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CITY COUNCIL MINUTES
JANUARY 28, 1992

- CALL TO ORDER Mayor Feaster called the regular Council meeting to order at 7:30 PM.
- ROLL CALL Present: Dale, Feaster, Richardson, Vanasse (late), Wallace, Warner, Wintersteen
- APPROVAL OF MINUTES M/M by Richardson, 2nd by Dale to approve the minutes of January 14, 1992 regular Council meeting as presented. Voice vote. Motion carried unanimously.
- APPROVAL OF AGENDA M/M by Warner, 2nd by Wallace to approve the agenda as amended by adding under Old Business, Item E, Ratification of Poll Vote; and under New Business move Item C (Executive Session) to Item D with the addition of legal matter, Nelson Brown vs. City of Bethel, and change Item C to read Resolution #701 . Voice vote. Motion carried unanimously.
- MAYOR'S REPORT Mayor Feaster reminded Council and the public of the six-month budget review scheduled for January 29, 1992, 7:30 PM, at the Log Cabin.
-- The Mayor announced a Mayor's Conference scheduled for February 2 and 3, 1992, at Scammon Bay. He stated he would not be able to attend and extended an invitation to a member of the Council to represent the City in his place.
-- Mayor Feaster reported that he had received a letter from John Abrant requesting appointment to the Public Safety Committee and asked Council to take action on Mr. Abrant's request.
- motion M/M by Vanasse, 2nd by Warner to approve John Abrant to sit on the Public Safety Committee. Voice vote. Motion carried unanimously.
- MANAGER'S REPORT City Manager Hohman reviewed his written Manager's Report with Council on the following items:
-- City Manager Hohman stated that he intended to travel to Juneau from February 1-5, 1992.
-- Announced that a public forum to discuss the possible purchase of Bethel Utilities Corporation was scheduled for January 30, 1992, at the Kuskokwim Community College campus.
-- Presented a brief overview of the road access problem Haroldson Estate residents encountered during heavy snow because the streets and roads in Haroldson Estates were not part of the City road system and, therefore, were not plowed by the City; several of the residents were in attendance to present a possible solution to the problem to Council for its

determination.

-- Reported on a telephone conference call with Judy Brady, Executive Director of Alaska Municipal Bond Bank Authority and the financial advisor to the Authority, John Moore, an employee of Shearson-Lehman Brothers, Seattle, concerning possible funding for the possible purchase of Bethel Utilities.

-- Referenced the Mayor's Conference in Scammon Bay.

-- Referenced letters distributed to Council regarding the City of Bethel vs. APEA, et. al.

-- Referenced Resolutions #700 and #701 that are on the agenda for discussion.

-- Stated that all records and files are available to the Council through the City Clerk for informational inquiries or research that Council may request.

At this time, Dave Gilbert and Gene Chaney of Haroldson Estates explained the situation faced by residents of the subdivision as follows and offered a possible solution: Briefly, during heavy snow and drifting the equipment normally used is not adequate to clear the roads. It was suggested that they be allowed to use a piece of the City's equipment (the D-7 dozer) to break through the large drifts to enable them to use their own lighter equipment to maintain clearance of the roads.

Following a short discussion, Council concluded that it could not support this request as it was not in a position to loan out equipment for maintenance of roads that were not under city maintenance because 1) of the liability issue involved, and 2) it would set a precedent for loaning city equipment to other individuals or groups for what could be considered equally worthwhile reasons.

Councilman Vanasse directed Administration to make certain that information required to resolve the difficulties in bringing the road up to the required City standards for maintenance is available and is provided by the Planning Department.

Council next discussed the City Manager's trip to Juneau scheduled for the first week of February, specifically whether or not the timing was appropriate for dealing with the Legislature at this time or later in the session.

motion

M/M by Wintersteen, 2nd by Richardson that Council approve the City Manager's trip to Juneau, February 1 through February 5, 1992, for the purpose of consulting with the new city lobbyist, Rick Urion. Voice vote. Motion carried unanimously.

COUNCIL MEMBER
COMMENTS

Councilman Dale stated that he had three items to address:

1) One week ago, KYUK Radio Station announced on the noon news that the Public Works Director, Dave Martin, had resigned and concluded that another city employee would be automatically installed in that position. Councilman Dale stated that if the media were going to report City news that the information to be reported should be confirmed by Administration or the City Manager as fact not supposition.

2) Concerning the sales tax amendment listed on the agenda, Councilman Dale stated that he assumed the amendment affected the tax status of games of skill and chance, but pointed out that the amendment did not specifically indicate what was being deleted; he further stated he felt that this was an inappropriate method of enacting a tax.

3) During Executive Session, he was going to persuade the Council to discontinue advertising for a City Manager and request that Council reinstate Mr. Hohman to that position.

Madam Richardson reported that she had traveled to Juneau representing another organization she is a member of, but had the opportunity to meet with the newly appointed City lobbyist, Rick Urion. She spoke very highly of Mr. Urion. She further stated that Mr. Urion's office is available to any city official who is in Juneau.

In response to Councilman Vanasse' question about the hiring of a new Public Works Director, City Manager Hohman reported that the position has been announced and advertised with a February 3, 1992, closing date for receipt of applications. Councilman Vanasse stated that he felt it was more appropriate to select the Public Works Director after February 29; in other words, if a different City Manager was in place at that time, he or she should be in a position to select the Public Works Director. In the meantime, an individual should be appointed as Acting Public Works Director.

motion

M/M by Vanasse, 2nd by Warner that City Manager Hohman fill the Public Works Director position in an acting capacity until after February 29, 1992.

Councilmen Wallace and Dale stated that they believed this was another indication of the Council managing the manager and felt that the decision should be left to the current City Manager. Councilman Dale pointed out that it was Council's responsibility to dictate policy and not to manage the City. Madam Richardson stated that she felt the position of Public Works Director was an important position and that it was critical that someone be in place as soon as possible especially taking into account the time of the year. In addition, she also did not wish to manage the manager. In response, Councilman Vanasse pointed out that if a new manager were hired it should be the prerogative of that manager to select his own department head; on the other hand, if the City does not have a new City Manager at that time, then he can make that selection.

vote

Poll vote. Motion carried. 4-yes; 3-no (Dale, Richardson, Wallace).

In response to questions from Councilman Warner, City Manager Hohman provided the following answers:

- 1) No new information from Bethel Native Corporation on the Petro Port; still waiting for appraiser to complete work.
- 2) Re: the sewer lagoon potential land exchange-- administration is trying to set up a schedule with the two land owners. That meeting will probably occur within the next week or so, if the appointments can be arranged. The City is compelled to make the exchange by March 1, if that is the decision made by the City, so that Montgomery Engineers has time to adjust the design.
- 3) Nothing to report on the status of the reclaimed lands master lease with the State.
- 4) The low bidder on the ice roads contract was not able to secure insurance except at extremely high rates; waiting on a response from Denali Insurance as to whether Hoffman-Langlie firm could be insured.

Councilman Warner next requested extension by at least one week of the closing date of January 29,

1992, for the City Manager position. Council directed Administration to extend the closing date by two weeks.

REPORTS OF STANDING COMMITTEES Councilman Wallace reported that the Planning Commission was scheduled to meet on February 13, 1992.

Councilman Warner reported that the Public Works Committee met Thursday evening, last. Five members were present: Public Works Director, Administrative Assistant taking notes, two city employees, one member of the public. Committee received a general status report on the operation; discussed property around the sewage lagoon. The report on the boiler installation at the pump house and the two new truck-fill lines indicated there were some change orders in some of the work and meetings with the contractor and the engineer have been held because of design flaw in the engineering. It was suggested that the engineering firm absorb the cost on the change order.

Councilman Warner further reported that he had been directed to notify the Council that the Public Works Committee stands solidly behind Dave Martin and that it is very sorry to see him leave. Further, the Committee requested that Mr. Martin reconsider his decision to resign. The Committee gives him an excellent recommendation and expresses its appreciation of his work.

The Committee recommended that the Public Works Director's request for the addition of two mechanics at the six-month budget revision be accepted by Council.

Mayor Feaster reported that the Finance Committee met on January 23, 1992 (meeting was rescheduled to that date because of lack of a quorum). Committee reviewed current process for assigning sales tax exemptions and discussed other ways to handle these exemptions. The losses incurred by the laundromat were discussed; requested the Finance Director retrieve minutes from last spring that set out recommendations for dealing with the losses and review with the manager of the laundromat, Leon Treat. Discussed business licenses and how to determine whether or not a business is operating without a license. Discussed the possible purchase of Bethel Utilities Corporation. John Hastie gave a presentation on the insurance situation and outlined

two options for dealing with purchase of an insurance package. The Finance Committee approved of the second option which recommended retaining a consultant to review insurance requirements. This would require a change in the ordinance to facilitate that recommendation.

Madam Richardson reported a meeting of the Public Safety Committee is scheduled for February 12, 1992, 7:30 PM, at the fire station.

Councilman Wintersteen reported that he was unable to attend the last meeting of the Port Commission because of family business. The next meeting of the Commission is tentatively scheduled for February 17, 1992, 7:30 PM, at the Dock.

Councilman Dale reported that the Transportation Commission is still in need of three members. If any issues required action by the Transportation Commission, it would be necessary to bring them before the Council.

In addition, he recommended that the City Manager extend employment of the Port Director from 11 months to 12 months for the current fiscal year. It was suggested that this recommendation be presented at the six-month budget revision meeting scheduled for January 29, 1992. Councilman Vanasse supported this recommendation.

Council broke at 8:45 PM for a short recess. At 8:55 PM, Mayor Feaster called the meeting back to order.

PEOPLE TO BE HEARD Bev Hoffman, Jerry Korthius, Vern Keezer, Bill Lang, Harry Faulkner, Jr., Gary Korthius, J.B. Crow, Ron Widom, Jr., and Jerry White addressed Council's decision to accept City Manager Hohman's letter of termination of contract and spoke strongly in support of Mr. Hohman and against Council's decision; it was requested that Council rescind its motion to advertise for the City Manager position.

In addition, Harry Faulkner, Jr., notified Council that although he was the highest bidder for the ice road contract, he could provide proof of insurance required to carry out the contract; felt it was time to award the contract. Mr. Faulkner also announced that the dredging of the small boat harbor began on Monday and stated that had not received any response from the City on this project.

Grant Fairbanks encouraged people to attend the town meeting scheduled to discuss the possible purchase of the Bethel Utilities Corporation.

Bev Hoffman reported that the Kuskokwim-300 had gone well and encouraged Council to help support next year's race. Mayor Feaster invited Ms. Hoffman to attend the FY 93 budget review usually scheduled for late May or early June and submit a request for financial support for the K-300 race.

OLD BUSINESS

Item A: Audit

FY 1991 AUDIT REVIEW AND ACCEPTANCE

M/M by Warner, 2nd by Richardson to accept the audit report by the accounting firm of Mikunda, Cottrell for FY 1991. Voice vote. Motion carried unanimously.

Item B: Public
Hearing, Amend.
#1 to Ord. 126

PUBLIC HEARING AMENDMENT #1 TO ORDINANCE 126--
BUSINESS LICENSE

Before opening the floor for public hearing, Mayor Feaster explained that the amendment would bring the ordinance in line with the practice that has been followed in assessing a penalty for not obtaining a license to conduct business in the city. Mayor Feaster then opened the floor for public hearing. Dave Trantham recommended that the fine of \$100 should be increased to \$300.00. Mayor Feaster closed the public hearing, and asked for Council input.

motion

M/M by Dale, 2nd by Wallace to adopt Amendment #1 to Ordinance #126 as presented with an effective date of February 1, 1992. Poll vote. Motion carried unanimously.

Item B: Public
Hearing, Amend.
#3 to Ord. 190

PUBLIC HEARING ON AMENDMENT #3 TO ORDINANCE #190--
SALES TAX

Before opening the floor for public hearing, Mayor Feaster discussed and reviewed the amendment as recommended by the Finance Committee: 1) the sales tax exemption on games of skill and chance would be deleted; 2) the sale of a business would be listed as an exemption; in addition, a sale using a lease with an option to buy would be considered a permissible sales transaction; 3) when a business is terminated or sold the seller is liable for sales tax; 4) assessing an estimated sales tax on a delinquent seller. Mayor Feaster then opened the floor for public hearing.

Jerry Korthius, John Guinn, Judy Bates representing Bethel Lions Club, Bill Lang, John Abrant, George Bradovich representing Bethel Community Services, Hillary Herring, and Vern Keezer spoke on the deletion of paragraph 18 to Section 4.16.020 and strongly expressed their opposition to this part of the amendment as it would impose a five percent tax on the net proceeds received by nonprofit organizations from gaming activities whose proceeds are dedicated to charitable projects within the community; the imposition of a five percent tax would be a great disservice to the community.

Although the public hearing was not closed to the public, council members were given the opportunity to speak on the issue. Because of the concern that the original sales tax ordinance (#190) was not available to the public, Mayor Feaster suggested that the public hearing be continued to next week. Councilman Dale stated that he did not wish to see the public hearing continued; Councilman Warner felt that the public should be allowed to speak; Madam Richardson stated that if the public hearing were continued, the minutes from the Council meeting held two years ago in which the exemption of gaming activities from sales tax was approved be included with the original sales tax ordinance.

motion

M/M by Warner, 2nd by Wintersteen to continue meeting past 10:00 PM. Voice vote. Motion carried. 6-yes; 1-no (Richardson).

Mayor Feaster announced that the meeting should return to the public hearing.

Warren Loschky, chairman of the Finance Committee, reviewed the Finance Committee's position to remove gaming activities from exemption of sales tax and stated that the Committee was unanimous in its recommendation.

Mayor Feaster closed the public hearing and asked for Council input.

motion

M/M by Warner, 2nd by Vanasse that Council continue the public hearing at the next regular meeting considering the input received and, at that time, make available for anyone--all members of the Council and members of the public--a copy of the current sales tax ordinance, the minutes of the meeting where the amendment was adopted as suggested by Madam

Richardson and continue the public hearing for any further comments. Voice vote. Motion carried. 5-yes; 2-no (Dale, Wallace).

Council broke at 10:15 PM for a short recess. At 10:20 PM, Mayor Feaster called the meeting back to order.

Item D: BFS
Lease Agrmt. &
Pref v Excl Use

BETHEL FUEL SALES--LEASE AGREEMENT AND PREFERENTIAL vs. EXCLUSIVE USE

motion

M/M by Warner, 2nd by Dale to accept the recommendation of the Port Commission that Bethel Fuel Sales continue to receive preferential use of the fuel dock. Voice vote. Motion carried unanimously.

motion

M/M by Warner, 2nd by Dale that the use agreement between the City of Bethel and Bethel Fuel Sales for use of the petro port be extended until April 1, 2001. Voice vote. Motion carried unanimously.

Ratification of
Telephone Poll
Vote

RATIFICATION OF TELEPHONE POLL VOTE ON ANNIE DAVID CASE

Because of confusion over the wording of a motion on the Annie David legal matter, a telephone poll vote was conducted so that the City Attorney would have authority to give direction to the law firm of Hartig and Rhodes to represent the City in this action at no cost to the City.

motion

M/M by Warner, 2nd by Wallace to ratify the poll vote taken on January 15, 1992 by the City Clerk regarding the Annie David Native Allotment claim. Voice vote. Motion carried unanimously.

NEW BUSINESS: Item
A: Youth Recrea.
Facility

RESOLUTION #700 -- YOUTH RECREATIONAL FACILITY

City Manager Hohman reviewed Resolution #700. The resolution represents support by the City to the AVCP Housing Authority who has identified a source of HUD money for the construction of a 30 x 70 foot youth recreational facility. This program addresses the younger teenager and is to be located adjacent to the existing AVCP Housing Office area.

motion

M/M by Dale, 2nd by Vanasse to adopt Resolution #700.

Voice vote. Motion carried unanimously.

In response to questions from Madam Richardson regarding the time frame involved and the extent of support requested from the City, City Manager Hohman stated that this is an independent project and the City of Bethel endorses the AVCP Regional Housing Authority in its efforts to obtain funding from HUD; it doesn't commit the City to any definite amount of support--only that the City will consider the extent to which it can support the Youth Sports and Drug Elimination Program.

Item B: Security
Contract--City
& YKHC

SECURITY CONTRACT BETWEEN CITY OF BETHEL POLICE
DEPARTMENT AND YKHC

In response to a question from Councilman Dale concerning the origination of the security contract, Mayor Feaster explained that the Police Department had been contacted by YKHC to provide security services to the hospital. Further, neither the City nor the Police Department had solicited YKHC and offered to provide security services. Sergeant Bilyeu of the City Police Department explained that arrangements under the contract would provide benefits to the City by developing a labor pool of Community Service Officers and to the hospital for its security requirements.

Council next addressed the letter it had received that was written to YKHC from Neighborhood Rangers, Inc., which was protesting the fact that the City (a government entity) was competing with private enterprise for a contract for services. A brief discussion concerning the contract and competition with private enterprise followed. Mayor Feaster pointed out that the Council's concern should be whether the City would incur any liability should it enter into this agreement with the hospital if there was a conflict with Neighborhood Ranger. On the other hand, YKHC has the option to not enter into the contract if a problem did exist.

motion

M/M by Dale, 2nd by Warner to proceed with the contract as presented by the Police Department. Poll vote. Motion carried. 5-yes; 2-abstentions (Richardson--serves as a member of YKHC Board of Directors and a member of the governing body of the hospital; Wallace--employee of YKHC as a remote maintenance work).

Item C: Resol. RESOLUTION #701 -- RENOVATION OF BETHEL HEIGHTS
#701 PROJECT

motion M/M by Richardson, 2nd by Wallace to approve
Resolution #701. Voice vote. Motion carried
unanimously.

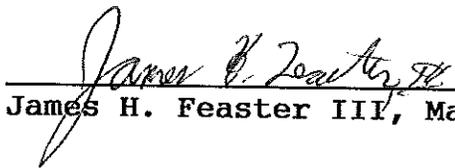
motion M/M by Dale, 2nd by Richardson to go into Executive
Session at 11:00 PM to discuss the following items:
Personnel matters and a legal matter, City vs. Brown.
Voice vote. Motion carried unanimously.

motion M/M by Warner, 2nd by Richardson to come out of
Executive Session at 12:55 AM. Voice vote. Motion
carried unanimously.

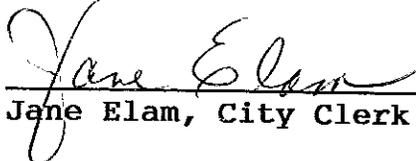
motion M/M by Dale, 2nd by Wallace that the City Council
retain the services of the current City Manager
through the contract period of November 30, 1992,
with the terms of the contract to be worked out by
the next regular Council meeting. Poll vote. Motion
carried. 5-yes; 2-no (Feaster, Warner).

motion M/M by Wallace, 2nd by Dale to adjourn the meeting at
1:00 AM. Voice vote. Motion carried unanimously.

PASSED AND APPROVED THIS 11 DAY OF February, 1992.


James H. Feaster III, Mayor

ATTEST:


Jane Elam, City Clerk