WHITTIER CITY COUNCIL
WILL HOLD
A REGULAR MEETING
TUESDAY, AUGUST 22, 2017
AT 7:00 PM
COUNCIL CHAMBERS
P-12 BUILDING

AGENDA

1. CALL TO ORDER **Page #**

2. OPENING CEREMONY

3. ROLL CALL
A. Council Members Present
B. Administration Present

4. APPROVAL OF MINUTES
A. July 18, 2017 Regular Meeting Minutes **1**

5. APPROVAL OF REGULAR MEETING AGENDA

6. MAYOR'S REPORT
A. Mayor Report - Dan Blair
B. Vice Mayor Report - Dave Pinquoch

7. MANAGER'S REPORT
A. City Manager's Report – Mark Lynch **11**
B. City Attorney's Report– Holly Wells
C. School District Report
D. Directors' Reports
1. Finance Officer Report – John Li
2. Harbormaster Report – Kyle Sinclair **13**
3. Director of Public Safety Report – Dave Schofield
4. Public Works Report – Scott Korbe
5. Public Safety Building Report – Terry Morrison **14**

8. COMMISSION/COMMITTEE REPORTS
A. Planning Commission
B. Port & Harbor Commission
C. Parks & Recreation Committee
D. Prince William Sound Aquaculture Corp.
E. Regional Citizen's Advisory Council

9. CITIZEN'S COMMENTS ON AGENDA ITEMS NOT SCHEDULED FOR PUBLIC HEARING

10. APPROVAL OF CONSENT CALENDAR

11. PUBLIC HEARINGS (NON-ORDINANCE)

12. PRESENTATIONS
A. Captain Miles Sheppard, et al – Initial IRT Engineering study report.

13. ORDINANCES
Introduction (1st reading)
#04-2017- An Ordinance Amending Whittier Municipal Code 2.10.130 Entitled "Prohibited Acts" To Remove Specific Examples Of Prohibited Acts While Preserving The Prohibition Against City Official's Participation In Official Action In Which He Or She Has A Substantial Financial Interest **15**

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14. PUBLIC HEARING (2nd reading)

#03-2017 – An Ordinance amending WMC 2.70 to repeal and reenact code provisions pertaining to personnel. **19**

15. RESOLUTIONS

#13-2017 – A resolution calling on the Alaska Congressional Delegation to support continuation and full funding for rural community and economic development programs. **54**

#14-2017 – A resolution authorizing the City Manager to submit a Tier 2 Harbor Facilities Grant to the Alaska Department of Transportation and Public Facilities to complete replacement Of Harbor Docks and Pilings. **56**

#15-2017 – A resolution requesting FY 18 PILT funding. **57**

#16-2017 – A resolution of the City Council of the City of Whittier, Alaska Approving the Property Description Revisions in the Lease Agreement Between Café Orca & Gallery and the City of Whittier **58**

#17-2017 - A resolution of the City Council of the City of Whittier, Alaska Authorizing the Amendment of the Lease Agreement Between Café Orca & Gallery and the City of Whittier Assigning the Lease to Janet Amor. **60**

#18-2017 – A resolution appropriating $22,982 from the City's Cruise Passenger Vessel fund for design and engineering of a new City Park. **62**

#19-2017 – A resolution accepting approximately $14,000 in funds from the Whittier Emergency Response and Fire Association **63**

16. EXECUTIVE SESSION

A. Public Safety Building Change Orders -- Matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity. AS 44.62.310(1)

B. Potential sale/trade/purchase 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)

C. Property Description Amendments on the Harbor Triangle Leases -- Matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity. AS 44.62.310(1)

17. UNFINISHED BUSINESS

A. Shotgun Cove Road Project
B. ARRC/COW Land Swap
C. Improve Salmon Sport Fishing in Northwest PWS
D. Paddle Craft Launch
E. Property Description Amendments on the Harbor Triangle Leases

18. NEW BUSINESS

A. Action Resulting From PS Building Executive Session.

19. COUNCIL DISCUSSION

20. CITIZEN'S DISCUSSION

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

22. ADJOURNMENT

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, JULY 18, 2017
7:00 PM
COUNCIL CHAMBERS
P-12 BUILDING

MINUTES

1. CALL TO ORDER
Mayor Daniel Blair called the meeting to order at 7:05 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 Pinquoch, Dave Dickason, Peter Denmark, Victor Shen (telephonic) and Daniel Blair.

B. Council Members Absent:

C. Administration Present:

Mark Lynch, City Manager
Naelene Matsumiya, Acting City Clerk
Scott Korbe, Public Works Director
David Schofield, Director of Public Safety
Kyle Sinclair, Harbormaster
John Li, Finance Officer
Terry Morrison, Public Safety Bldg. Manager
Katie Davies, City Attorney

Others Present: John Campabello, Janet Amor, Ken Hunt, Lindsey Erk, Anna Dickason,

4. APPROVAL OF MINUTES
June 20, 2017 Regular Meeting Minutes and July 3, 2017 Special Meeting Minutes

MOTION: Dave Dickason made a motion to approve the meeting minutes of April 18, 2017 as is.
SECOND: Dave Pinquoch
DISCUSSION: None
VOTE: Motion passed unanimously

5. APPROVAL OF REGULAR MEETING AGENDA
MOTION: Peter Denmark made a motion to amend the Agenda to allow Janet Amor, John Campabello and company to speak under the heading of *Citizen's Comments on Agenda Items Not Scheduled for Public Hearing.*

SECOND: Dave Dickason
DISCUSSION: None
VOTE: Motion passed unanimously

6. PRESENTATIONS
None

7. MAYOR'S REPORT
A. Mayor's Report by Mayor Daniel Blair

Mayor Blair stated that he has been fairly busy the past couple of months, but does recall the negotiations that were made with the railroad about the DeLong Dock. He had no further statements.

B. Vice Mayor Report by Vice Mayor Dave Pinquoch
None

8. MANAGER'S REPORT
A. City Manager's Report- Mark Lynch
See written manager's report in original Council packet.

Mark Lynch encouraged the community to submit their input considering any of the Assistant City Manager candidates. He hopes reviewing the statements will help him choose an Assistant City Manager ideal for the community.

He shared with the Council that Kristie Smithers, a retired Clerk from Wasilla, was hired by the City as an Emergency Hire to consult with the upcoming elections. Mark Lynch also acknowledged Naelene Matsumiya for assisting with several Clerk duties.

The final item the City Manager reported was the rejection of the PILT application the City of Whittier submitted to the State. He claimed there was wording in the document that has been changed from the previous year and therefore the State could not accept it. He stressed that he will get this done.

- **Financial Report**
  See written report in original Council packet.

B. City Attorney's Report
None

C. School District Report
None

D. Director's Reports
None

2. **Public Safety Report- Dave Schofield**
   None

3. **Public Works Report- Scott Korbe**
   None

4. **Public Safety Building Report**

Council Member, Peter Denmark, asked Terry Morrison about the progress on the Public Safety Building. Public Safety Building Manager, Terry Morrison, said that the first phase of the project is 91% completed and he's looking forward to begin the second phase. He told the Council that the schedule has been pushed

back and predicts the completion will happen towards the end of August. Terry commented that mechanical and electrical inspections were done at the building and that it looks good. Terry also stated that the preliminary design came through around the same time phase 2 was proposed.

He addressed that the recent situation is the rerouting of pipes due to a fire penetration issue. He explained the case thoroughly for the Council. Terry disclosed that in cases like this, it would go back to the owner in deciding between continuing the work or stopping altogether.

Mayor Blair asked Terry Morrison if he had heard back about the grant for the clinic. Terry answered by saying they're tight lipped about it. He stated that he has called a few times, but he hasn't heard anything yet.

9. COMMISSION/COMMITTEE REPORTS

A. Planning Commission

No report.

B. Port & Harbor Commission

No report.

C. Parks & Recreation Committee

Council Member, Victor Shen, pointed out an error in the Parks and Recreation budget. The City Manager stated that there was a misprint in the report and he will correct the error.

Dave Dickason summarized the latest Volunteer Day and enclosed that it was a success. He described the trail and the work that still need to be done along the tail.

Mayor Blair commented that the trail is a really great thing for the City.

D. Prince William Sound Aquaculture Corp.

None

E. Regional Citizen's Advisory Council

None

10. CITIZENS COMMENTS ON AGENDA ITEMS NOT SCHEDULED FOR PUBLIC HEARING

John Campabello started by saying his only goal is to transfer his lease to Janet Amor. He stated that he doesn't think there is anything negative about the lease and that he has followed the rules for 26 years. Council Member Denmark held up a packet that he had received from Mr. Campabello and said it was not included in the Council Packet. The City Manager commented that Mr. Campabello's packet was submitted after the official packet had already gone out.

Janet Amor asked if there was anything she could do to help with the execution or the rewriting of the leases to expedite the process. She stated that she has reviewed Mr. Campabello's lease and would like to work with the City to correct all that needs to be corrected. Ms. Amor clarified that she's purchasing both the building and the condominium in the Whittier Manor. She explained that once she has approval, she can close her transaction.

Mayor Blair explained the situation and said that there was a change in square footage that was signed off by City Manager at the time, Rick Honhbaum, and thought the change was accurate because it was done by the Planning and Zoning Commission. Mayor Blair stated that the lease seems functional enough for a business to operate.

Council Member Denmark reminded everyone that during the July 3rd meeting, the issue was presented. He explained that ultimately, none of the buildings were moving and that the lot line issue exists, not with Mr. Campabello's lot, but with neighboring lots. Mr. Denmark spoke of the erosion problem in the area. He believes that the lease transfer could be transferred smoothly with the help of some language amendment. He stressed that he does not understand why it needs to be held up for another day.

Holly Wells, the City Attorney, replied to Mr. Denmark saying she understood where he was coming from, but that some objections will possibly arise with entering the agreement because Ms. Amor is expecting a clean title.

Mr. Denmark stated that there was no title because it's a lease transfer. Ms. Amor clarified that the Condo is where the title lies and that she can't buy the building if she's not going to have the condo and vice versa. Mr. Denmark explained that since the title is with the condominium, a simple lease transfer for the building with the City of Whittier was all that was needed.

Ms. Wells reminded Mr. Denmark that the property still legally has description inaccuracies. She added that it was important to preserve the authenticity of the lease for the buyer's interest and that if the process *is* successful (the lease transfer with language amendments, etc...), the City may be protected, but the buyers will have a lease that isn't genuine and as described. She told Ms. Amor and Mr. Campabello that she understands how important it was to them, and assured that she has been working very hard at it. She advised, as the City's attorney, for Council to not lease property that is already leased to someone else.

Mr. Denmark proposed changing and redrawing the lot lines. Ms. Wells clarified that it is the descriptions that need revising, not the lot lines.

The City Manager explained that it will be a bigger job to change a recorded plat than it will be to fix the four leases. The City Attorney stressed that she has been working on this solution to make is the fastest solution.

Vice Mayor Pinquoch supported Ms. Wells and honored her for a job well done. He understands that the City Attorney is doing her best and working really hard to get this corrected. He continued and suggested that a possible solution is to have the buyer's Council approve the lease pending the actions to get the legal descriptions corrected. That way the lease could be finalized upon the action they were taking.

Ms. Wells said she was okay with that, but elaborated that the only problem is that it may take some time and will possibly not be ready for the Council meeting in August. Mr. Denmark pointed out that the item is listed under *Old Business* in the agenda and stated that Council could act on it at their leisure. The City Attorney said that when taking action for these items, a resolution needs to be on the agenda as an action item.

Council Member Dickason asked if this will be resolved by the end of July.

Ms. Wells replied that it was the goal. She reassured Council that she and her team are moving as fast as they can. Mr. Dickason asked if there will be enough time in case a Special Meeting were to be held in the first week of August.

Mr. Lynch expressed his concern about this process and said that if it was going to be done this way, Council would be changing its long-standing policy.

Council Member Dickason explained that at this point, it's almost too late and that Council won't actually accomplish anything by rushing through this issue.

Ms. Wells reported that she had spoken with Janet and her broker and said they wanted this to be dealt with appropriately. They want a clean title, and this is the best solution to get a clean title. Janet Amor's broker stated that the parties that join the two properties (the lease and the condominium) -- he was unintelligible due to Council Member Shen accidentally speaking through the conference phone. Mr. Pinquoch asked if there was a way to transfer the lease temporarily until the lease is corrected. Ms. Wells told Mr. Pinquoch that the approach he described was similar to sub-leasing which she said was the closest thing to a lease transfer.

Brenda Tolman addressed that there have been 40 lease transfers in the Harbor and there has never been a problem with a transfer. She said that she doesn't see any purpose for dragging it out for this long.

Ms. Amor stated that she will be paying with personal cash. She mentioned that the title company attempted to search the building, but there was no match because there wasn't a proper description of the property. She said that with the cash, she was hoping to close within the week, but sudden conditions aren't allowing her close as quickly as she had expected.

Mayor Blair reminded Ms. Amor that the City Council is doing the best they can to clear those conditions. He thanked Ms. Amor for her enthusiasm and her helping develop business in Whittier. Ms. Amor expressed her appreciation for the City and the Council by thanking the Council for shedding light on this issue and reassured that she is still very interested in growing her business in Whittier.

Holly Wells summarized, "What it really comes down to, legally speaking, the City cannot transfer land it does not own or land that is leased already to somebody else and that is what is happening-- *unintelligible* --without fixing the descriptions legally-- *unintelligible* The other option is to do an approval Contingent Upon. But really at the end of the day that doesn't get us any further than those documents getting finalized and completed, which I think focusing all our attention on that will get you the cleanest, best and quickest response or answer because I don't think we're anticipating a lot of objections from the landowners. What Mark has done is just presume that everything is in their favor. There's no push or conflict. I received a message from the title company that said there was nothing we could do without a clean title. It was to my understanding that they were not interested in closing a deal until they had an accurate property description and a clean transfer. So we have been exercising under that presumption, and we have spent a lot of time—*really*—and a lot of effort that will get you where you want to get in a legal way where you're not acting as a governing body approving a land transfer for land that you've already given to somebody else."

Council Member Dickason asked Ms. Amor what her preference was.

Ms. Amor said that she is also a realtor, so she needs it done the right way. She does not feel comfortable moving forward until everything across the board is clean. Mr. Campabello agreed.

Mayor Blair thanked Ms. Amor for her patience and understanding through this process.

11. PRESENTATIONS
None

12. CONSENT CALENDAR
None

13. ORDINANCES (Non-Ordinance)

A. Introduction (2nd reading)

1. #03-2017 – An Ordinance Amending WMC Chapter 2.70, to repeal and reenact code provisions pertaining to personnel.

MOTION: David Pinqouch made a motion to open the public hearing for Ordinance #03-2017.
SECOND: Dave Dickason
DISCUSSION: None
VOTE: Motion passed unanimously

William Earnhart from the City's Attorney Office was there to answer questions for the public. Chief of Police, David Schofield, pointed out the revision in 2.170.570 Accrual that stated, "Leave shall be due and usable upon completion of probationary period, generally following 180 days of employment."

Mr. Schofield clarified that probation period for Police Officers is one year. The revision wouldn't allow them to take leave for a whole year.

The City Manager was not sure why the change was made. He asked Mr. Earnhart if there was a legal reason this was changed. Mr. Earnhart replied that there was no legal reason, it was changed to establish the different probation periods. He urged that there shouldn't be any worries.

Mr. Lynch clarified that he had no objection to police officers using leave after 180 days.

Mr. Earnhart suggested leaving the language as is, and allow Police Officers to use leave after the 180 days probation period.

Mr. Pinquoch believes the language would be more understandable if it read, "Leave shall be due and usable following 180 days of employment." The City Manager agreed.

There were no further public comments.

MOTION: David Pinqouch made a motion to close the public hearing for Ordinance #03-2017 and open it up to Council for discussion.
SECOND: Dave Dickason
DISCUSSION: None
VOTE: Motion passed unanimously

The City Manager discussed the Grievance Process with the Council. Mr. Lynch distributed copies of the flow chart to the Council and discussed it for a while.

Mr. Earnhart explained the process heavily by saying, "Basically, as a public employer, not a private employer, we don't have employees at will other than high-level officers. All public employees are entitled due process before losing their job or having significant disciplinary action. Generally speaking, most governments pile that with other policy violations. It's not the same as a due process like we think in a criminal context; it can be a minimal procedure. It has to be a process where they are made aware of the allegations against them and the evidence, and they get to argue their case. That could go to the City Manager or the Mayor if he is the last in line. In the past, you had the Council last in line. Some entities have a personnel board to do that."

He continued, "There are some downsides. With the personnel board, if you have local members of the community you have to rule on whether or not somebody in their community must be fired. Instances like these don't come up often. The grievances are few so you may have to reconstitute a void every time you want to do one. Ending with the City Manager doesn't work very well too because the City Manager is the person who ultimately decided to fire this person. Due process doesn't seem to be protecting the City or the City Manager, and it can get difficult for the Council. The City Attorney will appoint a Hearing Officer."

Council Member Irvin asked if the Hearing Officer was the same as a Human Resources officer. He then asked the City Manager if he was the Human Resources officer.

Mark Lynch answered that under City code he is the Personnel officer, but some of the Human Resources tasks are delegated to the Executive Assistant such as insurance, workman's composition, and hiring procedures. He clarified that ultimately, the hiring and firing of employees and disciplinary actions are reserved for the City Manager.

The City Council discussed this further.

Mr. Earnhart explained that if there is a director that consistently makes bad decisions, it goes to the City Manager. He told the Council that it is common for employees to approach Council, but it has to go to the City Manager.

Council Member Denmark recited section (2.70.)040 saying, "No employee shall identify himself or herself as representative of the City on matters of policy, by any means whatsoever." He said that this has come up before and recounted that City employees are not permitted to talk to Council Members of day-to-day City business. He indicated that it is common for grievance issues to become fire for conversation.

Mr. Earnhart clarified for Council Member Denmark saying that City employees are not allowed to go in front of legislature or any form of media (cameras, newspapers, etc.) to represent the City without consent from the City Manager.

Vice Mayor Pinquoch stated that information was brought to him second hand by an employee who'd like a workshop on the code and its revision since it affects them. He had no further comments.

Mr. Denmark informed the Council and the audience that the ordinance that permitted firearms was removed. He commented that firearms in the workplace were one of the seven deadly sins and the whole removal was crazy. Mr. Denmark said that there are some high strung people out there and reminded everyone of how crazy the launch ramp could be. He stressed, "There is no way that this should be removed from this ordinance. Firearms and weaponry should be prohibited immensely."

City Manager admitted that he was responsible for the removal because he believes that the second amendment was put in the Constitution to protect people and to give him the right to protect himself. He doesn't think that should be taken away from anyone just because they're at work. He told the Council that it can be put back in the code if they wanted it.

Council Member Denmark disclosed that it is dangerous. Council Member Monty Irvin agreed with Mr. Denmark.

Moving on, Mr. Denmark noted that a uniform allowance has been removed for Police Officers even though they are mandated to dress accordingly. He mentioned that they are the only department of the City that is required to wear a uniform. He concluded by saying, "Let the guys have the opportunity to take pride in their work."

Mr. Lynch pointed out that it wasn't removed; it had just been moved to the fees schedule so that the City could give them more if it were needed.

Mr. Denmark brought up the grievance issues. He pointed out a misprint in the word "*Any.*" The City Manager corrected, saying the y in "eligibiley" was stricken because it was printed in between Any. Mr. Denmark addressed that the verbiage does what the City Manager predicted; it removes exempt employees from any access to a grievance process. Mr. Lynch replied that it does not remove them because they're already not in it, but if it is preferred that they were added in, it can be amended. He reminded Mr.

Denmark that it would be a significant change to the City's current code.

Mr. Earnhart explained the grievance process to Council Member Denmark. Mr. Denmark replied that he still does not understand the argument for the language in the code as it reads now. He added that it is not reflected correctly in the document. Mayor Blair explained that the slash in the Y was from the word *Any*. Mr. Denmark stated that it was simply just a typo, but the current ordinance does allow at-will employees access to some grievance process. Mayor Blair replied that somewhere else in the code, it states that they are not. Mr. Denmark reported that the City of Whittier has close to 20 employees and 6 of the entire City staff are at-will employees and 25% of the staff is exempt employees who do not have access to any grievance policy. He continued saying that he does not see any fairness in the fact that at-will employees do not have recourse at all given the small nature of our community. Mr. Denmark pointed out the stricken "Exempt" under the City Manager's Responsibility and Authority of the code. He said that this allows the City Manager to take action for rank and file employees and that the word exempt offers a perception of a buffer of their immediate supervisor and the City Manager. He concluded that he sees this as an expansion of power for the City Manager and he is not comfortable with exempt employees having no recourse because they may need it to protect their jobs. He believes that the misplacement of one letter changes the focus of the whole document.

Mr. Lynch said that the original plan was to make this section of the code compatible with the rest of it.

Mr. Earnhart added that dropping the Y in *any* and changing it to *an* does not modify the meaning of the term, but it does provide a little less confusion.

Council Member Denmark replied that he would like to see codifying protection for exempt employees. Mr. Earnhart and Ms. Wells took turns discussing the process to Mr. Denmark.

Mayor Blair suggested a workshop for this issue to continue working on the code. He scheduled the workshop for August 22nd at 6:00 pm.

MOTION: David Pinquoch made a motion to postpone the second reading for Ordinance #03-2017 until the September meeting.
SECOND: Dave Dickason
DISCUSSION: None
VOTE: Motion passed unanimously

15. EXECUTIVE SESSION

A. **Legal Counsel Advice and Discussion, Freddie Sue Miller v. City of Whittier** – Matters which by law are required to be kept confidential. AS 44.62.310(3)

MOTION: David Pinqouch made a motion to enter executive session for legal counsel advice and discussion for Freddie Sue Miller v. City of Whittier.

To Discuss the Legal brief union petition. Matters which by law, municipal charter, or ordinance are required to be confidential. AS 44.62.310(3)

To Discuss the Manager's evaluation and contract extension discussion – Subjects that tend to prejudice the reputation and character of any person and matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity. AS 44.62.310(1) and AS 44.62.310(2)

SECOND: Monty Irvin
DISCUSSION: None
VOTE: Motion passed unanimously

Council entered into Executive Session at 8:45 pm

MOTION: David Pinquoch made a motion to end the executive session and return to the regular meeting at 10:00 pm.
SECOND: Monty Irvin
DISCUSSION: None
VOTE: Motion passed unanimously

16. UNFINISHED BUSINESS

A. Lease Transfer Update/Orca Cafe
Discussed under Citizens Comments on Agenda Items Not Scheduled For Public Hearing

B. Shotgun Cove Road Project
Nothing new to report.

C. ARRC/COW Land Swap
Nothing new to report.

D. Improve Salmon Sport Fishing in in Northwest PWS
Nothing new to report.

E. Paddle Craft Launch
Nothing new to report.

17. NEW BUSINESS

A. Discussion and Direction to Manager Concerning WERFA Funds
City Manager, Mark Lynch, explained the fund and gave a brief history. He reported that the potential use for the funds will either go to EMS for CPR equipment or to the school. He told Council how the funds should be distributed was up to them.

Lindsey Erk stated that the School wrote a letter requesting the funds and that it will go to the school's Education Advisory Commission (EAC). Mr. Lynch suggested the money go to a Student Account. Ms. Erk replied that the EAC could write a letter requesting the money go into the Student Account. Mr. Lynch explained the WERFA Fund further.

Holly Wells said that the City Manager's guidance is best and that the Council should go forward with what they think is best.

Council Member Denmark stated that he believes the money should go to EMS and they can donate to the school if they choose to.

Mayor Blair suggested a resolution to be written up for this. Council agreed.

B. Discussion and Direction to Manager Concerning Municipal Waste Disposal
Mark Lynch talked about the ways the City handles the waste that comes out of the City. He stated that the City is spending more on trash than it is taking in revenue of all the harbor leases combined. Mr. Lynch explained what it would be like if the City had its own garbage truck. He presented a chart with information about revenue and distributed copies to the Council. Mr. Lynch told the Council that in January, 23 garbage bins were emptied and they billed the City. Mr. Lynch said that the garbage issue is something he is trying to monitor. He continued to explain the revenue to the Council. The City Manager then talked about the cost if the City had its own garbage truck. He believes that the City will save a lot of money if we were to do our own trash. He asked the Council if they wanted to keep pursuing this issue or if they wanted to purchase a truck for the City.

Council Member Shen suggested negotiating rates at Alaska Waste, but Mr. Lynch said that even so, the cost would be outstanding. Mr. Shen asked if a commercially licensed commercial driver needed to be hired if the City had their own garbage truck. Director of Public Works, Scott Korbe, stated that finding a driver wouldn't be a problem as there is staff that could do the job.

Council Member Denmark stated that former Harbormaster, Cole Haddock, used to lock full garbage bins to prevent people from filling it further, giving them the opportunity to dispose their trash in other trash bins that had room. David Pinquoch replied to Mr. Denmark that the current Harbormaster is working on that as well.

Mr. Lynch said that he will talk to the Harbormaster about keeping the dumpsters closed. He stated that he will continue to crunch the numbers.

18. COUNCIL DISCUSSION

Council Member Denmark asked if the vending machine operators pay sales tax. The City Manager replied that they are.

Mr. Denmark also asked if a small branch of the Police Department could stay in the building for quick and accurate response. David Schofield, Whittier's Chief of Police, stated that they will be moving only 2 blocks away from the building. He believes response time will not be affected if they moved to the new Public Safety building. He concluded that moving away from the building will eliminate the disturbances for residents.

Mayor Blair reported that he is still looking for volunteers to open up the gym other days during the week. Lindsey Erk clarified that the school does not employ any staff in the summer to open the gym and monitor those who come into it. She informed the Council that the gym is open in the winter 3 days a week. Ms. Erk stressed that the concern lies with who has the key.

Mr. Blair informed the Council of the money that is donated to the museum ($10,000) and acknowledged Ted Spencer for his phenomenal work in maintaining and improving the museum. He reported that Mr. Spencer hauled a treasure trove of artifacts from Whittier's past that was delivered to him personally. Mayor Blair asked Council if they were open to the stipend for the improvement of the museum as he believes it is an asset to the City. Council members said they will consider it depending on the budget.

19. CITIZEN'S DISCUSSION

None

20. COUNCIL AND ADMINISTRATION'S RESPONSE TO CITIZEN'S COMMENTS

None

21. ADJOURNMENT

All were in favor of adjourning the meeting at 10:53 p.m.

ATTEST:

Naelene Matsumiya
Acting City Clerk

Daniel Blair
Mayor

THE CITY OF WHITTIER
Gateway to Western Prince William Sound
P.O. Box 608 • Whittier, Alaska 99693 • (907) 472-2327 • Fax (907) 472-2404

To: Mayor and Council

From: Mark Lynch, City Manager

Subject: Manager's report

Date: August 16, 2017 (for 8/22/17 Council meeting)

ARRC/DeLong Dock: Discussions continue with ARRC concerning future disposition of the DeLong Dock, and the possible transfer to the City.

Additional Parking: Work continues on the additional parking area along Glacier Street. Some work has progressed at the Head of the Bay to smooth existing parking and add additional area.

Engineering: CRW Engineers has provided a cost estimate for the City Park design and engineering, and a resolution in in your packet to fund the work. I have had a preliminary meeting on August 14th in Anchorage at which we discussed next steps for Shotgun Cove Road.

Mechanic/Equipment: Our summer mechanic/equipment operator continues to work on vehicle and equipment repairs. Work has been performed to allow more parking at the Head of the Bay and also to smooth the day use area below the camping area. Some work to the shooting range has occurred and additional work to remove debris along Shotgun Cove road is still needed.

Sale of City Surplus: The City is set up to use aksurplus.com to auction surplus city equipment. Lots are beginning to be organized and will be posted to the website soon.

Personnel: I have offered the Assistant City Manager position to Annie Reeves and she has accepted. She will start on September 5. I am still accepting applicants for City Clerk and have hired an experienced retired City Clerk to help the City through the process of the upcoming elections. Our Finance Officer has accepted a job in Seattle. I advertised for a replacement and have hired John Janik, who will start on August 28.

Harbor Docks and Fingers: The final grant reimbursement paperwork has been submitted, and I am working on the grant application for the next and final phase of this project.

Harbor Loan: The latest word is that we are approved at some level. They need more information and will work with Kyle to complete the loan process. Based on the PS Building loan timeline so far, it is likely to be a very long process.

Triangle Lease Issues: Resolutions are on the agenda. Holly will be at the meeting to advise Council concerning this matter.

IRT (Innovative Readiness Training): The IRT team arrived in Whittier on August 14th and will be at the meeting on the 22nd to provide an overview of work progress so far.

Tankfarm Property: No additional news from the Corps yet.

Public Safety Building: Progress can be monitored by going to the Whittier Alaska homepage and scrolling down to the link for the Public Safety Building.

PS Building Water/Sewer Loan: All pre-application materials have been approved. We are now in the formal application process and have been told we are the next in line for the loan people to do their financial review. We are still waiting for the loan agency to finish the next steps.

AML/AMMA Conference in Haines: I have spent the week of August 14-18 at the AML/AMMA Conference in Haines, AK.

August 10, 2017

From: Harbormaster
To: City Manager

Subj: Monthly Harbor Report

Administration:

- Continuing to work with ADEC on Loans
- Continuing to pursue other Grants and loans
- Continuing to pursue past due accounts

Harbor:

- Repairs and maintenance on ramp at Smitty's Cove
- Painting and maintenance on Harbor Restrooms

Meetings attended:

- City Council meeting

Copy to:
File

Whittier Public Safety Facility - Construction Report

Monthly Report: August 11, 2017

Prepared by: Terry Morrison

To: City Council

- Revised change request for additional mechanical scope and fire proofing is $88,641 (6.5% increase)
- Date extension included with this add takes contract date to September 20, 2017.
- All long lead items arriving by last week of August
- Sheetrock 95+% complete
- City to begin data wiring on August 14th
- Forecast Completion Date is 9/20/17 (Contract Completion Date is July 31)
- No update as of yet on Rasmuson Foundation grant application.

Thanks,

Terry Morrison
Alaska Project Services

CITY OF WHITTIER, ALASKA
ORDINANCE #04-2017

AN ORDINANCE OF THE CITY OF WHITTIER AMENDING WHITTIER MUNICIPAL CODE 2.10.130 ENTITLED "PROHIBITED ACTS" TO REMOVE SPECIFIC EXAMPLES OF PROHIBITED ACTS WHILE PRESERVING THE PROHIBITION AGAINST CITY OFFICIAL'S PARTICIPATION IN OFFICIAL ACTION IN WHICH HE OR SHE HAS A SUBSTANTIAL FINANCIAL INTEREST

WHEREAS, Whittier Municipal Code 2.10.130(B) includes a list of prohibited acts that are deemed to be in conflict with the performance of an officer or employee's official duties but many of these acts are extremely broad and far reaching; and

WHEREAS, Whittier ("City") is a small community where there are daily interactions between many of the business owners and City of Whittier officials that require conflict of interest provisions that protect the City from conflicts of interest and corrupt acts while permitting City officials to conduct business and actively participate in the Whittier community; and

WHEREAS, the conflict of interest provisions need to be updated after careful review by Council members and input from City employees;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Whittier, that Chapter 2.10.130 entitled "Prohibited acts" is amended to read as follows:

2.10.130 Prohibited acts.

A. No City officer or employee shall engage in any act in conflict with the performance of his official duties and shall disqualify himself from participating in any official action in which he has a substantial financial interest.

~~B. The following prohibited acts are deemed to be in conflict with the performance of an officer or employee's official duties. No officer or employee shall:~~

~~1. Fail to disclose that he possesses, directly or indirectly, a substantial or controlling interest in any corporation, firm, association or enterprise doing business with the City;~~

~~2. Have a financial or other private interest in any legislation or other matter coming before the Council, and if a Councilman, fail to disclose such interest on the records of the Council or disqualify himself from voting on such matter by stating the nature and extent of such interest, or if an officer or employee, participate in discussion with or give an official~~

~~opinion to the Council as to any such matter and fail to disclose such interest on the records of the Council;~~

~~3. Receive or acquire any financial interest in any sale to or purchase from the City of any service or property with knowledge at the time of receiving or acquiring such interest that the City intends to purchase or sell such property or service;~~

~~4. Accept any retainer, gift, or favor from any person, firm, corporation, association or enterprise having dealings with the City with the knowledge that such retainer, gift or favor is given with the intent to obtain special consideration as to any action by such officer or employee in his official capacity; provided, however, that any such officer or employee who is a candidate for public office may accept otherwise lawful campaign contributions and services in connection with any such campaign;~~

~~5. Have a financial interest, whether personally or through immediate family or close relatives, in a firm, corporation, association or enterprise doing business with the City and influence or attempt to influence the selection of, or conduct of business with such firm, corporation, association or enterprise by the City;~~

~~6. Engage in or accept private employment or render service for private industry or other governmental entities which is incompatible with the proper discharge of official duties or impairs his independence of judgment or action in the performance of such official duties;~~

~~7. Appear on behalf of a private interest before any City agency, board or commission or represent a private interest in any action or proceeding against the interest of the City in any litigation to which the City is a party; provided, that this subsection shall not apply to:~~

~~a. Persons receiving no compensation from the City,~~

~~b. Any member of the Council appearing before governmental agencies on behalf of or as a representative of constituents in the course of his official duties or performing public or civic obligations without additional compensation therefor, or~~

~~c. Any officer or employee appearing on his own behalf or representing himself as to any matter in which he has a proprietary interest; provided such proprietary interest is fully disclosed and the officer or employee does not act or attempt to act in any official capacity with respect to such matter;~~

~~8. Use, request, or permit the use of City-owned vehicles, equipment, materials or property for personal use or profit unless such use is available to the public generally; provided, that this subsection shall not apply to the use of City-owned vehicles, equipment, materials or property provided to such officer or employee in accordance with municipal policy for the conduct of official City business;~~

~~9. As to any matter or proceeding coming before a City agency, board or commission of which he is a member, fail to disqualify himself from acting therein when such matter or proceeding involves any person who is or has been a client of his or his firm or partnership within the 12-month period immediately preceding the date of such action;~~

~~10. Disclose confidential information concerning the property, government, or affairs of the governmental body by which he is employed without proper legal authorization, or use such information to advance the financial or other private interest of himself or others;~~

~~11. Serve as a member of the City Council and have either (a) paid employment with the City other than payment for such Council membership or (b) a substantial or controlling interest in a corporation, firm, association or enterprise doing business with the City;~~

~~12. Simultaneously be a paid City employee and a candidate for election to the City Council or Mayor. Before a paid employee may file a petition for election, he or she must first terminate such employment with the City. This provision is not intended to prohibit payment by the City of a salary to the Mayor;~~

~~13. Be employed or serve in violation of WMC 2.24.132 or 2.32.705.~~

PASSED AND APPROVED by a duly constituted quorum of the Whittier City Council on this ___th day of _____, 2017.

_____
Daniel Blair
MAYOR

ATTEST:

_____

Naelene Matsumiya
ACTING CITY CLERK

Ayes:
Nays:
Absent:
Abstain:

CITY OF WHITTIER, ALASKA
ORDINANCE #03-2017

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHITTIER, ALASKA AMENDING WHITTIER MUNICIPAL CODE CHAPTER 2.70 TO REPEAL AND REENACT CODE PROVISIONS PERTAINING TO PERSONNEL .

THE WHITTIER CITY COUNCIL HEREBY ORDAINS;

Section 1: Classification.This ordinance is general and permanent in nature and shall become a part of the Whittier Municipal Code.

Section 2: Repeal and Reenactment of Chapter 2.70. Whittier Municipal Code Chapter 2.70 is hereby repealed in its entirety and reenacted to read as follows:

Article I. General Provisions

2.70.005 Purpose.

It is the purpose of this chapter to establish a system of uniform personnel policies and procedures which will improve the quality of personnel administration, and which will assist in the accomplishment of the following specific objectives:

A. Uniformity in procedure and an effective regulatory policy respecting personnel matters;
B. Recruitment, selection, and advancement of employees on the basis of their relative ability, knowledge, and skills;
C. Equitable ~~and adequate~~ compensation for City employees;
D. Security of tenure for City employees, subject to the requirements of the City, availability of funds, and continued acceptable work performance and personal conduct;
E. Definite assignments of duty;
F. Sound training, supervision, and administrative direction;
G. Recognition for continued good service; and
H. Fair treatment of applicants and employees in selection, promotion, training and all other aspects of personnel administration, without regard to political affiliation, race, national origin, sex, age, or religious creed, and with proper regard for their privacy. [Ord. 537-08 § 2, 2008].

2.70.010 Applicability.

All offices and positions of the City shall be allocated to either the classified service or the exempt service.

A. The exempt service shall include all elected officials, the City Manager, the Assistant City Manager, the Director of Administration, the City Clerk, the Finance Officer, the City Attorney, the Director of Public Safety, the Public Works Director, the Harbormaster, members of citizens boards and commissions, other employees who enter into employment contracts, individuals and firms covered by contracts and other employees classified as exempt under the Fair Labor Standards Act.
B. The classified service shall include all permanent full time and permanent part time positions which are not placed in the exempt category. Unless specifically designated otherwise, personnel policies apply only to employees of the classified service.
C. The City Council may authorize the hiring of an independent contractor to perform the functions of any position in the exempt service. [Ord. 542-08 § 3, 2008; Ord. 537-08 § 2, 2008].

2.70.015 Review and amendment.

These personnel policies shall be reviewed annually by the City Manager, who shall submit any recommendations for changes to the City Council. [Ord. 537-08 § 2, 2008].

2.70.020 Records maintenance.

Records of the work history of each employee shall be maintained. These records shall include the employee's original application, report of medical examination, reports of the results of investigations and tests, annual reports of performance, reports of the employee's progress and disciplinary actions affecting him or her, and any such other records as may be significant in the employee's service to the City. The City Manager shall prescribe such forms and records for departmental use as may be necessary. [Ord. 537-08 § 2, 2008].

Article II. Employee Conduct

2.70.025 Behavior generally.

All employees shall be fair and impartial in their dealings as employees of the City, and shall avoid any actions which create conflicts of interest or an appearance of conflicts of interest, as well as any actions which adversely affect or appear to affect their ability to perform their duties as municipal employees. [Ord. 537-08 § 2, 2008].

2.70.030 Confidentiality.

Each employee shall exercise the utmost discretion in regard to all matters of official business and records, and shall assure that any information received by him or her on a confidential basis is maintained in confidence to the fullest extent allowed by law. [Ord. 537-08 § 2, 2008].

2.70.035 Public contact.

Each employee shall at all times be courteous and respectful when dealing with the public, all City employees and public officials. [Ord. 537-08 § 2, 2008].

2.70.036 Pets in and around the workplace.

Unless otherwise required by law, no employee may bring his or her pet to work and keep it in or around the workplace. No employee may keep an animal tied up to or in a City vehicle or on City property while at work. [Ord. 537-08 § 2, 2008].

2.70.040 Public statements.

No employee shall present himself or herself as representing the City on matters of policy, by any means whatsoever including oral, written or electronic (i.e., email, social media), without the express permission of the City Manager. Further, no employees shall obligate the City to perform services of any kind without first consulting the City Manager. [Ord. 537-08 § 2, 2008].

2.70.045 Dress code.

All employees will dress in clothing appropriate to the job they perform. Department directors will determine the appropriateness of dress for employees under their direct supervision. Failure to dress appropriately or continued laxness in dress or appearance will be cause for disciplinary action. [Ord. 537-08 § 2, 2008].

~~2.70.046 Firearms prohibited.~~

~~With the exception of public safety officers of the Whittier Department of Public Safety, no employee of the City shall, while performing his/her duties as a City employee, bear or be armed with a loaded or unloaded firearm nor shall any employee(s) have in his/her possession, within City-owned offices/buildings, any loaded or unloaded firearm unless such weapon(s) are locked and secured in an authorized weapons safe/cabinet. Any employee violation of this provision will be subject to disciplinary action by the City pursuant to the City's personnel ordinances as well as other penalties as set forth in this article. [Ord. 537-08 § 2, 2008].~~

2.70.048 Duty of employee to report accidents.

It shall be the duty of each classified service or exempt service employee to immediately verbally report to his or her department director any and all accidents which he or she witnesses while on duty, or to which he or she is a party. If the employee is a department director the verbal report shall be made to the City Manager. If the employee is the City Manager the verbal report shall be made to the Mayor or, in the absence of the Mayor, to any member of the City Council. If the classified service or exempt service employee was a party to the accident the verbal report shall be followed by a written report. The written report shall be submitted no later than 24 hours after the accident or as soon thereafter as practical given the employee's condition. The written report shall be submitted to the same person to whom the verbal

report was made and shall describe the circumstances of the accident. [Ord. 02-2013 § 2, 2013; Ord. 537-08 § 2, 2008].

~~**Article III. Grievance Committee**~~

~~2.70.050 Establishment.~~

~~A seven-member board is established. [Ord. 537-08 § 2, 2008].~~

~~2.70.055 Membership.~~

~~The grievance committee shall be composed of the City Council. [Ord. 537-08 § 2, 2008].~~

~~2.70.060 Duties.~~

~~The duties of the grievance committee shall be:~~

~~A. To submit proposed personnel regulations to the City Council; and~~

~~B. To consider and decide any Step 4 grievances.~~

~~All members of the committee shall declare any conflict of interest and refrain from participating in board actions when a conflict exists. [Ord. 537-08 § 2, 2008].~~

~~2.70.070 Vacancies.~~

~~A vacancy occurring on the grievance committee shall be filled by temporary appointment by the Mayor. [Ord. 537-08 § 2, 2008].~~

Article IV. Organization and Delegation of Authority

2.70.075 Purpose of article.

Proper organization and delegation of authority are essential to effective City government administration and management. The responsibilities and authorities delineated in this article are intended to establish a clear understanding of the role that each segment of the City government should play. [Ord. 537-08 § 2, 2008].

2.70.080 City Council – Responsibility and authority.

The City Council shall be responsible for performing the following functions of the personnel administration process:

A. Approval of the City's budget, including requests for personnel management funds;
B. Approval of personnel code ~~policies and procedures~~ as developed by the City Manager; and
~~C.~~ Appointment of the City Manager.~~; and~~
~~D.~~C. ~~Confirmation of mayoral appointments to the grievance committee.~~ [Ord. 537-08 § 2, 2008].

2.70.085 City Manager – Responsibility and authority.

The City Manager shall have the responsibility and authority to:

A. Administer the personnel code of the City;
~~A.~~B. Develop and administer the internal personnel policies and procedures of the City;
~~B.~~C. Provide for the establishment and maintenance of records of all employees in the City service, including class title, pay and other pertinent data;
~~C.~~D. Foster and develop, in coordination with appointing authorities and others, programs for the improvement of employee effectiveness and productivity, including training, and safety;
~~D.~~E. Administer the City's recruitment and selection program;
~~E.~~F. Insure uniformity in the application of discipline and processing of employee grievances;
~~F.~~G. Prepare and adopt such forms, reports and procedures as may be necessary to administer the City's personnel program;
~~G.~~H. Appoint and dismiss all City ~~exempt~~ employees unless otherwise provided by contract or ordinance; and
~~H.~~I. Oversee the handling of all employee grievances to insure that they are processed in accordance with the procedures stated in this chapter. [Ord. 537-08 § 2, 2008].

2.70.090 Department directors – Responsibility and authority.

Department directors shall have the responsibility and authority to:

A. Provide for the implementation of, enforce, and keep the employees in their departments informed of personnel policies and rules;
B. Evaluate employee performance;
~~C. Participate in the grievance procedures as specified in Article XIII and keep the City Manager informed of all grievances in progress;~~
~~D. Appoint employees to vacant positions within their respective departments in accordance with established personnel rules and procedures;~~
~~E.~~C. Develop training programs for employees in their respective departments;
~~F.~~D. Take corrective action within their respective departments as deemed appropriate;
~~G.~~E. Conduct orientation for all new employees, including introduction to fellow workers, work standards, safety regulations, break periods, supplies, etc.; and

~~H.~~F. Appoint and dismiss all employees under their jurisdiction, in accordance with established personnel rules and procedures, subject to the approval of the City Manager. [Ord. 537-08 § 2, 2008].

2.70.095 Responsibility of all employees.

Employees of the City shall be presented with a copy of the personnel rules adopted hereunder on their hiring date, and shall be responsible for:

A. Reading these rules and asking their department director to explain them if questions arise;
B. Understanding the function of the department to which they are assigned and how that function relates to the total mission of the City and all of its departments;
C. Discussing with their department director any questions relating to the interpretation or application of these rules~~, either informally or formally through the grievance procedure~~;
D. Every employee shall read and sign all ~~the Drug Free~~ Workplace Policies~~y~~. [Ord. 537-08 § 2, 2008].

Article V. Classification of Positions

2.70.100 Plan – Purpose and effect.

The classification plan shall group together those positions that are sufficiently similar in kind, responsibility, and difficulty of work to warrant application of the same pay rate or range of rates and the same general selection standards. Such groupings shall be based upon the current duties and responsibilities of positions in the City. The classification plan shall consist of a list of titles and description of the nature and requirements of work in each classification. [Ord. 537-08 § 2, 2008].

2.70.105 Plan – Adoption and amendment.

The classification plan, and revisions therein which create new or abolish existing classifications, shall be proposed by the City Manager and become effective upon approval by resolution of the City Council. Other modifications to the classification plan shall become effective upon approval by the City Manager. [Ord. 537-08 § 2, 2008].

2.70.110 Plan – Development and administration.

The City Manager shall have the responsibility for the overall administration of the classification plan. In developing the classification plan, he or she shall consult department directors, key staff members, employees and other technical resources as appropriate. [Ord. 537-08 § 2, 2008].

2.70.115 Allocation of positions.

The City Manager shall assign positions to the appropriate classes in the classification plan, and reassign positions as needs of the City change~~when changes in responsibilities justify reassignment~~. [Ord. 537-08 § 2, 2008].

2.70.125 Position descriptions.

Position descriptions shall be supplied and kept current by each City department for each position under the department's jurisdiction, subject to the approval of the City Manager. [Ord. 537-08 § 2, 2008].

2.70.130 New positions.

When a new position is proposed or established, the department in which it is created shall provide a written job description to the City Manager, who shall determine the proper classification or prepare a new classification description if an appropriate classification does not exist. [Ord. 537-08 § 2, 2008].

2.70.145 Effective date of change.

Classification actions shall become effective on the first day of the pay period following determination by the City Manager. [Ord. 537-08 § 2, 2008].

2.70.150 Reclassified positions – Status of incumbents.

In all cases of reclassification, the employee in the position under consideration shall be entitled to examine and compete for the reclassified position. If ineligible for appointment to the reclassified position, the employee shall be transferred or reassigned to an open available job position, to the extent the employee is qualified for such alternate position ~~by appropriate action in accordance with the provisions of these rules~~. [Ord. 537-08 § 2, 2008].

2.70.151 Exempt positions.

As authorized by Alaska Statute, Title 29, Chapter 20, Section 410, Personnel System, subsection (b), there is created a classification for managerial positions, which are wholly or partially exempt from the classified service. A wholly or partially exempt position is filled by a person who serves at the pleasure of the appointing authority and whose terms and conditions of employment are determined by the appointing authority. Unless otherwise provided by contract or City ordinance, the appointing authority shall be the City Manager. [Ord. 537-08 § 2, 2008].

Article VI. Salary Administration

2.70.155 Pay plan – Contents and objectives.

The pay plan shall include a schedule of pay ranges, consisting of minimum, intermediate and maximum rates of pay for all classes of positions in the classified service. The objective of the pay plan shall be:

A. To provide a salary structure appropriate to the recruitment and retention of competent employees; and
B. To provide appropriate pay incentive for high employee productivity. [Ord. 537-08 § 2, 2008].

2.70.160 Pay plan – Standards for development.

The development of the pay plan shall be directly linked to the classification plan, and shall be based on the principle of equal pay for equal work. Pay ranges within the pay plan shall be determined with due regard to such factors as:

A. Relationship between classes;
B. Relative difficulty and responsibility of work;
C. Availability of applicants;
D. Prevailing rates of pay in both public service and private industry in the appropriate recruiting market; and
E. Cost-of-living factors. [Ord. 537-08 § 2, 2008].

2.70.170 Pay plan – Administration.

The City Manager shall be responsible for administering the pay plan and keeping it current through periodic reviews and comparative studies of pertinent factors affecting levels of pay in accordance with the standards described in WMC 2.70.160, and in consultation with the City Council. [Ord. 537-08 § 2, 2008].

2.70.175 Entrance pay rate.

The entrance pay rate shall normally be the minimum rate in the pay range prescribed for the class. A department director, subject to the approval of the City Manager, may make an appointment above the entrance pay rate only when there are no available candidates at the entrance rate, or in recognition of exceptional qualifications. ~~In no instance shall an appointment be made above the minimum step when qualified applicants are available at the minimum entrance rate.~~ Appointments may be made at a rate below the minimum for the class on a trainee basis. [Ord. 537-08 § 2, 2008].

2.70.180 Salary increases.

Except as otherwise provided by this chapter:

A. Merit salary increases may be granted by the City Manager~~, upon recommendation of the department director~~.
B. Cost-of-living salary increases may be granted by the City Council upon the recommendation of the City Manager. In the event a cost-of-living salary increase is granted, it shall be at the same percentage rate and shall be effective on the same date for all City employees without regard to department. [Ord. 537-08 § 2, 2008].

~~**2.70.185 Permanent part-time employee compensation.**~~

~~Permanent part-time employees shall be compensated on an hourly basis at a rate equivalent to the hourly wage rate exclusive of benefits established for regular full-time employment in the appropriate classification. [Ord. 537-08 § 2, 2008].~~

2.70.190 Pay rate adjustments – Transfer.

When an employee is transferred from one class to another with a common pay range, he shall continue to receive the same rate of pay. [Ord. 537-08 § 2, 2008].

2.70.195 Pay rate adjustments – Promotions.

When an employee is promoted from one class to another having a higher pay range, the employee shall receive an increase of not less than one pay step. If the employee's current rate of pay is below the minimum rate of the higher class, the pay shall be increased to the minimum rate of the higher class. If the employee's current rate of pay falls within the range of the higher class, the pay shall be adjusted to the next higher pay step in the range for the higher class which is at least equal to one step increase above his current pay rate. [Ord. 537-08 § 2, 2008].

2.70.200 Pay rate adjustments – Reassignments.

When an employee is reassigned for cause, or for administrative purposes, his/her pay rate shall be adjusted to fit the job according to the principles of classification and equal pay for equal work. [Ord. 537-08 § 2, 2008].

2.70.205 Pay rate adjustments – Reinstatement of employees who have resigned.

No preferential pay treatment shall be given to reinstated employees. The principles of job classification and equal pay for equal work, which include work experience, shall apply as if to a new employee.

~~An employee who has resigned due to special reasons such as, but not limited to, family illness or educational leave shall have reinstatement rights according to applicable law. [Ord. 537-08 § 2, 2008].~~

2.70.210 Pay rate adjustments – Layoffs.

When an employee, following layoff, is re-employed in the same class from which he or she was laid off, he or she shall be placed in the same step occupied at the time of layoff. When the employee is re-employed in a class having a lower pay range, his/her rate of pay shall be assigned according to standard principles of job classification and equal pay for equal work. [Ord. 537-08 § 2, 2008].

2.70.215 Compensation during temporary assignment.

When an employee is temporarily assigned to a position in a higher pay range for a period of 30 calendar days or more, he or she shall be paid at the first step of the higher pay range or he shall be granted a one

step pay increase, whichever is higher, for the full period worked in the temporary assignment. An employee who is temporarily assigned to a position with a lower pay range for any period shall not receive a reduction in pay. No temporary assignment shall exceed the greater of twelve (12) months, or the duration of the project~~exceed six months~~. [Ord. 537-08 § 2, 2008].

2.70.220 Hours of work.

Regular working hours of City employees shall consist of a five-day week, eight hours a day, 40 hours per week. The standard work week shall consist of the period from 00:01 Monday~~midnight Sunday~~ to 24:00 Sunday~~the following midnight Sunday~~. The standard workday shall consist of the period from 00:01 to 24:00~~midnight to midnight~~. Unless otherwise provided, the hours of regular employment for City employees shall be from 8:00 a.m. to 5:00 p.m. with an hour for lunch.

Different schedules to meet department operating needs shall be established and altered by department directors, with approval of the City Manager. ~~Employees may volunteer for flexible work hour plans that deviate from the standard workday and do not exceed 40 hours per week. Before a voluntary flexible work hour plan may take effect, the City must submit a written request for, and obtain approval from, the State Department of Labor.~~ Department directors may temporarily shift the working hours of the employees in their respective departments in order to meet City~~routine~~ needs. [Ord. 553-09 § 2, 2009; Ord. 537-08 § 2, 2008].

2.70.225 Overtime.

Overtime payment will be paid~~received~~ to ~~by~~ all non-exempt employees~~,~~ to the extent required by applicable law ~~except for department directors who are not eligible for overtime payment in any circumstances~~. Overtime must be approved in writing by the department director concerned prior to its performance, except in cases of emergency. ~~which preclude such prior arrangements, and shall be paid to employees who are eligible for overtime payment under this section in accordance with methods established by State laws. The person in charge of providing emergency service shall see that overtime hours related to the service are properly recorded. The department director shall review the record and certify to the Finance Officer any overtime approved for payment as soon as possible after the performance of the emergency service necessitating the overtime.~~ [Ord. 537-08 § 2, 2008].

2.70.230 Time and one-half overtime.

Overtime hours paid at the rate of one and one-half the regular rate shall be calculated and paid to employees who are eligible for overtime payment under WMC 2.70.225 under methods established by the Alaska Wage and Hour Act.

Employees who are eligible for overtime payment under WMC 2.70.225 who are requested to work on a Saturday or on an evening which does not fall within their standard work week shall be paid at time and one-half for those hours, regardless of whether they have worked less than 40 hours in the week. [Ord. 537-08 § 2, 2008].

2.70.235 Overtime pay.

An employee legally entitled to overtime pay under applicable Federal or State law shall be paid at the rate of time and one-half of his/her rate of pay for all hours worked over 40 per week and/or eight hours per day, as required by applicable State law or regulation. When the requirement to work overtime falls on ~~, or on~~ a recognized City holiday, an employee performing services for the City shall receive holiday pay in addition to time and one-half, for a total of two and one half times regular pay ~~in addition to holiday pay~~. [Ord. 553-09 § 2, 2009; Ord. 537-08 § 2, 2008].

2.70.240 Call-out time.

If an employee is eligible to receive overtime payment under WMC 2.70.225 and is called to work outside his or her regular work shift, he or she shall receive a minimum payment of two hours ~~of~~at the applicable overtime rate. [Ord. 537-08 § 2, 2008].

2.70.245 Public Safety Department uniform allowance.

The City shall provide employees in the department of public safety who are required to be in uniform in the course of their duties for the City shall receive an amount budgeted by the City Council as "Salary and Benefits" in accordance with the most recent fee schedule. ~~an amount up to or not to exceed $300.00 for initial hire.~~

~~Commencing the first full month after completion of the probationary period provided by WMC 2.70.350, such employees shall receive a monthly clothing allowance of $40.00 in addition to the employee's regular pay. In the event of separation before the probationary period is completed, the employee would owe the balance remaining on the expense of all initial issue items, and upon satisfaction of the balance due, the City would have no further property interest therein.~~ All issue of department equipment, department insignia, and any other department property ~~not forming a part of the initial issue herein provided,~~ shall be returned to the City upon the termination of employment. [Ord. 537-08 § 2, 2008].

~~**2.70.250 Higher pay range class reassignment.**~~

~~If a class is reassigned to a higher pay range, the base rate of all employees in affected positions shall be increased by five percent for each pay range advanced, not to exceed the maximum of the new range. [Ord. 537-08 § 2, 2008].~~

~~**2.70.255 Lower pay range class reassignment.**~~

~~If a class is reassigned to a lower pay range, the base salaries of employees in affected positions shall not be reduced. Employees whose base rates exceed the maximum rate of the new pay range will remain unchanged until the base rates are encompassed within the pay range. [Ord. 537-08 § 2, 2008].~~

2.70.260 Position classification and reclassification effective date.

The effective date of personnel transactions implementing classification and reclassification of positions shall be the beginning date of the pay period following the date of the change. [Ord. 537-08 § 2, 2008].

2.70.265 Merit and probationary increases.

A. Merit salary increases shall be effective the next payroll period~~day~~ following approval by the City Manager.
B. Probationary salary increases approved by the City Manager shall be effective the next payroll period ~~earlier of the day following completion of three months service as a new hire probationary employee or promotional probationary employee or the day~~ following satisfactory completion of probation. ~~A probationary salary increase shall be one step in the same grade.~~ [Ord. 537-08 § 2, 2008].

2.70.270 Reassignments and reinstatements – Effective date.

The effective date of personnel actions implementing approved promotions, reassignments and reinstatements shall be the next payroll period following the ~~first day of the new~~ City Manager's approval of the change in ~~approved~~ status. [Ord. 537-08 § 2, 2008].

Article VII. Retirement

2.70.280 State retirement system participation.

The City became a participant of the State of Alaska Public Employees Retirement System effective July 1, 1984. Coverage is mandatory for all full-time permanent employees and probationary employees in full-time positions as well as permanent part-time employees. [Ord. 537-08 § 2, 2008].

~~**2.70.285 Age 65 – Continued employment.**~~

~~An employee who attains the age of 65 may be retained in the City service upon written certification of his department director or the personnel officer that such action is in the best interest of the City and deferral of the retirement is authorized by the City Council. The City Manager may require the employee to submit a satisfactory report of medical examination by a physician approved or designated by the City Manager, which shows the employee to be physically and mentally able to perform the duties of his position. An initial deferral of retirement shall be for a period of one year, and subject to renewal in the above manner. [Ord. 537-08 § 2, 2008].~~

Article VIII. Disability and Health Insurance

2.70.290 Group health insurance.

The City provides health and life insurance to each of its permanent full-time and part-time employees under the State of Alaska Group Health Care and Life Insurance Plan. The employee may insure their immediate family under the plan for an additional premium payable by the employee. [Ord. 537-08 § 2, 2008].

Article IX. Recruitment

2.70.300 Policy.

It shall be the policy of the City to recruit and select the most qualified persons for positions in the City service, and to fill vacancies by promotion from within the City when well-qualified employees are available. To ensure that this policy is carried out, it shall be the responsibility of the City Manager to:

A. Conduct recruitment and selection in an affirmative manner to insure open competition;
B. Provide equal employment opportunity. [Ord. 537-08 § 2, 2008].

2.70.305 Method.

The City Manager shall develop and conduct an active recruitment program designed to meet current and projected manpower needs. Recruitment will be tailored to the various classes of positions to be filled and will be directed to all sources likely to yield qualified candidates. [Ord. 537-08 § 2, 2008].

2.70.310 Job announcements and publicity.

A. In order to attract an adequate number of candidates for present or anticipated vacancies and to permit successful competition with other employers, the City Manager shall issue job announcements and otherwise publicize vacancies through the City website and any other methods selected by the City Manager~~such media which shall include, but not be limited to, newspapers within the State~~. Job announcements shall be clear and readable. They shall include the job title, salary range, ~~and~~ and a brief description of job duties and qualifications~~job qualification requirements~~.
B. Publicity for job vacancies shall be conducted for a sufficient period of time to insure reasonable opportunity for persons to apply and be considered for employment. ~~All job vacancies shall be publicized first to all City employees at least five working days prior to public advertisement. If any City employee applies for an advertised position whether it is a contract or noncontract position, Council or the department director shall consider the applicant and if the person qualifies for the position, the position shall be filled in-house and not advertised publicly.~~ The City Manager may also initiate continuous recruitment programs for any class of positions as appropriate. [Ord. 537-08 § 2, 2008].

2.70.315 Application forms.

All applications for employment shall be made on forms prescribed by the City Manager, including the use of online forms. Such forms shall require background information including training, experience and other

pertinent data. All applications must be signed, including the use of electronic signatures. Application forms shall not elicit any information concerning race, politics, religion or national origin.

A resume may be accepted in place of an application when requested in recruitment advertising or if, in the opinion of the City Manager, the information provided on the resume is sufficient. [Ord. 537-08 § 2, 2008].

~~**2.70.320 Rejection of applications.**~~

~~The City Manager may reject any application which indicates that the applicant does not possess the minimum qualifications established for the position. An application may also be rejected if the applicant:~~

~~A. Has deliberately falsified any information on the application form;~~
~~B. Is unable to meet the physical and other requirements, which have been demonstrated as necessary to perform the work of the position;~~
~~C. Is unable to meet the mental requirements necessary to perform the work;~~
~~D. Does not meet the legal age limits or other requirements established by State law;~~
~~E. Has established an unsatisfactory employment record of such nature as to demonstrate unsuitability for the position.~~

~~Whenever an application is rejected, notice of such rejection shall be promptly made to the applicant. [Ord. 537-08 § 2, 2008].~~

Article X. Selection

2.70.325 Responsibility for selection devices.

The City Manager, in conjunction with the department directors, shall be responsible for determining the selection device or devices to be used to obtain the best qualified candidates for each class of positions. Selection devices shall be utilized separately or in various combinations as appropriate to the class and available manpower resources. Such selection devices may include work samples, performance tests, practical written tests, individual physical examinations, background and reference inquiries, and evaluation of training and experience. [Ord. 537-08 § 2, 2008].

2.70.330 Confidentiality.

Job selection materials shall be disclosed only to the City Manager, department director and other City employees with a job-related need to know~~Only the City Manager and department director shall know selection material~~. All persons participating in the development and maintenance of selection materials shall exercise every precaution to maintain the highest level of integrity and confidentiality. [Ord. 537-08 § 2, 2008].

2.70.350 Probationary period.

All appointments are subject to a probationary period of six~~three~~ months with the exception of appointments to the Department of Public Safety for~~to~~ which a 12-month probationary period shall apply. A probationary period shall apply to all positions prior to the acquisition of permanent status. The length of the probationary period may be extended for up to a twelve (12) month period if deemed necessary by the Department Head after consultation with the City Manager.

Probationary employees must obtain at least a satisfactory performance rating at the completion of their probationary period in order to obtain permanent status. Employees in probationary status may be terminated at any time during their probationary period for any reason or for no reason with no recourse to the personnel complaint ~~grievance~~ procedure.

Exempt employees are not subject to serving a probationary period, as they serve at the pleasure of the City Manager.

[Ord. 537-08 § 2, 2008].

2.70.355 Probation – Reassigned employee.

When an employee is reassigned to a position in a class where he previously held permanent status, no probationary period shall be served. When an employee is reassigned to a position where he did not hold permanent status, the department director shall decide whether a probationary period shall be served, subject to the approval of the City Manager. The employee concerned shall be notified in writing of the decision before reassignment is accomplished and, in either case, the employee's anniversary date shall remain unaffected. [Ord. 537-08 § 2, 2008].

2.70.360 Probation – Promoted employee.

When it becomes clear that an employee serving a promotional probationary period is not performing adequately, he shall be so informed in writing with a copy to the City Manager.

If reassignment is found to be necessary, the employee shall be reassigned to a position in his previous class and his anniversary date shall remain unaffected. [Ord. 537-08 § 2, 2008].

2.70.365 Probation – Reinstated employee.

An employee reinstated within two years of termination shall not be required to serve a probationary period unless rehired into a different class than previously served or if a previous probationary period was not completed. [Ord. 537-08 § 2, 2008].

2.70.370 Temporary appointments.

Temporary appointments are for a short-term period not to exceed twelve (12) months, or the date of completion of the project for which the employee was hired~~30 days; however, extensions in 30-day increments may be allowed with the approval of the City Manager, up to a maximum of six months~~. Probationary periods shall not be served for temporary appointments, and no probationary increases shall

be awarded. A person hired for a temporary appointment or hired temporarily to replace an absent employee shall not be entitled to any fringe benefits. [Ord. 537-08 § 2, 2008].

~~**2.70.375 Emergency appointments.**~~

~~Emergency appointments not to exceed 30 calendar days may be authorized by the City Manager without recourse to usual certification procedures. Such appointments shall be made only in cases of unforeseen emergencies and when necessary to prevent impairment to City services. Emergency appointments are not entitled to any fringe benefits. [Ord. 537-08 § 2, 2008].~~

Article XI. Performance Evaluation

2.70.380 Purpose.

The primary purpose of the employee performance evaluation program is to inform employees of how well they are performing and to offer constructive criticism on how they can improve their work performance. Performance evaluation shall also be considered in decisions affecting salary advancement, promotions, reassignments, dismissals, order of layoff, and order of re-employment, placement and training needs. [Ord. 537-08 § 2, 2008].

2.70.385 Evaluation – Probationary period end.

Each employee shall be evaluated 10 days prior to the completion of his or her probationary period. The employee must have an overall evaluation of at least "satisfactory" in order to become permanent. [Ord. 537-08 § 2, 2008].

2.70.390 Evaluation – Annual.

Each employee who has been employed with the City for at least six consecutive months shall receive an annual performance evaluation~~ no later than October 31st of each calendar year~~. [Ord. 05-2013 § 2, 2013; Ord. 537-08 § 2, 2008].

2.70.395 Evaluation – Special.

A special performance evaluation shall be completed whenever:

A. There is a significant change either upward or downward in an employee's performance;
B. ~~A department director permanently leaves his or her position. The department head shall complete a performance report on each employee under his supervision who has not been evaluated within six months prior to the date the department director is to leave his or her position.~~ [Ord. 537-08 § 2, 2008].

2.70.400 Evaluation – Completion – Department director responsibility.

The department director shall be responsible for completing a performance evaluation at the time prescribed for each employee under his supervision. [Ord. 537-08 § 2, 2008].

2.70.405 Evaluation – Review – City Manager responsibility.

The City Manager shall review each performance evaluation report completed by a department director before the report is discussed with the employee. The City Manager shall consider the performance evaluations completed by the department director when evaluating the department director's performance. [Ord. 537-08 § 2, 2008].

2.70.410 Evaluation – Form.

The performance evaluation form shall be ~~a letter from the department director which states that the employee's performance has been~~ discussed with the employee, and shall be ~~. This letter will be~~ signed by the department director and the employee~~, and be accepted as evidence of satisfactory performance~~.

~~The only deviation from this procedure will be in the case of outstanding or unsatisfactory performance. Performance of this nature will be explained in full. In the case of unsatisfactory performance, the rating officer will also make written comment as to remedial action and the employee will be allowed to add comments.~~ [Ord. 537-08 § 2, 2008].

2.70.415 Performance report review.

The department director shall discuss the performance evaluation report with the employee before the report is made part of the employee's permanent record. Performance evaluation reports are not subject to the personnel complaint~~grievance~~ procedure. [Ord. 537-08 § 2, 2008].

~~**2.70.425 Appeal procedure.**~~

~~See WMC 2.70.495, Steps, of Article XIII, Grievance Procedure. [Ord. 537-08 § 2, 2008].~~

2.70.430 Disciplinary action – Employee education.

All department directors shall inform the employees under their jurisdiction of standards of performance and personal conduct of City employees in various positions. Employees shall be acquainted with the various provisions of disciplinary action regulations of WMC 2.70. ~~All City employees shall have in their possession a copy of an up-to-date personnel regulations manual. Copies of the manual shall always be available in the City Manager's office.~~ [Ord. 537-08 § 2, 2008].

2.70.435 Disciplinary action – Procedures.

All disciplinary actions, including occasions of oral counseling~~except oral admonitions~~, shall be documented in writing, presented to the affected employee, and placed in the employee's personnel file. The written document shall be reviewed with the employee, and sincere efforts shall be made to obtain agreement with the employee that facts are stated correctly, that the inappropriate or incorrect behavior did occur, that it did represent behavior that should be disciplined, that the discipline is appropriate and that the behavior will not be repeated.

If errors are found, the written document shall be revised and reviewed again. Comments by the employee shall be entered under the heading "Employee Comments." The employee shall be requested to sign the written document, and informed that his or her signature indicates only his or her agreement that the document accurately records the discussion. If the employee refuses to sign the memo, the statement shall be entered:

(Employee's Name) read the contents of this disciplinary action on (date) and refused to sign.

One copy of each completed report shall be forwarded immediately to the City Manager's office for review and inclusion in the employee's personnel file. A copy shall be given to the employee. The department director may, if necessary, complete reviews to the employee's progress in correcting the cause of the original action at scheduled intervals throughout the following 12 months. These reports shall be made in writing. Twelve months from the date of the action concerned, the City Manager shall review the disciplinary action, and, if no subsequent report of similar violations has been made, the department director shall be instructed to return department and division copies to the affected employee. The original shall be sealed in a confidential envelope and replaced in the employee's personnel file. The envelope shall not be referred to again unless there is a later occurrence requiring further discipline. [Ord. 537-08 § 2, 2008].

2.70.440 Suspension without pay.

The City Manager, or a~~A~~ department director with the approval of the City Manager may at any time suspend an employee for cause without pay for a period not to exceed 30 calendar days in any calendar year. Employees against whom allegations of misconduct have been made may be placed on administrative leave ~~charges are professed may, at the discretion of the department director, be suspended from duty~~ pending final disposition of an internal investigation~~charges~~. A suspension shall be recorded in writing, and a personnel evaluation report completed for any suspended employee. Both documents shall be reviewed with the employee immediately after preparation if possible. Following this action, a copy shall be given to the employee and a copy forwarded immediately to the City Manager. [Ord. 537-08 § 2, 2008].

2.70.445 Demotion or r~~R~~eassignment for disciplinary reasons.

The City Manager, or a department director with the approval of the City Manager may ~~An appointing authority may~~demote or reassign an employee for disciplinary reasons in accordance with other provisions of these regulations. Demotion or r~~R~~eassignment is considered a more moderate penalty than dismissal and may be offered in lieu thereof, as approved by the City Manager, when mitigating circumstances warrant such leniency. The City Manager reserves the prerogative to alter job descriptions and pay classifications for purposes of managing the City's workforce to meet the needs of the City. [Ord. 537-08 § 2, 2008].

2.70.450 Reassignment without prejudice.

Reassignment without prejudice shall not be considered a punitive action. The City Manager, or a department director with the approval of the City Manager may ~~An appointing authority may~~ reassign an employee in accordance with other provisions of these regulations for any of the following reasons:

A. Inability to perform duties adequately;
B. Layoff because of lack of work or funds or abolition of positions. When employees are laid off, the appointing authority shall consider the advisability of reassigning them to vacant positions in lower classifications for which they are qualified;
C. Personal Reasons. There are a variety of reasons why an employee might wish to work in a position on a lower level class, such as personality conflicts and being placed in a new class series where new experience and greater likelihood of advancement are available. [Ord. 537-08 § 2, 2008].

2.70.455 Administration.

The City Manager shall be responsible for overall administration of the employee performance evaluation program. He or she shall advise and assist employees to assure that performance evaluation procedures are handled in accordance with the provisions stated in this article. [Ord. 537-08 § 2, 2008].

Article XII. Employee Development

2.70.460 Purpose.

The purpose of the employee development program is to foster and promote the training and development of employees in order to:

A. Improve the quality of services to the City;
B. Equip employees for career advancement within the City service; and
C. Provide a reservoir of occupational skills necessary to meet current and future employment needs. [Ord. 537-08 § 2, 2008].

2.70.465 Program development and administration.

The City Manager shall have the overall responsibility for the development, administration and coordination of the employee development program and shall:

A. Assist the department directors in developing and implementing employee development programs to meet the current and future needs of their departments and to increase employee efficiency;
B. Conduct or coordinate employee development programs to meet the common needs of all departments;
C. Maintain a file of current information and materials on job requirements, training opportunities, employee development manuals and other employee development literature;
D. Maintain a record of all training conducted and insure that authorized employee development programs are properly administered;

E. Periodically analyze and evaluate the overall development needs of employees within the City service;
F. Assure that all employees receive equal consideration for appropriate training opportunities; and
G. Assure that employee personnel files are updated upon successful completion of any employee development activities to insure maximum consideration for placements, transfers and promotions. [Ord. 537-08 § 2, 2008].

2.70.470 Program development – Role of department directors.

Department directors shall provide active leadership in developing the employees under their supervision. In this capacity, they shall:

A. Cooperate closely with the City Manager in determining the current and future employee development needs in their departments;
B. Participate with the City Manager in developing and implementing employee development programs;
C. Budget sufficient funds to secure needed career development programs;
D. Evaluate the effectiveness of completed career development programs and make recommendations for improvement where appropriate;
E. Assure that employees are provided with sufficient time to participate in career development programs. [Ord. 537-08 § 2, 2008].

2.70.475 Reimbursement of training costs upon separation.

A. When an employee attends a school, training session or other similar program of mutual benefit to the employee and the City, the employee shall agree to:
   1. Remain in City service one month for every day (including Saturdays and Sundays) that he is attending the school and for which the City is paying his salary, travel costs and per diem; and
   2. Remain in City service two weeks for every day (including Saturdays and Sundays) that he is attending the school and for which the City is paying either his salary, or travel costs and per diem costs.
B. There shall be a two-year maximum to the length of time that an employee must remain in service.
C. Should the employee leave the service of the City~~municipality~~ prior to the completion of computed service time, he or she shall reimburse the City for costs incurred in proportion to length of time remaining to be served, and shall allow the City to deduct such reimbursable cost from the employees pay, including final pay, pursuant to a written agreement entered into between the City and the employee on or about the time the school, training, or similar program commenced.
D. If an employee is involuntarily separated from the service of the City before completion of computed service time, the remaining reimbursable cost for failure to complete the time to be served will be canceled. [Ord. 537-08 § 2, 2008].

Article XIII. Grievance Procedure

2.70.480 Policy.

It is the policy of the City to treat all employees equitably and fairly in matters affecting their employment. Each permanent full time and permanent part time employee of the City will be provided ample opportunity to understand and resolve matters affecting employment, which the employee documents as being a violation of rules and regulations. The presentation of any grievance shall be the right of each permanent full-time and permanent part time employee without fear of reprisal. [Ord. 537-08 § 2, 2008].

2.70.485 Grievance – Defined.

A "grievance" is a written complaint by an employee or group of employees alleging a violation of a section or sections of the City code, personnel rules and regulations, or departmental rules and regulations, which pertain to the terms or conditions of employment by the City and which are within the scope of the grievance procedure established by this chapter. Employee performance evaluations are not grievable. Temporary employees, volunteers, independent contractors and any employee is his/her probationary period are not entitled to use the grievance procedures. Exempt employees are not entitled to use the grievance procedures. [Ord. 537-08 § 2, 2008].

2.70.490 Discussion of a problem with supervisor.

An~~y~~ eligible employee having a problem regarding employment shall first discuss the problem with his or her immediate supervisor. If the problem is not settled and the problem meets the definition of ~~is defined as~~ a "grievance" set forth in Section 2.70.485, the employee has the right to present the grievance in accordance with the procedure outlined in WMC 2.70.495. [Ord. 537-08 § 2, 2008].

2.70.495 Steps.

A grievance shall be handled in the following manner:

A. Step 1. The aggrieved employee or group of employees shall present the grievance orally to the immediate supervisor within five working days of the occurrence of the event leading to the grievance, not including the day of the occurrence. The supervisor shall give an oral reply within three working days of the date of presentation of the grievance, not including the date of presentation.

B. Step 2. If the grievance is not settled in Step 1, or if the grievance involves allegations of a violation of policy by the affected employee's supervisor, the employee shall document, in detail, in writing, the specific subsection(s) of this WMC 2.70, personnel policy, departmental rule, or other regulation alleged to be misinterpreted, misapplied or violated. This formal grievance shall be dated, signed and submitted to the Department Head within five (5) working days from (i) the oral reply of the supervisor from Step 1, or (ii) of the violation which is the subject matter of the employee's grievance. ~~it shall be reduced to writing, dated, and signed by the aggrieved employee and presented to the department director within five working days after the supervisor's oral reply is given.~~ The department director shall reply in writing to the grievance within five working days of the date of presentation of the written grievance, not including the day of the presentation.

C. Step 3. If the grievance is not settled in Step 2, or if the grievance involves allegations of a violation of policy by the affected employee's department head, the written grievance shall be

presented, along with all pertinent correspondence, records and information accumulated to date, to the City Manager. This presentation must be made within five working days after the department director's response is made, not including the day of the response. The department director shall receive a copy of the grievance. The City Manager may meet with the aggrieved employee, the immediate supervisor and the department director, and obtain through investigation such additional information or documentation as the City Manager deems pertinent to his/her review of the grievance. The City Manager shall reply to the grievance in writing within five working days of the date of presentation of the written grievance to him or her, not including the day of presentation.

D. Step 4. If not satisfied with the City Manager's decision, an employee may request a hearing before the grievance committee.

E. The grievance committee shall conduct the hearing expeditiously and in a manner conducive to obtaining a clear understanding of the facts. The procedure shall be informal. Technical rules regarding evidence and witnesses shall not apply.

F. The grievance committee shall submit a written report of its findings and determinations to all interested parties within 10 working days after hearing testimony.

G.D. The decision of the grievance committee is the final step within the administrative process of the Cityа hearing officer, as provided in Section 2.70.296.

H. Grievances related to an act or failure to act of a department director shall be initiated at Step 2.

I.E. Grievances related to an act or failure to act of the City Manager shall be initiated at Step 3. [Ord. 537-08 § 2, 2008].

2.70.496 Hearing Officer Proceedings.

A. Initiating Proceedings Before Hearing Officer. Upon receipt of the City Manager's response or failure of the City Manager to respond, the employee shall have five (5) working days to request that the matter be appealed to a Hearing officer. If the employee fails to file a written request for an appeal to a hearing officer within five (5) working days, such failure will serve to decide the grievance in favor of the City Manager's Step 3 decision.

B. Hearing officer.

1. If an appeal to a Hearing officer is made under Step 4, the City Manager shall send the complaint to the hearing officer selected by the city attorney. The hearing officer shall be a private attorney or an individual trained as an administrative hearing officer. The hearing officer shall not be an employee of the City of Whittier..

2. The City Manager will furnish to the hearing officer the grievance and any official responses obtained from Steps 1 through 3 of the grievance process.

3. The hearing officer shall schedule a hearing within ninety days after the date of receiving the notice of appeal. The hearing officer may extend this deadline for good cause.

C. Hearing notice.

1. The Hearing official shall serve on the complainant and the City Manager a notice of hearing setting out the time and place of hearing and the schedule for any preliminary matters. This notice shall include a statement of the right to provide written evidence and

oral testimony. The complainant and the City Manager shall also be informed of the right to be represented at the hearing.

2. The hearing officer shall determine if the grievance has been proven by the preponderance of the evidence.

D. Service by mail and filing.

1. All motions or requests shall be served upon the opposing party. If service by mail is used, three days will be added for response time from the date of mailing. The party must certify the date mailed on the document. If the deadline falls on a weekend or holiday, the deadline shall fall on the next city business day.

2. All documents shall be filed with the City Manager.

E. Hearing.

1. All hearings shall be before the hearing officer who shall preside.

2. The hearing officer may administer oaths, hold hearings, and take testimony. The hearing officer may, on their own or in response to a motion by a party to the hearing, request the presence of witnesses and the production of records, books, and papers at the hearing.

3. The complainant and the City Manager may each present opening statements setting out the matters they intend to prove. The complainant shall proceed first with his or her evidence and the City Manager shall follow, setting forth his or her evidence. The complainant and the City Manager may make closing arguments.

4. The Alaska Rules of Evidence do not apply to the admission of evidence in a hearing, but the hearing officer's findings of fact must be based on reliable and relevant evidence.

5. At the conclusion of the presentation of evidence and closing arguments, the hearing officer shall consider the allegations, the evidence supporting them, and the City Manager's evidence.

F. Findings of fact and conclusions of law.

1. The hearing officer shall enter findings of fact and conclusions of law no later than 30 days after the conclusion of the hearing. The hearing officer shall notify the parties and their attorneys if an extension is required to permit the preparation of findings of fact and conclusions of law.

2. If the hearing officer finds that no violation has occurred, the complaint shall be dismissed.

3. If the hearing officer finds that a violation of this chapter 2.70 or a personnel policy, rule, or procedure has been violated, the hearing officer shall prepare and submit its findings of fact and conclusions of law to the City Manager, and shall include an order for remediation of the violation.

4. The findings of fact and conclusions of law are final and conclusive.

5. If the hearing officer determines that no violation has occurred, or otherwise dismisses the complaint for substantive reasons, the hearing officer may award full or partial attorney fees to the City. An award of fees to the complainant may not be made unless the City Council has appropriated funds for that purpose.

6. The procedures of this section are the sole and exclusive remedies of employees contesting violations of these policies and/or disciplinary actions. An employee must fully exhaust these remedies prior to filing any lawsuit or other administrative action.

G. Appeal of findings of fact and conclusions of law and penalty.

1. If the hearing officer imposes a penalty with its decision, appeal of the findings of fact and conclusions of law and the penalty may be taken to the superior court in accordance with the Alaska Rules of Appellate Procedure.

2. Notice of an appeal must be filed with the superior court within 30 days of the imposition of the penalty.

2.70.500 Employee representation.

Each employee shall be afforded an opportunity to be represented at each of the above steps upon providing reasonable documentation acceptable to the City that the person is engages as the employee's representative. At Steps 1 and/or 2 of the grievance procedure, a representative of his choice who shall be any other full-time employee of the City may accompany the employee. At Steps 3 and/or 4 of the grievance procedure, a representative of his or her choice may accompany the employee. Employees shall contact and discuss their problems with their representative only during break periods, lunch hour, before or after work or at any other time when they are not on duty . Grievance hearings may be held during work hours. [Ord. 537-08 § 2, 2008].

2.70.505 Disciplinary action – Appeals.

All appeals of disciplinary action shall be initiated at Step 3 of the grievance procedure. [Ord. 537-08 § 2, 2008].

2.70.510 Violation of grievance procedure.

The grievance procedures of this section are the sole and exclusive remedies of the employees of City contesting violations of policies and/or disciplinary actions. An employee must fully exhaust these remedies prior to filing any lawsuit or other administrative action.An employee who takes an employment problem outside the administrative structure of the City without first attempting to resolve the problem in accordance with the provisions of this article shall be subject to disciplinary action. [Ord. 537-08 § 2, 2008].

2.70.515 Time limits – Generally.

A. If grievance procedures are not initiated within the time limits established by this section, the employee shall be considered as having waived his or her right to grieve the particular violation and initiation of a grievance for the same act or omission is thereafter barred.
B. Any grievance not taken to the next step of the grievance procedure by the grievant within the time limits established by this section shall be considered settled on the basis of the last reply made and received in accordance with the provisions of this section.
C. If the City fails to meet or answer any grievance within the time limits prescribed for such action by this section, such grievance shall automatically advance to the next step. If the City fails to meet or answer any grievance on Step 4 of the grievance procedure within the time limits prescribed for such action by this section, the grievant may consider the City's last action on the grievance the City's final step within the administrative process of the City. Thereafter, the grievance process may be initiated by the aggrieved employee through the hearing officer. [Ord. 537-08 § 2, 2008].

2.70.520 Time limits – Extension.

The time limits prescribed in this section for the initiation and completion of the steps of the grievance procedure may be extended by mutual consent of the parties so involved, or in exitent circumstances, by notification of the City Manager to the aggrieved employee if such extension is necessary to the fact finding process. Likewise, any step in the grievance procedure may be eliminated by mutual content. Mutual consent shall be indicated in writing and shall be signed by all parties. [Ord. 537-08 § 2, 2008].

2.70.525 No discrimination.

No employee shall be disciplined or discriminated against in any way because of the employee's proper use of grievance procedures. [Ord. 537-08 § 2, 2008].

Article XIV. Leave

2.70.535 Eligibility~~ntitlement~~.

All permanent full time and permanent part time employees ~~classified employees~~ shall be entitled to leave accrual benefits. [Ord. 537-08 § 2, 2008].

2.70.540 Accrual rate.

Leave shall accrue at a minimum ~~at the~~ rate of:

0 – 2 years	12 hours per month
2 – 5 years	14 hours per month
5 – 10 years	16 hours per month

10 or more years	18 hours per month

The City Manager shall have discretion to award service credit for accrual purposes to newly hired City employees based on prior experience. Sick leave shall be included in the benefit package at the rate of four hours per month. [Ord. 537-08 § 2, 2008].

2.70.545 Approval – Administrative procedures.

Department directors shall submit all leave requests to the Administration Department prior to granting leave to employees in their departments so that a determination can be made that the requested amount of leave has in fact been accrued. The Administration Department shall complete the leave balance portion of the leave slip, initial the leave slip and return it to the department director. If the employee does not have sufficient leave accrued, the City Manager and the department director will be so advised. The City Manager is the only person with authority to grant leave without pay. [Ord. 537-08 § 2, 2008].

2.70.550 Accrual while on paid leave.

Leave shall continue to accrue during the period of time that an employee is on paid leave. Leave does not accrue during periods of leave without pay nor during a period of terminal leave. [Ord. 537-08 § 2, 2008].

2.70.555 Accrual computation for permanent part-time employees.

Permanent part-time employees shall accrue leave at the same rate as regular full-time employees, except that leave shall be accrued based on the proportion of actual hours worked to the number of normal duty hours in a month for a full-time employee. [Ord. 537-08 § 2, 2008].

2.70.560 Accrual – Temporary appointment.

Temporary employees shall not accrue leave. [Ord. 537-08 § 2, 2008].

2.70.565 Accrual – Maximum accumulation.

The maximum number of hours of annual leave that may be carried over after December 31st of each year is 240 hours. [Ord. 537-08 § 2, 2008].

2.70.566 Reserved.

[Ord. 537-08 § 2, 2008].

2.70.570 Accrual – Credit upon completion of probationary period.

Employees who are entitled to accrue leave upon satisfactory completion of a probationary period shall receive credit for leave accrued since the date of appointment. Leave shall be due and usable upon

completion of probationary period, generally ~~with the exception of police officer's leave, which shall be due and usable~~ following 180 ~~90~~ days of employment. [Ord. 537-08 § 2, 2008].

2.70.575 Regular use.

The employee shall be allowed to use any amount of accrued leave at the time he or she desires; provided, that the department director determines that the employee's absence will not be detrimental to departmental operations. The employee shall give the department director adequate notice of his or her intent to take leave. The City Manager shall approve accrued leave requests of the department directors. [Ord. 537-08 § 2, 2008].

2.70.580 Amount to be taken yearly.

The minimum number of hours of annual leave that must be taken by all employees annually is 80 hours. This limitation shall not apply to new employees until January 1st of the calendar year following this date of hire. It shall be the responsibility of each department director to insure that work is conducted and vacation planning scheduled so that each employee in the department has the opportunity to use his or her hours of leave at a time that most nearly meets his or her desires, while still allowing the maintenance of City services at an adequate level. It shall be the responsibility of each department director to see that each employee under his or her supervision takes the minimum annual leave required by this section. The department director shall provide written justification to the City Manager if an employee in his or her department fails to take the minimum number of annual leave hours required. Such written justification shall be made a part of the personnel file of the employee in question. [Ord. 537-08 § 2, 2008].

2.70.585 Regular holidays not counted.

A recognized holiday which occurs during an employee's leave shall not be counted as a day of leave. [Ord. 537-08 § 2, 2008].

2.70.590 Exemptions.

When it is not feasible nor in the best interest of the City ~~service~~ to grant requested leave to an employee, such employee shall not be penalized by loss of ~~bona fide~~accrued ~~earned~~ leave by the imposition of the maximum limits set forth above, but shall receive an automatic cashout of the excess accrued leave at the next payroll period~~, and the limitations of accrued leave accumulation shall be temporarily suspended~~. The decision of the City Manager shall govern as to the further use of such leave. [Ord. 537-08 § 2, 2008].

2.70.595 Annual – Cash in lieu.

An employee who has a balance of more than 240 hours of annual leave shall automatically receive a cashout of the excess accrued leave at the next payroll period. Such employees also may submit a request to cash in any number of annual leave hours at the employee's regular rate of pay so that the balance of remaining leave does not reduce the leave balance below 80 hours. An employee must submit their leave

cash-in requests by November 15th to be paid with the first regular payroll in December. The leave use requirements as stated above are not diminished or alleviated by cash-in of annual leave.

In documented cases of unforeseen financial emergencies, consistent with City policies of deferred compensation cash-in, the City Manager may authorize the City to purchase an employee's annual leave at his/her regular rate of pay. [Ord. 537-08 § 2, 2008].

2.70.600 Terminal leave.

Employees terminated shall be paid for their accrued earned annual leave. Accrued annual leave shall not be granted nor paid to an employee upon separation during initial probation. Accrued leave shall be paid in a lump sum. The salary or hourly rate used in computing a cash payment shall be that rate being received by the employee on the date of application for cash payment or the date that a resignation/separation notice is signed by the employee. [Ord. 537-08 § 2, 2008].

2.70.605 Reinstated employees' leave.

Reinstated employees must wait 90 days from their latest date of rehire before they will be permitted to use their accrued leave. Employees laid off due to a reduction of workforce are exempt from this section. [Ord. 537-08 § 2, 2008].

2.70.610 Military leave.

Absence from City duty for the purpose of participating as a member of a United States reserve component, either in active military service of the State or in military training, shall be authorized as required by law. [Ord. 537-08 § 2, 2008].

2.70.615 Jury leave.

Jury duty shall be treated as administrative leave from City duty without loss of longevity, leave or pay. Services in court performed by an employee when subpoenaed as a witness on behalf of the City, or when called as an expert on a matter of City concern, or relating to a municipal function, will be treated in the same manner as jury duty. In order to be entitled to jury leave, the employee shall provide his or her department director with written proof of the requirement of his or her presence for the hours claimed. Fees paid by the court ~~(other than travel and subsistence allowance)~~ shall be turned in for deposit to the City's general fund, except that fees paid for court duty occurring on the employee's normal nonworking days may be retained by the employee. Witness service for purposes other than those provided in this section will require use of annual leave or be considered leave without pay. The individual may retain any fees in this connection. [Ord. 537-08 § 2, 2008].

2.70.620 Leave without pay.

Leave without pay may be granted to an employee as required by law. No benefits will accrue while on leave without pay, except insurance, which will continue to be paid for 30 days or as required by law whichever is greater. [Ord. 537-08 § 2, 2008].

2.70.625 Unauthorized leave.

Any absence not authorized and approved in accordance with provisions of these regulations shall be without pay for the period of absence and shall be grounds for disciplinary action. [Ord. 537-08 § 2, 2008].

2.70.627 Emergency leave and donating leave.

An employee shall be given three paid working days off in a case of immediate family death. "Immediate family" consists of mother, father, brother, sister, wife, husband, grandmother, grandfather, children, grandchildren or stepchildren. Employees may donate their hours of leave to another employee only in cases where that employee is recovering from an accident or illness only after the employee receiving the donated leave has exhausted their accrued annual and sick leave. Such leave donations shall be time-based and made without regard to pay grade or valuation of services. [Ord. 537-08 § 2, 2008].

2.70.633 Extended absence due to illness.

Any absence for health reasons in excess of three working days or requiring hospitalization must have a signed release by a physician or physician assistant. [Ord. 537-08 § 2, 2008].

Article XV. Holidays with Pay

2.70.635 Recognized City holidays.

The following days shall be recognized as holidays with pay for all employees in permanent ~~regular~~ full-time and~~,~~ permanent part-time positions ~~and temporary full-time positions (excluding all temporary positions of less than 15 working days' duration or not exceeding 39 hours of work per week)~~ who are in the pay status the day before and the day after the recognized holidays:

A. The first of January, known as New Year's Day;
B. The third Monday in February, known as Presidents' Day;
C. The last Monday in May, known as Memorial Day;
D. The Fourth of July, known as Independence Day;
E. The first Monday in September, known as Labor Day;
F. The third Friday in October, known as Alaska Day;
G. The eleventh of November, known as Veterans' Day;
H. The fourth Thursday in November, known as Thanksgiving Day, and the Friday immediately following Thanksgiving Day.
I. The twenty-fifth day of December, known as Christmas Day, and one half working day immediately preceding Christmas Day; and
J. One personal day. [Ord. 537-08 § 2, 2008].

2.70.640 Holiday falling on Saturday or Sunday.

When a recognized holiday falls on a Saturday, the preceding Friday shall be recognized in lieu thereof and treated as a holiday with respect to overtime compensation. When a recognized holiday falls on a Sunday, the Monday following shall be recognized in lieu thereof and treated as a holiday with respect to overtime compensation. [Ord. 537-08 § 2, 2008].

2.70.645 Holiday during annual leave.

A recognized City holiday, which occurs during an employee's annual leave, shall be counted as a holiday. [Ord. 537-08 § 2, 2008].

2.70.650 Holiday falling between two days of leave without pay.

A holiday occurring between two days of leave without pay shall not be paid. [Ord. 537-08 § 2, 2008].

2.70.655 Computation of holiday pay for permanent part-time employees.

Permanent part-time employees shall be paid holiday pay prorated based on their regularly scheduled hours.~~equivalent to the actual hours they would normally have worked on a day on which a holiday falls~~. [Ord. 537-08 § 2, 2008].

Article XVI. Separations

2.70.660 Resignations.

To resign in good standing, a non-exempt~~n~~ employee must present a written resignation to his appointing authority at least 14 calendar days in advance of the day of termination. Exempt employees shall give no less than thirty (30) calendar days' written notice to the City Manager in advance of the effective date of his/her resignation. The City Manager at his/her discretion may provide pay in lieu of notice for any resigning employee, but in no account shall the amount of pay exceed 14 calendar days for non-exempt employees, or 30 calendar days for department directors and exempt employees. ~~is requirement may be waived in writing by the department director where adequate provision can be made for a successor in that period of time, as well as under extenuating circumstances.~~ A copy of the employee's resignation~~, as well as any waiver by the department director,~~ shall be supplied by the appointing authority to the City Manager. The City Manager may conduct an investigation in order to verify the facts relating to a resignation. [Ord. 537-08 § 2, 2008].

2.70.665 Withdrawal of resignations.

Once a written resignation has been submitted, an employee may not withdraw a resignation without the express written approval of the City Manager. [Ord. 537-08 § 2, 2008].

2.70.670 Failure to give adequate notice.

Failure to give adequate notice shall be noted on personnel separation transaction form~~ if the requirement for such notice is not waived~~. This shall prevent the employee from preferential rehire. It may also be cause for denial of any future employment with the City. [Ord. 537-08 § 2, 2008].

2.70.675 Layoffs.

Examples of reasons for layoffs are:

A. Abolishment of a position resulting from a shortage of work funds;
B. Completion of seasonal work for a seasonal employee;
C. End of temporary appointment because of reinstatement of regular employee returned from military or other approved leave and transfer to another position in the same class has not been achieved.

When it is necessary to reduce the number of employees because of lack of work or funds or abolition of positions, the department director concerned shall make recommendations to the City Manager, who shall decide which employees shall be laid off. Employee efficiency shall be the major factor in determining the order in which employees shall be released, and consideration shall then be given to employees' length of service with the City. The advisability of reassigning employees in higher classes to lower classes for which they are qualified and laying off those in lower classes shall also be considered. [Ord. 537-08 § 2, 2008].

2.70.680 Dismissal for disciplinary reasons.

A department director may dismiss an employee for any just cause, including but not limited to: (i) engaging in any form of dishonesty, criminal conduct, or unethical conduct, (ii) theft ~~of property~~, (iii) failure to satisfactorily perform the employee's job duties, (iv)~~inefficiency,~~ insubordination, (v) tardiness or absenteeism, (vi) violating the City's Drug- and Alcohol-Free Workplace Policy, or (vii) ~~habitual tardiness, unexcused absences and use of or influence from intoxicating beverages or drugs while on duty~~engaging in any act or omission that constitutes just cause for termination under the laws of the State of Alaska. Prior to dismissing an employee, the department director shall discuss the proposed action ~~Dismissal action shall be reported immediately to~~with the City Manager~~ by personal consultation~~. A personnel evaluation report shall be submitted as soon as possible, setting forth the circumstances of the case. Any nonexempt employee shall be given the opportunity to participate in a pre-termination hearing. Exempt employees are not eligible to participate in a pre-termination hearing and are not entitled to use the grievance process. ~~Any exempt employee shall be given the opportunity to participate in a post-termination "name clearing" hearing before the grievance committee or in public at the choice of the terminated exempt employee.~~ [Ord. 537-08 § 2, 2008].

2.70.690 Dismissal notice or severance pay.

In a case where a permanent full time or permanent part time employee is laid off the City shall give the employee two weeks' notice or severance pay not to exceed two weeks. [Ord. 537-08 § 2, 2008].

Article XVII. Special Provisions

2.70.695 Gifts and gratuities.

It shall be the responsibility of each City employee to remain free from indebtedness or favors which would tend to create a conflict of interest between personal and official interests or might reasonably be interpreted as affecting the impartiality of the individual employee. If an employee is tendered or offered a gift or gratuity that would, in the eyes of the public or public officials, be construed as an attempt to bribe, influence or encourage special consideration with respect to municipal operations, such offer shall be reported without delay to the employee's immediate supervisor who in turn will inform the department director. If there is any doubt about whether a gift or gratuity is of such significance as to create undue influence upon an employee, the matter shall be reported to the department director concerned. If any employee knowingly accepts any gift or gratuity, which creates undue influence or results in special consideration, which benefits the giver, then, with the approval of the City Manager, that employee shall be dismissed from the City service. [Ord. 537-08 § 2, 2008].

2.70.700 Outside employment.

A. No employee shall engage in any other employment, whether public, private or self-employment, during scheduled work hours nor outside scheduled work hours if such employment conflicts with the City's interests or adversely affects the employee's availability and usefulness. Supervisors are responsible for enforcing this regulation, and informing all employees under their supervision of its provisions.

B. The following types of other employment are considered contrary to the City's interests and to adversely affect the availability and usefulness of employees:

1. Preparation of financial reports subject to City audit or review;
2. For department or division directors, or supervisory personnel, service as an officer of any union or association of City employees other than one representing such supervisory position;
3. Active participation in the management of any business organization that obtains, or is attempting to obtain, funds or business from the City; ~~and~~
4. Other employment wherein data or information to which access is provided by City employment could be used; and

~~4.~~5. Any secondary employment that interferes with the employee's ability to adequately perform their job position for the City.

C. ~~In administering this regulation, all management personnel shall encourage their employees to obtain w~~All employees engaged in secondary employment shall obtain written permission from the City Manager ~~through their supervisor~~ before accepting other employment. [Ord. 537-08 § 2, 2008].

Article XVIII. Travel Expenses

2.70.710 Per diem allowance.

Officers and employees of the City, while traveling on official business away from the City, shall be allowed a per diem allowance, which shall be equivalent to the per diem rate offered by the State of Alaska to its employees, as the same may be amended from time to time~~be established by resolution of the City Council~~. [Ord. 537-08 § 2, 2008].

2.70.715 Mileage allowance.

Officials and employees of the City, while on official business away from the City, when using their own privately owned vehicle, shall be allowed a mileage allowance, which shall ~~be~~ be equivalent to the current Internal Revenue Service mileage rate, as amended from time to time~~established by resolution of the City Council~~. In addition to this mileage allowance, reimbursement shall be allowed for the actual cost of parking and other charges. [Ord. 537-08 § 2, 2008].

Article XIX. Prevention of Substance Abuse in the Workplace

2.70.720 Substance abuse policy.

It is the policy of the City of Whittier to achieve and maintain a safe work environment free from influence of alcohol and drug abuse through education, intervention and, where appropriate, drug and alcohol testing and disciplinary measures in order to assure the safety and protection of City employees, residents, visitors and facilities. City employees must comply with the Drug- and Alcohol-Free Workplace Policy of the City, the terms and conditions of which are incorporated herein by reference. ~~The City prohibits the possession, use, distribution, or sale of alcohol or illicit drugs in the workplace or when conducting City business and requires employees, contractors, and volunteers to be free from illicit drugs and the influence of alcohol when entering upon the workplace, while on duty and when conducting City business. The City cannot tolerate impairment of employee performance from the use of alcohol, drugs or other unlawful substances, including abuse of prescription drugs.~~ [Ord. 537-08 § 2, 2008].

~~2.70.723 Substance abuse program.~~

~~A. The City Manager shall promulgate and enforce procedures for the implementation of WMC 2.70.720 consistent with the personnel administration standards and procedures contained in WMC 2.70.010 et seq., including, where appropriate:~~

~~1. Pre-employment drug testing for all safety sensitive and public safety positions and positions required by Federal or State law or regulations to be subject to pre-employment drug testing;~~

~~2. Random drug and alcohol testing of all employees, contractors and volunteers involved in transportation or other activities who are required by State or Federal laws or regulations to submit to such random tests, at the frequency required under the State or Federal laws or regulations;~~

~~3. Post accident drug and alcohol testing of an employee, contractor or volunteer involved in a work related accident, when testing is justified, including a vehicle accident or other event where State or Federal laws or regulations require the employees associated with the accident to submit to post accident drug and alcohol tests;~~

~~4. Follow up random and return to duty testing of an employee who has either tested positive on an earlier test or has agreed to enter a rehabilitation program or counseling because of drug or alcohol induced problems; and~~

~~5. Reasonable suspicion drug and alcohol testing where any supervisor or other designated person who has received the minimum training required to recognize the symptoms of substance abuse has determined pursuant to established procedures that reasonable and specific grounds exist to believe that poor performance, unsafe or other acts of an employee, contractor or volunteer in the workplace are due to observed symptoms of being under the influence of drugs or alcohol.~~

~~The Manager, upon a determination that a position covered under the general language of this subsection (A) does not have duties or responsibilities involving possible significant threats to employee or public safety, may exempt or reduce the testing requirements applicable to such position to the extent Federal and State testing requirements do not apply to the position.~~

~~B. Where a State or Federal law or regulation requires drug or alcohol testing of employees, contractors, volunteers or applicants, the City shall implement the applicable requirements. A testing program meeting applicable State and Federal requirements is deemed to meet the requirements of subsection (A) of this section. This existence of State or Federal testing requirements does not preclude the City Manager from implementing a broader drug or alcohol testing program.~~

C. The City Manager shall take such additional actions as necessary to implement a program that will meet the requirements of the Drug Free Workplace Act of 1988. [Ord. 537-08 § 2, 2008].

Section 4: Effective Date. This ordinance is effective immediately upon adoption.

PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE WHITTIER CITY COUNCIL THIS 22nd DAY OF AUGUST, 2017.

1. Introduction date: June 20, 2017

   Public Hearing: August 22, 2017

ATTEST:

_____	_____
Naelene Matsumiya Acting City Clerk	Daniel Blair Mayor

Ayes:

Nays:

Absent:

Abstain:

CITY OF WHITTIER, ALASKA

RESOLUTION #13-2017

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, ALASKA CALLING ON THE ALASKA CONGRESSIONAL DELEGATION TO SUPPORT CONTINUATION AND FULL FUNDING FOR RURAL COMMUNITY AND ECONOMIC DEVELOPMENT PROGRAMS.

WHEREAS, the City of Whittier is located in the Prince William Sound region of Alaska and is within the Valdez-Cordova Census Area; and

WHEREAS, the City of Whittier's economy is based in large part on recreational and commercial fishing; and

WHEREAS; the City of Whittier is a participating supporter of regional community and economic development through its participation and partnership with the Prince William Sound Economic Development District, and

WHEREAS; the City of Whittier partners with the US Economic Development Administration (EDA), USDA-Rural Development, the US Forest Service, and numerous other federal and state agencies to advance our mission, stimulate job creation, encourage business formation and expansion, and foster sustainable community development; and

WHEREAS, the Prince William Sound region has an unemployment rate of 8.2 percent*, exceeding state and federal levels by more than 3 percentage points, coupled with a substantially higher cost of living; and

WHEREAS, the State of Alaska is in a prolonged period of economic recession that is projected to continue for several more years, resulting in a smaller state economy in the future; and

WHEREAS, the FFY2018 budget proposal titled "America First: A Budget Blueprint to Make America Great Again" recommends elimination of the EDA, USDA Rural Development, and other programs essential to rural community and economic development; and

WHEREAS, these programs have contributed to Prince William Sound communities and the regional economy through investments in common property fisheries, a fisheries business incubator, community facilities, port and harbor infrastructure, and encouragement of business development and resilience.

* 2016 annualized unemployment rate according to the Alaska Department of Labor and Workforce Development, Research and Analysis Section.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Whittier, Alaska calls upon the Alaska Congressional Delegation to ensure the continuation of the EDA, USDA Rural Development, the programs authorized by the Workforce Innovation and Opportunities Act, the HUD Community Development Block Grant program, the Denali Commission, the Brownfields Program, rural transportation programs, and programs authorized under the current Farm Bill, and

FURTHER, urges the delegation to seek continuing funding for these programs, to the degree practicable, at levels commensurate to FFY2017 funding, and

FURTHER, pledges to continue to partner with these agencies and programs to ensure a sustainable future for the City of Whittier, Alaska.

PASSED AND APPROVED by a duly constituted quorum of the Whittier City Council on this 22nd day of August, 2017.

ATTEST:

Naelene Matsumiya	**Daniel Blair**
Acting City Clerk	**Mayor**

Ayes:
Nays:
Absent:
Abstain:

CITY OF WHITTIER, ALASKA
RESOLUTION #14-2017

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER ALASKA, AUTHORIZING SUBMISSION OF A TIER 2 HARBOR FACILITY GRANT APPLICATION TO THE STATE OF ALASKA, DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES (DOT&PF) IN THE AMOUNT OF FIVE MILLION THREE HUNDRED EIGHTY ONE THOUSAND TWO HUNDRED DOLLARS ($5,381,200) FOR THE PROJECT ENTITLED WHITTIER MUNICIPAL HARBOR IMPROVEMENTS PHASE 5.

WHEREAS, the State of Alaska, Department of Transportation and Public Facilities administers the Harbor Facility Grant program; and

WHEREAS, the City of Whittier owns and maintains the Whittier Small Boat Harbor and the Whittier Small Boat Harbor is eligible for a Harbor Facility Grant; and

WHEREAS, the City of Whittier will provide the required local matching funds for construction of the Whittier Small Boat Harbor Improvements Phase 5 per the Harbor Facility Grant program; and

WHEREAS, the City of Whittier is capable of completing the Whittier Small Boat Harbor Improvements Phase 5 within eighteen (18) months after award of a Harbor Facility Grant; and

WHEREAS, the Whittier Small Boat Harbor is critical to the City of Whittier;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Whittier that the City of Whittier supports the project entitled Whittier Municipal Harbor Improvements Phase 5 and agrees, subject to available Alaska Legislative funding and selection by DOT&PF, to enter into a grant agreement with the State of Alaska, Department of Transportation and Public Facilities for a Harbor Facility Grant.

PASSED AND APPROVED by a duly constituted quorum of the Whittier City Council on this 22nd day of August, 2017.

ATTEST:

Naelene Matsumiya	Daniel Blair
ACTING CITY CLERK	MAYOR

Ayes:
Nays:
Absent:
Abstain:

CITY OF WHITTIER, ALASKA
RESOLUTION #15-2017

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, ALASKA REQUESTING STATE FY 18 PAYMENT IN LIEU OF TAXES (PILT) FUNDING FROM THE STATE OF ALASKA, DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT.

WHEREAS, 3 AAC 152.100 requires the governing body of a city to adopt a resolution requesting funding from the Payment in Lieu of Taxes Program for cities in the unorganized borough and to submit the resolution to the Department of Commerce, Community, and Economic Development; and

WHEREAS, the City shall use the funds for any governmental purpose and establish and maintain a financial management and accounting system that conforms to generally accepted accounting principles; and

WHEREAS, the City recognizes the State of Alaska may at anytime, request a report on how the funds were expended.

NOW THEREFORE BE IT RESOLVED: The City Council by this resolution hereby requests distribution from the FY 18 Payment in Lieu of Taxes Program by the Department of Commerce, Community, and Economic Development on the date required by law.

PASSED AND APPROVED by a duly constituted quorum of the city council this 22nd day of August, 2017.

ATTEST:

_____ _____

Naelene Matsumiya
Acting City Clerk

Daniel Blair
Mayor

Ayes:
Nays:
Absent:
Abstain:

CITY OF WHITTIER, ALASKA
RESOLUTION #16-2017

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, ALASKA APPROVING THE PROPERTY DESCRIPTION REVISIONS IN THE LEASE AGREEMENT BETWEEN CAFÉ ORCA & GALLERY AND THE CITY OF WHITTIER.

WHEREAS, the City Council wants to preserve use of City of Whittier property by Lessee, Café Orca Inc. d/b/a Café Orca & Gallery ("Café Orca"), in a manner that supports economic development but also ensures compliance with City of Whittier zoning laws and protects the City of Whittier's ability to maintain the breakwater, the shoreline, and access utilities; and

WHEREAS, the amendment proposed and recommended by the City entitled "Option A" and attached to this Resolution as Exhibit 1 amends the lease agreement between Café Orca and the City to include an accurate property description and the Encroachment Permit included in Option A and Exhibit 1 permits Café Orca to maintain improvements in the right-of-way while ensuring the City access to that right-of-way; and

WHEREAS, Café Orca & Gallery, through Mr. John Campabello, has requested an amendment to the property description that includes the land on which Mr. Campabello has constructed improvements into a mandated setback and a public right-of-way rather than additional property in Lot 9; and

WHEREAS, the amended property description requested by Mr. Campabello is attached to this resolution as Exhibit 2 and entitled "Option B" but is not recommended by the City Attorney or its administration;

NOW, THEREFORE, BE IT RESOLVED by the City Council of Whittier that the City Manager is authorized to amend the property description and enter into an encroachment permit with Café Orca as demonstrated in Option A, and attached as Exhibit 1 to this resolution.

PASSED AND APPROVED by a duly constituted quorum of the Whittier City Council on this 22nd day of August, 2017.

ATTEST:

_____	_____
Naelene Matsumiya	Daniel Blair
ACTING CITY CLERK	MAYOR

Ayes:
Nays:
Absent:
Abstain:

CITY OF WHITTIER, ALASKA
RESOLUTION #17-2017

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, ALASKA AUTHORIZING THE AMENDMENT OF THE LEASE AGREEMENT BETWEEN CAFÉ ORCA & GALLERY AND THE CITY OF WHITTIER ASSIGNING THE LEASE TO JANET AMOR.

WHEREAS, The City of Whittier ("City") as landlord, and Café Orca & Gallery, as tenant, are parties to a written Ground Lease dated November 1, 2005 (signed in April 2006), in which Landlord leased to Café Orca real property located in the City of Whittier and identified as and more particularly described in the Ground Lease; and

WHEREAS, Café Orca desires to assign all their right, title, and interest in the Ground Lease to a Buyer; and

WHEREAS, Landlord consents to the proposed assignment on the conditions set forth in the Second Amendment to Ground Lease and Assignment (the "Second Amendment") which is attached and incorporated into this Resolution as Exhibit 1; and

WHEREAS, Buyer, as the new tenant, has expressed his intent to be bound by the terms of the Amendment; and

WHEREAS, the City Council finds the assignment of the lease and execution of the Amendment in the best interests of the City**,**

NOW, THEREFORE, The Whittier City Council resolves:

Section 1. The amendments and assignment of the long term lease of Café Orca in the Triangle Business District in substantially the same form and subject to the same essential terms and conditions included in the Amendment and Attachment 1 is hereby approved.

Section 2. Effective Date. This resolution shall take effect immediately upon adoption.

DATED this 22nd day of August, 2017.

_____

Daniel Blair
Mayor

ATTEST:

_____

Naelene Matsumiya
Acting City Clerk

Ayes:
Nays:
Absent:
Abstain:

CITY OF WHITTIER, ALASKA
RESOLUTION #18-2017

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF WHITTIER, ALASKA, APPROPRIATING $22,982 OF CRUISE PASSENGER VESSEL FUNDS FOR THE PURPOSE OF DESIGN AND ENGINEERING OF A NEW CITY PARK.

WHEREAS, the City of Whittier has opted to design a new City Park; and

WHEREAS, the City needs design and engineering for the new Park; and

WHEREAS, the new Park will greatly benefit the community as well as cruise vessel passengers; and

WHEREAS, AS 43.52.230 says that Cruise Passenger Vessel Funds may be used for, "services to properly provide for vessel or watercraft visits…."; and

WHEREAS, the new City Park will provide an important service that will improve the experience of passengers on vessel visits; and

WHEREAS, the City currently has funds available in Cruise Vessel Passenger for qualified projects.

NOW, THEREFORE, BE IT RESOLVED BY THE WHITTIER CITY COUNCIL, that:

The City Council of the City of Whittier, Alaska hereby appropriates $22,982 from Cruise Vessel Passenger Funds to design and engineer the new City Park.

PASSED AND APPROVED by a duly constituted quorum of the Whittier City Council on this 22nd day of August, 2017.

ATTEST:

Nalene Matsumiya	**Daniel Blair**
Acting City Clerk	**Mayor**

Ayes:
Nays:
Absent:
Abstain:

CITY OF WHITTIER, ALASKA
RESOLUTION #19-2017

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, ALASKA ACCEPTING $14,000 IN FUNDS FROM THE WHITTIER EMERGENCY RESPONSE AND FIRE ASSOCIATION.

WHEREAS, the Whittier Emergency Response and Fire Association ("WERFA") was a non-profit corporation created on April 18, 2001, pursuant to AS 10.20, by a group of citizens to provide emergency response and fire protection capabilities to and within the Anton Anderson Memorial Tunnel during vehicular operating hours;

WHEREAS, WERFA received its funding through the City of Whittier, Alaska ("City");

WHEREAS, on June 24, 2004, WERFA was involuntarily dissolved/revoked by the State of Alaska Commission of Community and Economic Development;

WHEREAS, WERFA has expressed an interest in dispersing its remaining approximately $14,000 in funds back to the City;

WHEREAS, AS 10.20.295 permits the assets of an Alaskan nonprofit corporation in the process of dissolution to be distributed to one or more domestic or foreign corporations, societies or organizations engaged in activities substantially similar to those of the dissolving corporation;

WHEREAS, the City is a domestic corporation organized under Title 29 of the Alaska Statutes and intends to donate the proceeds to the Whittier Department Safety and, therefore, qualifies under AS 10.20.295 to accept the WERFA funds.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Whittier that the City Manager is authorized to accept approximately $14,000 in funds from WERFA, which will be donated to the Whittier Department of Public Safety.

PASSED AND APPROVED by a duly constituted quorum of the Whittier City Council on this 22nd day of August, 2017.

ATTEST:

Naelene Matsumiya	Daniel Blair
ACTING CITY CLERK	MAYOR

Ayes:
Nays:
Absent:
Abstain: