12.055 Entitled “Zoning Map Exceptions,” and 17.16.052 Entitled “Tidelands District.”**

**MOTION:** Victor Shen made a motion to introduce Ordinance #07-2017 1<sup>st</sup> reading is set for the regular meeting for December 19<sup>th</sup>.

**SECOND:** David Pinguoch

**DISCUSSION:** The City Manager stated that he is working with the Planning Commission on this, one of the big holdups is to define what the city is zoning. Currently the tidelands are not zoned, basically what that means is currently the City has very little control over the use of the tidelands.

Peter Denmark asked if any activity crossing the tidelands may be taxable.

Holly answered that there is a statutory public trust doctrine that allows a certain level of access to tidelands and use of those and the public's ability to enjoy them. She clarified Alaska has an Open Tidelands Policy where you can have private beaches. There may be certain uses that we could charge but there are many that we can't, depending on whether or not they fall in that doctrine. +

Peter Denmark commented that the benefit of this resolution, is establishing control of those tidelands.

Mark Lynch stated that it is zoning control just like any other property.

**VOTE:** Motion passed unanimously

#### 14. PUBLIC HEARING (2<sup>nd</sup> reading)

**#05-2017(S) – An ordinance amending Whittier Municipal Code 2.10 entitled “Code of Ethics for Officers and Employees” to clarify what constitutes a “Substantial Financial Interest,” limit disclosures of potential conflicts of interest to substantial financial interests, institute an Annual Disclosure Statement Process, and clarify general prohibitions against city official and employee conduct and disclosure obligations, repealing Section 2.70.025 entitled “Behavior Generally” and amending Section 2.08.230 entitled “Rules-Voting” to remove redundant and contradictory voting procedures regarding conflicts of interest.**

**MOTION:** Victor Shen made a motion to open the public hearing for Ordinance #05-2017(S)

**SECOND:** Dave Dickason

**DISCUSSION:** None

**VOTE:** Motion passed unanimously

**MOTION:** Peter Denmark made a motion to close the public hearing for Ordinance #05-2017(S).

**SECOND:** David Pinquoch

**DISCUSSION:** None

**VOTE:** Motion passed unanimously

**MOTION:** Victor Shen made a motion to adopt Ordinance #05-2017(S)

**SECOND:** Dave Dickason

**DISCUSSION:** Holly stated that the only thing that was changed was the language to make sure it was consistent in the code with council’s direction to have a more simplified disclosure form requirement. It also allows council’s flexibility before it is laid out. The disclosure form in the code now just references what form is available from the clerk. She remarked that it is a simple form that council discussed, if for some reason in the future, if you want to you can create a more detailed form or you want to change something or state law changes are added, it is an easy change.

**VOTE:** Motion passed unanimously

#### 15. RESOLUTIONS

**#25-2017 – A resolution authorizing the City Manager to pay for Harbor improvements in the amount of \$57,000.**

**MOTION:** Victor Shen made a motion to adopt resolution #25-2017.

**SECOND:** Dave Dickason

**DISCUSSION:** Council discussed to amend the resolution from *Harbor Fund Budget* to *Harbor Operating budget*. Also change “*in the amount of*” to “*not to exceed*”. And amend the adopted day to 21<sup>st</sup> day of November 2017.

**VOTE:** Motion passed unanimously

**#26-2017 – A resolution authorizing the City Manager to pay \$150,000 to the Corps of Engineers for completion of the feasibility study at the Head of Passage Canal.**

**MOTION:** Victor Shen made a motion to adopt resolution #26-2017

**SECOND:** David Pinquoch

**DISCUSSION:** City Manager stated that this was actually approved once before, approved to take out of the Harbor reserve fund, but because the Corps chose to stop the project we approved to give them a payment of \$100,000 and then followed by another payment of \$150,000. We paid them the \$100,000

they then stopped the project. So we did not pay the \$150,000, in the original resolution specified that that payment was going to be in December of 2016. I brought this back the way it is because there was some discussion about actually taking the money out of the CPV fund instead of the Harbor Reserve fund.

Peter Denmark stated that if you go back to the harbor redevelopment, there were two ramps in the harbor: there was a west ramp that was designed for launching boats 27 feet and under, dilapidated old ramp, when we closed that ramp, the congestion at the now only existing ramp, previously known as the east ramp, we have determined that a launch ramp at the Head of the Bay would be beneficial. This goes back to the original harbor plan, the resolution was passed, the Harbor commission supported this idea 3 or 4 years ago and the council called it out with a supporting motion. It is a development of our future and the development of the Head of the Bay.

David Pinguoch asked if anyone knew how much trailer owners bring into the economy.

Mayor Blair commented that the trailer owners bring in a lot, one of the most profitable business in this community is the parking lot run by Mr. Barnett, it has been one of the pre consternations the amount of revenue they bring in versus the value that they invest into that parking lot. That is a direct and only result of that launch ramp. That parking could still be very possible because those day cruises are growing, they are successful. They were able to extend their season out towards the end of October, from what I understand the day cruises are fixing to double the number of boats that they have. I don't have to look more than five years down the road to realize that we are going to get into \*unintelligible\* bind here with regard to parking, with regard to congestion, it's future proofing by asking for assistance from the federal government to invest in infrastructure that we as a small community would not be able to afford.

Mark Lynch addressed a couple of questions that came up. He informed the council that this is called a feasibility study and that the money the Corps is getting was requested from the harbor's extensive financial information and user information.

Mayor Blair commented that when they talk about a value greater than one they are talking about the feasibility to the state of Alaska, the citizens of South Central, it is a benefit to the state of Alaska. When they tell you it's a feasibility greater than one, they are not saying that it is feasible for the local community, hopefully the fact that the community has invested \$800,000 they already know that. What we are trying to do is get the federal funding. And to get that federal funding the criteria needs to bring a certain amount of value to the state of Alaska and to the citizens of the state. Gordon of the tunnel has participated a lot in this and he is a big proponent of this because One, it drives traffic thru the tunnel the other is it takes traffic and congestion off the Seward Highway and makes it safer.

**VOTE:** Victor Shen: No, Debra Hicks: Yes, Dave Dickason: Yes, Dave Pinguoch: No, Monty Irvin: Yes, Peter Denmark: Yes, Dan Blair: Yes

**MOTION PASSED:** 5-2

**#27-2017 - A Resolution adopting the City's 2018 Local Priorities.**

**MOTION:** Victor Shen made a motion to adopt resolution #27-2017

**SECOND:** David Pinguoch

**DISCUSSION:**

**VOTE:** Motion passed unanimously

**#28-2017 – A Resolution adopting the City's 2018 State Legislative Priorities.**

**MOTION:** Victor Shen made a motion to adopt Resolution #28-2017.

**SECOND:** Dave Dickason

**DISCUSSION:**

**VOTE:** Motion passed unanimously

**#29-2017 – A Resolution adopting the City's 2018 Federal Legislative Priorities.**

**MOTION:** Victor Shen made a motion to adopt Resolution #29-2017.

**SECOND:** Dave Dickason

**DISCUSSION:**

**VOTE:** Motion passed unanimously

**#30-2017 – A Resolution adopting the 2018 Annual Fee Schedule.**

**MOTION:** Victor Shen made a motion to adopt Resolution #30-2017.

**SECOND:** Dave Dickason

**DISCUSSION:** The City Manager stated that we dropped the ten percent harbor increase to two percent, the increase for the shower was left in, and an increase on the grid.

Councilman Dickason asked what was decided on the trash removal. The City Manager stated that he didn't think they ever made a decision on it. Right now the city, as far as he can determine forever since the leases were instituted, have been charging \$20 per month for five months in the summer. The people that have leases at the harbor pay \$100 a year for trash. The ones that don't have any development on their lots do not pay anything for garbage.

Councilman Dickason remarked that what we need to do is have a work session, talk about other ways of handling our trash removal. Mark Lynch stated that we had a discussion last summer, that we could save the city roughly \$30,000 to \$50,000 a year depending on actual volumes.

The council decided to have a work session on trash removal.

**VOTE:** Motion passed unanimously

**MOTION:** Victor Shen made a motion to excuse himself due to conflict due to immediate family interest.

**VOTE:** Debra Hicks: Yes, Dave Dickason: Yes, Dave Pinguoch: Yes, Monty Irvin: Yes, Peter Denmark: No, Dan Blair: No

**MOTION PASSED:** 4-2

**#31-2017 – A resolution revising the lease agreement between Chou and Yenwen Shen and the City of Whittier.**

**MOTION:** Dave Dickason made a motion to adopt Resolution #31-2017

**SECOND:** David Pinguoch

**DISCUSSION:** Mark Lynch stated that there is a three foot strip of property that the city technically doesn't need. The big benefit to Joe Shen is it gets him compliant with zoning. He still not compliant on the back of his lot but that 3 feet will give him his 5 feet so he is zoning compliant on the side of his property. He is currently in violation of that and he wants to be legal. He came in asked for the 3 foot strip which makes him have a full lot, currently all the lots are 3000 square feet, he only has 2850 because years ago they took 3 feet off, because there used to be a city bathroom or something down there. I don't see a problem giving it to him. That also includes the encroachment permit on the back of that or actually over the property line. It is the same encroachment permit we talked about with Joe Campabello for his encroachment. Joe Shen reviewed it and was very happy with the whole thing.

**VOTE:** Council voted for, Victor Shen abstained.

**#32-2017 A Resolution authorizing the City Manager to enter into a Professional Service Agreement with Knauss Group, LLC to provide consulting services to the City in the form of State Lobbying for 2018.**

**MOTION:** Victor Shen made a motion to adopt Resolution #32-2017.

**SECOND:** Dave Dickason

**DISCUSSION:** Mark Lynch stated that his proposal letter and the agreement is in the packet. He hasn't changed the price since he has been here and I think that he has been at the same price ever since he started with the city. Council discussed this further.

**VOTE:** Motion passed unanimously

**#33-2017 – A Resolution authorizing the City Manager to enter into a Professional Services Agreement with Appraisal Company of Alaska for 2018.**

**MOTION:** Victor Shen made a motion to adopt Resolution #33-2017

**SECOND:** Dave Dickason

**DISCUSSION:** Mark Lynch stated that their proposal is for \$10,000, it is included in the packet, we budget more than that and there are times we have them do additional assessing work. This is strictly for the base assessment for the community. We do this every year, we've had the same company for a long time. They are probably the primary company in Alaska that does this.

**VOTE:** Victor Shen: Yes, Debra Hicks: Yes, Dave Dickason: Yes, Dave Pinguoch: Yes, Monty Irvin: Yes, Peter Denmark: No, Dan Blair: Yes

**MOTION PASSED:** 6-1



**Council recessed at 9:15 pm**

**16. EXECUTIVE SESSION**

**A. Discussion of DeLong Dock Agreement/ARRC Land Issues – Matters that, if immediately disclosed, would tend to adversely affect the finances of the City, AS 44.62.310(1)**

**B. Discussion of DeLong Dock Agreement/ARRC Land Issues – Matters that, if immediately disclosed, would tend to adversely affect the finances of the City, AS 44.62.310(1)**

**MOTION:** Debra Hicks made a motion to enter executive session to discuss

**A. Discussion of DeLong Dock Agreement/ARRC Land Issues – Matters that, if immediately disclosed, would tend to adversely affect the finances of the City, AS 44.62.310(1)**

**B. Potential sale of real estate – Matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity. AS 44.62.310(1)**

**SECOND:** Monte Irvin

**DISCUSSION:** None

**VOTE:** Motion passed unanimously

**Council entered into Executive Session at 9:30 pm.**

At 11:00 the Mayor moved to continue Executive Session until November 22, 2017 @ 6:00 pm.

**MOTION:** Peter Denmark made a motion to recess the meeting to complete our agenda until Thanksgiving eve at 6:00 pm.

**SECOND:** Dave Dickason

**DISCUSSION:** None

**VOTE:** Motion passed unanimously

**MOTION:** Dave Dickason made a motion to end executive session at 11:00 pm.

**SECOND:** Victor Shen

**DISCUSSION:** None

**VOTE:** Motion passed unanimously

**CONTINUANCE OF MEETING**

On November 22, 2017 at 6:01 p.m. the mayor called the meeting to order (meeting November 21<sup>st</sup> was continued to November 22<sup>nd</sup> at 6:00 pm.)

Those in attendance and establishing a quorum were:

Dan Blair

Peter Denmark

Dave Dickason

Debra Hicks

Monty Irvin

Victor Shen

David Pinquoch participated telephonically

Mark Lynch, City Manager

Krista Fish, City Clerk

Holly Wells, City Attorney

**Council reconvened the Executive Session at 6:07 p.m. on November 22, 2017.**

**MOTION:** Dave Dickason made a motion to reconvene the Executive Session at 6:07 pm from November 21, 2017, to discuss

**B. Potential sale of real estate - Matters,** the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity.

**SECOND:** Victor Shen

**DISCUSSION:** None

**VOTE:** Motion passed unanimously

**MOTION:** Dave Dickason made a motion to close executive session at 7:35 p.m. and return to the regular meeting.

**SECOND:** Victor Shen

**DISCUSSION:** None

**VOTE:** Motion passed unanimously

David Pinquoch lost phone connection.

## **17. UNFINISHED BUSINESS**

### **A. Shotgun Cove Road Project**

Nothing new to report.

### **B. ARRC/COW Land Swap**

Nothing new to report.

### **C. Improve Salmon Sport Fishing in Northwest PWS**

Nothing new to report.

### **D. Paddle Craft Launch**

Nothing new to report.

## **18. NEW BUSINESS**

### **A. Discuss use of electrical Utilidors**

Victor excused himself from this discussion by stating that he would like to disclose a potential conflict of personal interest, he thinks it involves potential commission services between some company and my family's. It is a sizable internet bill, probably close to one thousand a month, he stated that he could see it being more than five thousand a year.

City Manager stated that the City has numerous utilidors these are not for telephone communication. These are old electrical utilidors that were transferred to the city as part of our municipal right a ways in the ones we own. There are some on railroad property but we are talking about the ones on city property. Actually the one we are talking about is the one that runs down Whittier Street, which the city does own. The Anchor Inn spent quite a bit of their own time and effort, they actually said 44 man hours. They asked us back in the summer if it was okay if they inspected and cleaned those out with the potential of using one of them. I think they have one cable ran through there, I am told in the report that there is room for 105 cables and we would still only be forty percent full. So they came to me and ask for a permit for this to have their cable in this utilidor. My suggestion is going to be, after thinking

about this for several months, why not allow the City Manager to issue use permits for 5 years at a time, to allow businesses in Whittier to have fiber optic or internet communication cables in those utilidors basically at no cost. The City isn't using them they are just sitting there, we have never used them. It is an economic of driver of sense, in an example Joe Shen gets better television reception down at the Anchor on Sunday night more people show up to watch football, which means he sells more stuff and that means the city gets more taxes. That is a simplistic example but it is an economic benefit of sense. And it employs more people. And it doesn't cost a dime to do this. He is the only one right now that is asking, maybe in the future more people would want to do this. Rather than have to come back to council every time. If you guys feel more comfortable just letting me do a resolution. A resolution saying that the City Manager can issue 5 year use permits for telecommunication cables in the city owned utilidors or something in that effect. Holly remarked that she thinks a resolution is fine, our permits should be very clear that we are not giving away an interest in city property. As long as we are clear in our terms.

Dan Blair stated that it would be nonexclusive.

Mark Lynch remarked that there is no action on this tonight other than either nods or if you guys want to get fancy and make a motion if this is okay he will work it up for next months' meeting.

**MOTION:**

**SECOND:**

**DISCUSSION:**

**VOTE:** No Objections, Victor Shen abstained. David Pinquoch absent.

**B. Appointment to Port & Harbor Commission.**

Moved to 5b.

**MOTION:**

**SECOND:**

**DISCUSSION:** None

**VOTE:**

**19. COUNCIL DISCUSSION**

Council appointed Peter Denmark, Dan Blair and Dave Dickason to the Railroad/DeLong Dock Committee. There was no objection.

Council Member Denmark:

- Commented on bringing the code up to date.
- Discussed the way the council member brings action items to the council for discussion.

Holly Wells, City Attorney agreed that the code does need to be updated.

Discussion ensued.

Dave Dickason asked the City Manager about the waste disposal process. Mark Lynch remarked that the council planned to set up a workshop in January.

The following meetings were scheduled:

- Special meeting, Wednesday, December 6, 2017 at 6:00 p.m. the Ordinance regarding the Delong Dock.
- Work session, Monday January 8 2018 at 6:00 pm, regarding trash removal.

**20. CITIZEN'S DISCUSSION**

None

**21. COUNCIL AND ADMINISTRATION'S RESPONSE TO CITIZEN'S COMMENTS**

None

**22. ADJOURNMENT**

**MOTION:** Dave Dickason made a motion to adjourn the meeting.

**SECOND:** Debra Hicks

**VOTE:** Motion passed unanimously

**ATTEST:**



Krista Fish  
City Clerk



Daniel Blair  
Mayor