
City of Bethel, Alaska

Council Minutes

August 24, 1998

Regular Meeting

Bethel, Alaska

CALL TO ORDER

The Regular Meeting of the Bethel City Council was held on August 24, 1998, at 6:30 p.m. in the Log Cabin, Bethel, Alaska. Mayor Agnes Phillips called the meeting to order at 6:33 p.m.

ROLL CALL

There were present:

Mayor Agnes Phillips
Carl Berger
Dario Notti

Mike O'Brien
Karol Sanchez-Pobrislo
Stanley "Tundy" Rodgers

comprising a quorum of the Council.

Absent:

Antone Anvil, Excused

Also in attendance were:

Bob Herron, City Manager
Gaye Vaughan, City Clerk

PEOPLE TO BE HEARD

Gladys Jung, spoke in favor of Ordinance 98-07. As a senior citizen, she felt she spoke on behalf of most seniors as they have a lot of respiratory problems.

JR Krevens, MD, public health service, stated that smoking in public places is a top priority item with the public health service due to the risks associated with secondhand smoke.

Eric Noble, YKHC, also spoke in favor of banning smoking in all work places and noted the health problem in youths and adults related to second hand smoke.

Kyle Sattler, age 10, asked the Council to adopt the ordinance.

Caroline Renner, YKHC, read a letter from Hunt Gressett in favor of the ordinance. Ms. Renner then spoke of research she had conducted regarding general law municipalities adopting stronger laws than those enacted by the state. She cited three court cases. She also reviewed research done by the American Lung Association of laws in all 50 states. No law in Alaska would disallow this ordinance. She noted that California has gone smoke free. She added that heart disease and cancer would be the leading cause of death for Bethel residents this year. The previous leading cause of death was accidents.

Wally Richardson asked the Council to consider the health and welfare of Bethel citizens by enacting this ordinance. She also asked the council members not to cower to threatening calls

made to them.

James Blake, objected to the City Council dictating how he should run his business. He cited recent findings that said EPA was wrong in classifying second hand smoke as a Class A carcinogen. He also cited findings of the World Health Organization.

Bruce Perry, representing 85 city employees, said their rights are being infringed. He noted that he was in favor of smoking, but also was not in favor of this ordinance. He felt that businesses have made accommodations and shouldn't need to do more. He asked that the council educate, not legislate.

Yolanda Jorgenson, stated that she cannot get a babysitter for her children and is forced to take them to work at Gloria's Restaurant, which is a smoking establishment. She noted that an adult has the right to walk out of a place where there is smoking, but that a child does not know to do that.

Dave Trantham, said he had a problem with the Council not holding a second hearing on the ordinance since the city attorney had made numerous changes. He noted that he has spoken to both smokers and non-smokers since the last meeting. He felt there would have been more people at the meeting, but that they are intimidated to come to the meeting. He told of being raised on a tobacco farm and learning at an early age not to smoke. Today he owns a non-smoking business. He commended the Tobacco Alliance for the education they have done in the community. Mr. Trantham continued by telling how he spent two hours at AC to observe how many people were smoking in the store. He reported that no one smoked there; that everyone went outside. His greatest concern with the ordinance was the violation and penalty section. He did not feel the ordinance was needed and that a resolution calling for the education process to continue would better serve the community.

Dr. Jane McClure, said personally she would like this ordinance adopted to keep herself healthy. As a pediatrician, she also requested passage to help the children of the community to be healthy.

APPROVAL OF MINUTES

MOVED BY:	O'Brien	To approve the minutes of the regular council meeting of August 11, 1998, as amended.
SECONDED BY:	Rodgers	

VOTE ON MOTION	Motion to approve the minutes carried by unanimous consent.
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APPROVAL OF AGENDA AND CONSENT AGENDA

MOVED BY:	O'Brien	To approve the consent agenda as amended.
SECONDED BY:	Rodgers	

The consent agenda consisted of the following items:

Ordinance #98-20: Amending the Adopted FY 1998-99 Budget (City Manager Herron) (Public Hearing set for Sept. 8, 1998)

Ordinance #98-21: Authorizing the Imposition of a State-Imposed Surcharge on Certain Penalties Budget (City Manager Herron) (Public Hearing set for Sept. 8, 1998)

City Manager Herron requested an Executive Session be held concerning water/sewer issues and a lawsuit involving the city.

MOVED BY:	Rodgers	To approve the agenda as presented.
SECONDED BY:	O'Brien	

VOTE ON MOTION	Motion to approve agenda carried by unanimous consent.
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MAYOR'S REPORT

Mayor Phillips announced the following:

- Mayor Phillips thanked all the members of the public who attended the meeting.
- She announced that the next Council meeting would be held on Tuesday, September 8.
- The Mayor reminded everyone to vote in the Primary Election on the following day.
- She thanked Dave Trantham for sponsoring the radio broadcast of the Council meeting.
- She said she had attended a luncheon with personnel from the Census Bureau.
- On Aug. 14, she had attended a recognition for Datu Samuelson.
- Also on Aug. 14, she attended the picnic for city employees held at the Senior Center and thanked the City Manager and the employees who helped put it together.
- Mayor Phillips was in attendance at the Change of Command at the National Guard Armory on Aug. 16.
- On Aug. 19, she participated in a teleconference of Mayors and the Governor's office. She outlined the subjects covered in that conference.
- She had attended a dinner held for the University of Alaska Regents on Aug. 20.
- The Mayor also read a list of names of volunteers submitted by the High School and US Fish and Wildlife. At her request the City Clerk read the names submitted by ME School.

CITY MANAGER'S REPORT

City Manager Herron noted the Department Head reports in the Council Members packets.

He noted that the extremely old tractor used at the landfill is still down for repairs. He asked to make a presentation to the Council at the conclusion of New Business.

He announced a meeting to be held on August 27 regarding the proposed design of the city dock. He invited all interested and concerned citizens to give comments and ask questions.

Mr. Herron stated the last storm did cause damage to the seawall and the Acting Port Director has done a diagnostic report as required by the Bethel Bank Stabilization Operation, Maintenance, Repair, Replacement and Rehabilitation (OMRR&R) Manual. A copy was forwarded to the Corps of Engineers for their review and comment. The Corps had no problems with the City's plans to repair the damage.

The City Manager said two representatives of DEC/Solid Waste were in town and had visited the landfill. He explained options being explored regarding future landfill needs. They had recommended incineration as an option as regulations have developed making this now feasible

for this part of the country. When this was reviewed by the City about 12 years ago, the regulations were too tight.

He reported on a visit Finance Director Stu Robinson had had with DEC/Village Safe Water personnel in Juneau the previous week. He had also visited with Marla Berg of Senator Adams' office.

Mayor Phillips thanked the City Manager for his work, noting that only four people had filed paperwork to run for Council in October. She felt this was due to Mr. Herron working with the community and the employees to resolve problems.

STANDING COMMITTEES

Public Works Committee

Council Member O'Brien stated that the Committee had not met due to lack of quorum. This committee has two vacancies.

Port Commission

Council Member Rodgers stated there was not a quorum for the last meeting. He also announced the August 27 meeting regarding the design of the dock.

Public Safety Commission

As Council Member Anvil was not present no report was given. The next meeting was scheduled for August 31.

Senior Citizens' Advisory Board

Council Member Anvil was not present to give a report.

Finance Committee

Mayor Phillips stated the Committee will not meet again until October.

Planning Commission

Council Member Notti noted that the Commission also had not met due to lack of quorum. The location of the Commission meetings has been changed to the Public Works Shop, second floor.

Parks & Recreation Committee

Council Member Sanchez-Pobrislo stated their had not been a meeting since the last Council meeting. The next meeting would be September 8.

Transportation Committee

Council Member Berger reported that the next meeting is scheduled for September 3. He reminded the public that there are vacancies on the various city commissions and urged people to serve.

OLD BUSINESS

Ordinance #98-07: Adding Chapter 8.10 of the BMC Entitled Smoking Pollution Control (City Council)

Mayor Phillips noted that a motion to adopt and a motion to amend were on the floor from the previous meeting. The motion to amend would substitute the original ordinance for the amended version supplied by the City Attorney, delete limousines and taxis from being unregulated, and add a definition for religious and cultural ceremonies.

Council Member Notti restated his definition of religious and cultural ceremonies as "any place where sage, sweet grass, sea oil lamps; incense or other religious or cultural offerings are burned."

VOTE ON MOTION	Motion to amend carried by vote of 5 yes and 1 no.
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ANVIL Absent	BERGER No	NOTTI Yes	O'BRIEN Yes
PHILLIPS Yes	RODGERS Yes	SANCHEZ-POBRISLO Yes	5 YES 1 NO

MOVED BY:	O'Brien	To amend Ordinance 98-07, Sect. 8.10.050(E) change three days to three weeks; and Sect. 8.10.070(A), by adding a new section 8 to read "Employers may provide an enclosed area where employees may smoke if the following conditions are met: the ventilating system for the smoking area does not exhaust into the non-smoking area of the building; the smoking area environment must meet the applicable proposed standards set forth in CFR 59 or such standards as may be adopted following the comment period for the proposed standards and an enclosed area with equal accommodations must be provided for non-smoking employees".
SECONDED BY:	Rodgers	

VOTE ON MOTION	Motion to amend carried by unanimous voice vote.
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ANVIL Absent	BERGER Yes	NOTTI Yes	O'BRIEN Yes
PHILLIPS Yes	RODGERS Yes	SANCHEZ-POBRISLO Yes	6 YES 0 NO

Council Member O'Brien, stated that the ordinance requires a business owner to post no smoking signs and that basically this is set up so that every person of the community is an enforcement person. Noting section 8.10.090 (D), he felt the section was unnecessary. He also read section 8.10.110(D) which calls for a civil penalty of up to \$500 for each violation.

Council Member Notti felt a solution to section 8.10.090(D) would be a check-off box that a business owner would check when he applied or renewed a business license that indicates his business is smoke free.

MOVED BY:	O'Brien	To amend Ordinance 98-07, Sect. 8.10.090(D) to add a check off box on business license application.
SECONDED BY:	Notti	

VOTE ON MOTION	Motion to amend carried by unanimous voice vote.
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ANVIL Absent	BERGER Yes	NOTTI Yes	O'BRIEN Yes
PHILLIPS Yes	RODGERS Yes	SANCHEZ-POBRISLO Yes	6 YES 0 NO

In response to Council Member O'Brien, the City Manager stated he believed Mr. O'Brien to be correct about the \$300.

MOVED BY:	O'Brien	To amend Ordinance 98-07, Sect. 8.10.110(D) by changing \$500 to \$300.
SECONDED BY:	Rodgers	

VOTE ON MOTION	Motion to amend carried by unanimous voice vote.
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ANVIL Absent	BERGER Yes	NOTTI Yes	O'BRIEN Yes
PHILLIPS Yes	RODGERS Yes	SANCHEZ-POBRISLO Yes	6 YES 0 NO

Council Member Berger was concerned about section 8.10.070(A)(2) as it relates to the area of a residence where goods for sale are stored or an area where an actual transaction takes place.

Council Member Pobrislo noted that second hand smoke knows no boundaries and would permeate not only the storage area, but also the goods stored.

A discussion ensued regarding the meaning of this section and possible changes to it.

MOVED BY:	Berger	To amend Ordinance 98-07, Sect. 8.10.070(A)(2) to read "private residences except when used as a child care, adult day care or health care facility or areas frequented by the public for business purposes".
SECONDED BY:	O'Brien	

VOTE ON MOTION	Motion to amend carried by unanimous voice vote.
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ANVIL Absent	BERGER Yes	NOTTI Yes	O'BRIEN Yes
PHILLIPS Yes	RODGERS Yes	SANCHEZ-POBRISLO Yes	6 YES 0 NO

VOTE ON MOTION	Motion on motion to enact Ordinance 98-07 as amended carried by unanimous voice vote.
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ANVIL Absent	BERGER Yes	NOTTI Yes	O'BRIEN Yes
PHILLIPS Yes	RODGERS Yes	SANCHEZ-POBRISLO Yes	6 YES 0 NO

Ordinance #98-19: Requiring The Parent, Guardian And The Owner Of Snow Machines, ATVs, Motorcycles And Other Off-Highway Vehicles To Prevent Minors From Driving Or Riding On Such Vehicles Without An Appropriate Helmet (Public Safety Commission)

Mayor Phillips stated that the motion to adopt was on the floor. She also noted that the Public Safety Commission had requested that the amendment to 9.20.025 (A), "operated by a minor" be deleted. She further noted that the attorney had suggested the addition of "and a sled or other device towed by an off-highway vehicle" be added to (F) in response to concerns raised at a previous meeting.

MOVED BY:	Notti	To amend Ordinance 98-19, Sect. 9.20.025(F), by adding "and a sled or other device towed by an off-highway vehicle" to the end.
SECONDED BY:	O'Brien	

Council Member Pobrislo did not believe when this ordinance was brought to the Council that it was meant to include five little kids in a sled. She stated that helmets cost a lot of money and if a family of ten were to come into Bethel they would have to have ten helmets. She did not feel that the amendment should be in the ordinance at all.

Council Member Notti spoke in favor of the amendment noting his amendment previous "operated by a minor". He said he had not problem with kids not wearing helmets in a sled if a parent is driving the vehicle, but he would not want his kids riding in the sled without a helmet if a 14 year old is driving 90 miles per hour.

Council Member O'Brien noted that Mr. Notti's previous amendment now would make this read that passengers on the vehicle or in the sled would have to wear helmets only if a minor was driving.

VOTE ON MOTION | Motion to amend carried 4 yes to 2 no.

ANVIL Absent	BERGER No	NOTTI Yes	O'BRIEN Yes
PHILLIPS Yes	RODGERS Yes	SANCHEZ-POBRISLO No	4 YES 2 NO

MOVED BY:	Pobrislo	To amend Ordinance 98-19 to change effective date from immediately to 90 days from adoption.
SECONDED BY:	Berger	

VOTE ON MOTION | Motion to amend effective date carried unanimously.

ANVIL Absent	BERGER Yes	NOTTI Yes	O'BRIEN Yes
PHILLIPS Yes	RODGERS Yes	SANCHEZ-POBRISLO Yes	6 YES 0 NO

VOTE ON MOTION | Motion to enact Ordinance 98-19 as amended carried unanimously.

ANVIL Absent	BERGER Yes	NOTTI Yes	O'BRIEN Yes
PHILLIPS Yes	RODGERS Yes	SANCHEZ-POBRISLO Yes	6 YES 0 NO

Council Member O'Brien noted that YKHC is already working on procuring helmets at wholesale costs and will be sold to consumers at the wholesale costs just as they did with the PFCs.

NEW BUSINESS

Resolution #98-21: Approving Issues of Bonds to Finance the Yukon-Kuskokwim Health Corporation Community Services Building in Bethel, Alaska (City Manager Herron)

Gene Peltola, YKHC CEO, presented the financing package to the City Council by stating that this the first use of this method and it represents a unique method for other nonprofits in Bethel. The funding package requires the approval of the Bethel City Council even though Bethel is not obligated for the bonds. The cities of St Mary's and Emmonak have each issued \$9,000,000 in revenue bonds. Clinics will be built in each of those cities using \$3,000,000 of each issue. The remaining \$6,000,000 from each will be used to build the community services building in Bethel. He reviewed other projects in works in Bethel and the Yukon-Kuskokwim Delta. The subregional clinics will open in early 2000. The community services building will be open in the fall of 1999. He said that office space is currently not available for their needs and expansion. The new building will house dentistry, optometry, mental health, audiology and pharmacy allowing room for expansion of the emergency room and renovation of the hospital. The hospital was designed in the late 1970's and health care has changed.

Mayor Phillips called for public hearing on the resolution. There being none, public hearing was closed.

MOVED BY:	O'Brien	To adopt Resolution 98-21.
SECONDED BY:	Pobrislo	

VOTE ON MOTION	Motion carried by unanimous voice vote.
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Resolution #98-22: Requesting FY99 Payment in Lieu of Taxes Funding from the Department of Community and Regional Affairs (City Manager Herron)

MOVED BY:	Rodgers	To adopt Resolution 98-22.
SECONDED BY:	O'Brien	

VOTE ON MOTION	Motion carried by unanimous voice vote.
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Request From Ben Dale For Forgiveness of Interest on Sales Tax For VFW

Ben Dale asked the Council to forgive \$4,486.41 in interest on sales tax for the VFW.

Council Member Notti stated he was against sales tax on games of chance.

MOVED BY:	Notti	To forgive interest of \$4,486.41 for the VFW.
SECONDED BY:	O'Brien	

Council Member O'Brien said the VFW does a lot of good for the people of the region, in and out of Bethel. He noted that it is a common misunderstanding that the nonprofit agency has to pay the sales tax on the pull-tabs and gaming, when actually it is the consumer who pays it in

the price of the game. He did not want this but set precedence for other nonprofits. He said they all should get their house in order and pay the sales tax in a timely manner.

Council Member Rodgers stated that he was not comfortable with this request and if it is granted, every nonprofit will come forward to make the same request.

City Clerk noted that the request from Mr. Dale is dated April 1997, a year ago. Mr. Dale had indicated that Council had forgiven this interest in 1997, but she had found no record of that in the minutes. Thus, it was placed on this agenda for action.

Council Member O'Brien stated he was glad to see this before the Council. He noted that previous managers had forgiven interest charges in their managerial duties. He requested that Council be provided with accounting of the sales tax payments for the VFW for the next meeting.

MOVED BY:	O'Brien	To postpone VFW request until Sept. 8, 1998.
SECONDED BY:	Pobrislo	

VOTE ON MOTION	Motion to postpone carried by unanimous voice vote.
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Discussion – New Police Officer Position (City Manager Herron)

City Manager Herron stated that Acting Lt. George Dahl was present to talk about applying for a grant where the city would put up \$10,000 for the next three years and the grant would be \$40,000 to cover the costs of an additional officer. At the end of the three years, the city is required to hire an additional officer. The Manager would like to apply for a grant for two officers for the next three years.

Council Member O'Brien said he understood that the city share would increase the second and third years.

MOVED BY:	O'Brien	To approve application for a grant for two new police officers.
SECONDED BY:	Rodgers	

Acting Lt. George Dahl answered questions of Council Member Notti regarding the amount of overtime worked by police officers.

VOTE ON MOTION	Motion carried by unanimous voice vote.
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George Dahl, stated he left Bethel at age 14 to go to school and stayed outside for 30 years. He came back to Alaska and worked for the pipeline then joined the Troopers. He then retired and moved back to Utah. Then in May Bob Herron asked him to help out the Police Department while a search for a new Chief was being conducted. Fifty years after leaving, he was given the opportunity to come back to Bethel. He thanked the Council and City Manager for allowing him the opportunity to serve Bethel for the past few months.

COUNCIL COMMENTS

Council Member Berger encouraged people to vote in the Primary Election.

Council Member Notti offered condolences to the Bean family for the loss of wife, mother and grandmother and to the community for the loss of a kind and good elder.

Mayor Phillips also expressed her sympathy to Matthew Bean and family. She said that Esther Bean had been a wonderful role model for others.

Council Member Rodgers echoed the condolences. He also stated that the persons responsible for the vandalism in the community are not only hurting the community but also themselves. It takes money to repair the vandalism and the city's money comes from sales tax.

Council Member O'Brien also expressed his sympathy at the loss of Ms. Bean. He noted that every vote does count. Gubernatorial races have been won and lost by 10 to 15 votes in the recent past. He added that those who do not vote are not be listened to as much as those who do vote.

The Council took a short recess.

City Manager Herron advised the Council about the landfill tractor. This tractor is 25 to 30 years old and is often out for repairs. He has located a used piece of equipment that he would like authorization to purchase and have delivered to Bethel on the last barge sailing of the year. This equipment cannot be leased as it is used. It will be very difficult to manage the landfill without the cat or similar equipment. If they are to buy this equipment, they need to do it now to get it on the barge or wait until spring.

A discussion ensued regarding the type of equipment needed, the prices of similar equipment, and whether grants were available. This type of equipment is very useful and the city will always have a use for it. Similar equipment new would cost about \$200,000. The used one has a 90-day warranty.

EXECUTIVE SESSION

MOVED BY:	Rodgers	To recess to Executive Session to discuss settlement of a lawsuit and water/sewer issues.
SECONDED BY:	O'Brien	

VOTE ON MOTION	Motion carried by unanimous consent.
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The Council reconvened the regular meeting at 9:35 p.m.

MOVED BY:	O'Brien	To approve payment of \$80,000 for settlement of the Ryan lawsuit.
SECONDED BY:	Rodgers	

VOTE ON MOTION	Motion carried by unanimous voice vote.
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ADJOURNMENT

MOVED BY:	O'Brien	To adjourn the meeting
SECONDED BY:	Rodgers	

VOTE ON MOTION	Motion carried by unanimous consent.
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With no further business to come before the City Council, the meeting adjourned at 9:40 p.m.

PASSED AND APPROVED THIS 29th DAY OF SEPTEMBER, 1998

Agnes L. Phillips, Mayor

ATTEST:

Gaye J. Vaughan, City Clerk