

City of Bethel
City Council

Regular Meeting of May 9, 1995

I. CALL TO ORDER

The meeting was convened at 7:30 PM by Mayor Wintersteen in the Log Cabin, Bethel, Alaska.

II. ROLL CALL

Present: Chris, Harding, McComas, Miller (late), Tubbs, Wintersteen

III. PEOPLE TO BE HEARD

J.B. Crow, speaking on behalf of his family, told Council that the City had promised it would not interfere with his riparian rights when the seawall was built. Mr. Crow stated he asked his attorney to negotiate an agreement to protect his rights and had received a letter from the City Attorney in which the attorney takes the position that Mr. Crow's riparian rights were terminated. Mr. Crow said the City had broken its promise and he wanted the right of access to the river from his land. Mr. Crow asked the Council to direct the City Attorney to expedite negotiations that acknowledge his rights and provides compensation for the loss of his riparian rights. Mr. Crow concluded by stating that there would be no basis for negotiation without agreement on both sides.

Council member Chris asked to see a copy of the letter from the City's attorney to which Mr. Crow referred. Mr. Crow stated he would provide her with a copy.

Marc Stemp, President of Bethel Native Corporation, addressed Council emphasizing that BNC was in favor of the seawall project, but was not in favor of being held at risk for any accidents. Mr. Stemp stated BNC was asking for indemnification and a hold harmless agreement with the City so that BNC would not be held liable in the future, before signing any easement agreement for the bank stabilization project. Mayor Wintersteen pointed out that this matter would be discussed further under the Manager's Report.

IV. APPROVAL OF MINUTES

motion M/M by Miller, 2nd by Tubbs to approve the minutes of the April 11, April 20, April 21, May 1, and May 4, 1995, regular and special meetings as presented. Voice vote. Motion carried unanimously.

IV. APPROVAL OF CONSENT AGENDA/REGULAR AGENDA

Council member Chris requested New Business Items C and F be removed from the Consent Agenda.

motion M/M by Tubbs, 2nd by Miller to approve by consent, Items A, B, D and E under New Business. Voice vote. Motion carried unanimously.

motion M/M by Miller, 2nd by Chris to amend the agenda by removing Executive Session Item A from the agenda and adding Executive Session Item C: APEA Negotiations. Voice vote. Motion carried unanimously.

motion M/M by Tubbs, 2nd by Miller to approve the agenda as amended. Voice vote. Motion carried unanimously.

VI. MAYOR'S REPORT

Mayor Wintersteen reported that a City employee was asking Council to consider adopting an ordinance that would allow City employees to serve on the City Council, and asked Council for reaction. The consensus of the Council was that allowing a City employee to serve on the Council would create conflict of interest situations too often for the employee to fully participate as a Council member.

Mayor Wintersteen then reported Mary Trailov's resignation as a member of the Planning Commission and appointed Clifford Hickson to fill the vacancy. Council member Miller asked if the vacancy had been advertised. The City Clerk responded that it had not, but two applications for the Commission had been on file and forwarded to the Mayor for consideration.

motion M/M by Miller, 2nd by Harding to require advertising of all committee/ commission vacancies before appointment. Poll vote. Motion failed, 3-Yes, 3-No (Chris, Tubbs, Wintersteen).

motion M/M by Chris, 2nd by Tubbs to ratify Clifford Hickson's appointment to the Planning Commission. Poll vote. Motion carried unanimously.

motion M/M by Miller, 2nd by McComas to direct all future vacancies be advertised for at least one week prior to filling the vacancy. Voice vote. Motion carried unanimously.

Mayor Wintersteen referred Council to the written report from the City's lobbyist. Council member Miller asked that the resolution supporting HB20, which would convey title to tide and submerged lands to local municipalities, be resent to the City's legislators.

Mayor Wintersteen then reviewed the schedule for the City Manager candidate interviews and events. Mayor Wintersteen encouraged the public to attend and provide their impressions to the Council.

Mayor Wintersteen referred Council to the City Clerk's leave request.

motion M/M by Miller, 2nd by McComas to approve the Clerk's leave request for June 14-22, 1995. Voice vote. Motion carried unanimously.

Mayor Wintersteen further discussed the Council's role in the candidate interviews and asked Council members to prepare 15 questions to ask the candidates. Mayor Wintersteen then set a special meeting to select a City Manager for Thursday, May 18, 1995, at 6:30 p.m., at the City Offices conference room.

VII. MANAGER'S REPORT

City Manager Hunter reviewed his written report with Council and requested direction on the following items:

1. BNC Easement Agreement

City Manager Hunter explained that BNC was concerned with the risks associated with the bank stabilization project and the City Attorney had prepared a side letter agreement to address those concerns, which included provisions that the City would require all contractors to carry \$1,000,000 in liability insurance; the City would require contractors to carry workers compensation insurance; the City would maintain general liability and workers compensation insurance for any work done in the property; and the City would cover the seawall under its property insurance. City Manager Hunter asked for Council authorization to sign this agreement.

Discussion followed with Marc Stemp of BNC and the Council. Mr. Stemp asked the City to sign a hold harmless agreement, stating that \$1,000,000 was not adequate insurance coverage. City Manager Hunter stated that signing a hold harmless agreement would expose the City General Fund money to claims before insurance coverage.

motion M/M by Miller, 2nd by McComas to direct the City Attorney to draft an agreement to reflect the existing amount of insurance coverage BNC carries on its property, attempt to locate a similar legal precedent and prepare the agreement in cooperation with the City Manager.

motion M/M by Chris, 2nd by Tubbs to amend the motion to request the prepared agreement be returned with the financial cost to the City for Council approval at a special meeting on Thursday, May 11, 1995, at 6:15 p.m. Voice vote. Motion carried unanimously.

vote Poll vote on the motion as amended. Motion carried, 6-Yes, 0-No.

2. Dock Agreement

City Manager Hunter explained that the City currently operated the Port facility under an agreement that expired in 1989, and requested Council approval to sign the Addendum with the State.

motion M/M by McComas, 2nd by Chris to authorize the City Manager to sign the Addendum to Dock Agreement DBH-01048. Voice vote. Motion carried unanimously.

3. Bethel Recycling Request

Mayor Wintersteen asked for more information on specific needs of the project.

motion M/M by Miller, 2nd by Harding to postpone indefinitely. Voice vote. Motion carried unanimously.

4. Mobile Lunch Wagon Request

motion M/M by McComas, 2nd by Miller to approve temporary use permit to operate mobile lunch wagon.

motion M/M by McComas, 2nd by Miller to amend the motion to approve the permit after compliance inspections by the Fire Chief and DEC.

After discussion by the Council, both motions and seconds were withdrawn.

Council member Miller requested this request be forwarded to the Port Commission for its recommendation before Council votes on the issues. The Council agreed by consensus.

5. Bojangles Building Purchase Request

City Manager Hunter explained that previous attempts to dispose of this building were unsuccessful, and the Korean Community was offering to purchase and move the building and lease City property for thirty years.

motion M/M by McComas, 2nd by Chris to authorize the disposal of the Bojangles Building to the Korean Community as an entity providing a necessary public service, and to authorize the lease of property for five years with the option to renew for an additional five years. Voice vote. Motion carried unanimously.

6. Asbestos Disposal Request

City Manager Hunter explained this was a request from BNC to dispose of asbestos in the City's landfill.

Discussion followed on previous attempts to permit the landfill to accept asbestos and the options for BNC if the City refused.

motion M/M by McComas, 2nd by Chris to authorize the City Manager to enter into negotiations with BNC for the disposal of asbestos in the City's landfill taking into consideration the issues raised in the discussion. Voice vote. Motion carried, 5-Yes, 1-No (Tubbs).

Informational Items/Discussion/Questions on City Manager's Report:

Council member McComas stated he had spoken with a lot of people who felt the City employees were being harassed by their department heads. Mr. McComas asked that reports of equipment and supplies being thrown out in the dump while still useful be investigated, as well as reports that money was spent on building new offices when the City is saying there is a shortfall. City Manager Hunter responded that he would be able to provide answers to questions if they were brought to him in advance.

VIII. REPORTS OF STANDING COMMITTEES

Council member McComas reported the Planning Commission met on April 19, 1995, and requested an ordinance be drafted requiring telephone and cable television lines be buried.

Council member Tubbs reported that the Finance Committee met April 20, 1995, and discussed the sales tax ordinance recodification.

Council member Miller reported that the Public Works Committee met on April 18, 1995, and discussed the best approach to improving the roads.

Council member Harding reported the Youth Services Committee had not met due to lack of a quorum and that the Committee still had vacancies for interested people.

Council member Chris reported the Port Commission met on March 27, 1995, and discussed finalizing the Port Development Plan, establishing the Port as a department, and the proposal to use Community Service Officers as Port Attendants. Ms. Chris stated the Port Commission was not in favor of the last proposal as it would not provide enough of a presence at the Port and the function of the position would change. Ms. Chris also stated the value of the seawall pipe had been determined at \$1416/pipe. Ms. Chris then asked Council for direction on the two Attendant positions funded through June 30, 1995, that had not yet been advertised.

motion M/M by Miller, 2nd by McComas to begin advertising for the Port Attendant positions funded through June 30, 1995, immediately. Voice vote. Motion carried unanimously.

Mayor Wintersteen reported the Senior Services Committee met April 12, 1995, and asked that copies of their minutes be included in the Council packet. Mayor Wintersteen also reported the Committee's concerns with the loss of the cook and employees' work habits. City Manager Hunter stated that a cook had been hired.

Council broke at 9:25 p.m. for a short recess. At 9:30 p.m., Mayor Wintersteen called the meeting back to order.

In order to accommodate the speaker and public present, the Council agreed to place Old Business Item B at the start of Old Business.

IX. OLD BUSINESS

Item B: Presentation by Dennis Geary, APEA

Dennis Geary, APEA, read a prepared presentation to the Council, which is attached as part of these official minutes. Bill Mede, City labor attorney listened via speakerphone.

After Mr. Geary's presentation, Mr. Mede commended the Council for allowing Mr. Geary this opportunity, stating it reflects an open-mindedness on the part of Council. Mr. Mede also stated that he agreed with Mr. Geary's statement that the employees have a right to fair conditions of employment. Mr. Mede stated he will continue to meet with Mr. Geary on that premise.

Item A: Public Hearing--Ordinance #95-09: An Ordinance Amending Chapter 2.04 City Council, Section 2.04.090, Entitled Councilman Vacancies

Mayor Wintersteen briefly explained the content of the ordinance, and opened the Public Hearing.

Bruce Perry, Bethel, stated he was in favor of the ordinance, but would like to see a military service exemption when declaring a seat vacant. There being no one else who wished to speak, Mayor Wintersteen closed the Public Hearing.

motion M/M by Miller, 2nd by Harding to adopt Ordinance #95-09.

Council member Miller explained that this ordinance came about due to his frustration over Council member Twitchell's seat being declared vacant even though some of the absences were excused. Mr. Miller stated this ordinance would clarify the Code so no false expectations would arise.

Discussion followed on the impact this ordinance would have on attendance requirements for the Council members.

motion M/M by Miller, 2nd by Harding to amend Ordinance #95-09, #3 to read three consecutive regular meetings. Voice vote. Motion carried unanimously.

vote Poll vote on the main motion. Motion failed, 3-Yes, 3-No (Chris, McComas, Tubbs).

Item C: Discussion Item--911 System

Council member McComas requested that Council issue an informational RFP to gather quotes for implementing a 911 system.

motion M/M by McComas, 2nd by Miller to issue an informational RFP for implementing a 911 system in Bethel. Voice vote. Motion carried, 5-Yes, 1-No (Harding).

X. NEW BUSINESS

Item A: Introduction of Ordinance #95-10: An Ordinance Amending Chapter 4.16, Entitled Sales Tax, Section 4.16.060, Entitled Bracket Collection Schedule

Approved under Consent Agenda

Item B: Introduction of Ordinance #95-11: An Ordinance Amending Title 1 of the Bethel Municipal Code, Chapter 1.20, Entitled Elections, Section 1.20.040, Entitled Candidacy--Declaration

Approved under Consent Agenda

Item C: Introduction of Ordinance #95-12: An Ordinance Amending Section 4.16.010, Entitled Definitions

Council member Chris asked for a statement on the financial impact this ordinance would have if passed.

motion M/M by Tubbs, 2nd by Miller to postpone Introduction of Ordinance #95-12 to the next regular meeting, and request a financial impact statement be included at that time. Poll vote. Motion carried unanimously.

Item D: Introduction of Ordinance #95-13: An Ordinance Amending Section 18.84.040, Entitled Penalties and Remedies

Approved under Consent Agenda

Item E: Resolution #95-25: A Resolution Supporting the Tundra Women's Coalition's Application for an Emergency Shelter Grant

Approved under Consent Agenda

Item F: Resolution #95-26: A Resolution Supporting the Bethel Community Services' Efforts in Obtaining Donations for Needed Housing in Bethel

Council member Chris stated she was uncomfortable with the language in the resolution seeking donations.

motion M/M by Miller, 2nd by McComas to approve Resolution #95-26.

motion M/M by Miller, 2nd by Tubbs to amend the last "whereas" statement to read "whereas, BCS is attempting to develop a program...". Voice vote. Motion carried unanimously.

vote Voice vote on the motion as amended. Motion carried unanimously.

Item G: **Resolution #95-27: A Resolution Authorizing the City Attorney to File Suit Against Businesses Delinquent in Remitting Sales Taxes to the City**

The City Clerk reported that one of the businesses listed on the resolution had paid the delinquent amount, and presented Council with a revised resolution omitting that business.

motion M/M by Chris, 2nd by Miller to approve Resolution #95-27 as revised. Voice vote. Motion carried unanimously.

Item H: **Discussion Item--Inviting AFN Convention to Bethel**

Council member Miller stated he had placed this item on the agenda in an attempt to put Bethel on the map for tourism. Mr. Miller suggested the Council invite the Alaska Federation of Natives to hold its organizational meetings for its convention in Bethel.

motion M/M by Miller, 2nd by McComas to invite the Alaska Federation of Natives to hold its organizational or committee meetings in Bethel. Voice vote. Motion carried unanimously.

XI. COUNCIL MEMBER COMMENTS

Council member Harding stated he had received a lot of public comment on the conditions of the roads, especially the potholes and deterioration, and asked they be addressed this summer.

Council member Miller urged everyone to participate in the kindness campaign sponsored by Kilbuck School.

Council member McComas stated he would like to see Ordinance #95-09 brought back with more definition. Mr. McComas stated his previous comments concerning the employees were not meant to embarrass the City Manager, but to assure the public that the Council was aware of the concerns.

Mayor Wintersteen stated that the job of the Council was to be the eyes and ears of the City. Mayor Wintersteen asked that anyone hearing a rumor report it to the City Manager and let him deal with the issue.

XII. EXECUTIVE SESSION

Item A: **Legal Strategy--BIA Oil Spill**

Item removed from agenda

Item B: **Legal Strategy--Nunapitchuk, Ltd. v. City of Bethel**

Item C: **APEA Negotiations**

motion M/M by Chris, 2nd by Tubbs to go into Executive Session for the purpose of discussing Legal strategy--Nunapitchuk, Ltd. v. City of Bethel and APEA Negotiations. Voice vote. Motion carried unanimously.

motion M/M by McComas, 2nd by Tubbs to come out of Executive Session. Voice vote. Motion carried unanimously.

motion M/M by Chris, 2nd by Miller to follow the attorney's recommendation in Nunapitchuk, Ltd. v. City of Bethel. Voice vote. Motion carried unanimously.

XIII. ADJOURNMENT

motion M/M by Miller, 2nd by Chris to adjourn the meeting at 10:50 p.m. Voice vote. Motion carried unanimously.

PASSED AND APPROVED THIS 23RD DAY OF MAY, 1995.


Allan Wintersteen, Mayor

ATTEST:



Connie Tucker, City Clerk