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CITY COUNCIL MINUTES
AUGUST 25, 1992**

- CALL TO ORDER** Mayor Feaster called the regular Council meeting of August 25, 1992, to order at 7:30 PM.
- ROLL CALL** Present: Dale, Feaster, Richardson, Vanasse, Wallace, Warner (late), Wintersteen
- APPROVAL/MINUTES** M/M by Wintersteen, 2nd by Vanasse to approve the minutes of the August 11, 1992, regular Council meeting as presented. Voice vote. Motion carried unanimously.
- APPROVAL/AGENDA** M/M by Vanasse, 2nd by Dale to approve the agenda as presented. Voice vote. Motion carried unanimously.
- MAYOR'S REPORT** Mayor Feaster announced temporary opening of the Department of Motor Vehicles the week of August 31; road tests would not be scheduled, however.
- MANAGER'S REPORT** City Manager Hohman reviewed his written Manager's report with Council on the following items:
- Confidential information regarding the encroachment on East Avenue was included in council members' packets.
 - Christy Miller of the DCRA, Municipal and Regional Assistance Division, will visit Bethel on September 8, 1992, to discuss Bethel's participation in the National Flood Insurance Program; Ms. Miller had requested that she be given the opportunity to present a short report to the Council at its September 8 meeting.
 - **Council agreed to schedule the presentation by Ms. Miller for September 8, 1992.
 - Information on the APEA law suit.
 - Settlement checks in the Polty & Black law suit were processed.
 - U.S. Corps of Engineers will be in Bethel on August 27 to discuss the Bethel Seawall project; Mr. Jim Broiles and Mr. Don Ryan of the Corps have requested a meeting with the Council.
 - ** Council agreed to a meeting on the 27th at 8:00 PM. The City Clerk was directed to post notice of a public meeting.
 - Additional handouts regarding the City Manager's contract were distributed.

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--Negotiations with Bethel Contractors regarding temporary land lease for the stockpile of gravel at the Bethel Petro Port will be discussed later in the meeting.

**COUNCIL MEMBER
COMMENTS**

Councilman Vanasse commended the Public Works staff on its work on the Ptarmigan Road project.

In response to a question from Councilman Warner regarding the status of the Tidelands Lease Survey, City Manager Hohman indicated that to his knowledge, there was nothing to report at this time.

**REPORTS FROM STANDING
COMMITTEES**

Mayor Feaster directed Council's attention to the Finance Committee minutes from August 16, 1992. The Committee reviewed and supported the proposed amendment to the purchasing ordinance to include insurance. Further, the Committee supported retaining a consultant to assist in reviewing broker proposals. In addition, the Committee discussed use tax as it applies to alcohol that is shipped into Bethel. The Committee requested clarification on the imposition of a use tax from the City Attorney.

It was reported that the Planning Commission and the Public Works meetings scheduled for August 13 and 18, respectively, were canceled due to lack of a quorum.

Councilman Wintersteen reported that the Port Commission at its August 17 meeting dealt primarily with the Port Ordinance which was scheduled for discussion later in the meeting.

PEOPLE TO BE HEARD There were no people to be heard.

OLD BUSINESS:
Item A: Amend. #3
to Ord. #202

**PUBLIC HEARING: AMENDMENT #3 TO ORDINANCE
#202--PERSONNEL RULES & REGULATIONS**

Mayor Feaster introduced the amendment by explaining that the intent is to not pay accrued leave to employees who have been with the City less than six months. Mayor

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Feaster opened the hearing to the public.

Finance Director, Larry Elam, spoke in support of the amendment to the new personnel rules and regulations and pointed out that the proposed policy before the Council was the policy in effect under the previous rules and regulations, which was inadvertently omitted during the drafting of the rules and regulations. There being no further comment from the public, Mayor Feaster closed this the public hearing.

motion

M/M by Dale, 2nd by Wallace to adopt Amendment #3 to Ordinance #202 as presented. Poll vote. Motion carried unanimously.

**Item B: Ord. #209--
Port Ordinance**

**PUBLIC HEARING: ORDINANCE #209--ESTABLISHING
A NEW TITLE 14, ENTITLED CITY OF BETHEL PORT
ORDINANCE**

Following a brief introduction to the new Port Ordinance, Title 14, by Port Director Stuart Greydanus, Mayor Feaster opened the hearing to the public. There being no comments from the public, Mayor Feaster closed the public hearing. Council next conducted a lengthy review of the ordinance and made a number of recommendations for revisions to the ordinance. The decision was made to review the ordinance containing the proposed revisions at the next regular Council meeting before taking action.

motion

M/M by Warner, 2nd by Richardson to table Title 14 to the September 8, 1992, Council meeting with the provision that the public hearing could be reopened should the public desire to comment on the proposed revisions. Voice vote. Motion carried unanimously.

PEOPLE TO BE HEARD

Mayor Feaster, as required by resolution, again opened the meeting to the public. Gary Korhuis spoke in support of renewal of City Manager Hohman's contract. There being no further comments from the public, Mayor Feaster closed this portion of the meeting.

Council broke at 9:00 PM for a short recess. At 9:15 PM,

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Mayor Feaster called the meeting back to order.

**Item C: Ord. #208
Land Disposal/Lease**

**PUBLIC HEARING: ORDINANCE #208-LAND DISPOSAL
LEASE--PROPERTY LOCATED AT CITY DOCK (BLOCK
20, LOT 3, USS 3220)**

City Manager Hohman introduced the proposed disposal of property located at the City Dock by explaining that there had been an interest to lease a portion of the dock property immediately in front of the warehouse as a staging area for the gravel that has been used in the Napaskiak airport construction. The one bid received was submitted by Bethel Contractors, which was not the firm/individual that had originally expressed an interest in leasing the property. Mayor Feaster opened the hearing to the public.

Port Director, Stuart Greydanus, pointed out that the property for lease comprised 10,000 square feet of land for which revenue generated usually amounted to \$1,000 per month. Based on this, Mr. Greydanus recommended that Council reject the \$98.00 per month bid that was submitted. There being no further comments, Mayor Feaster closed the public hearing.

motion

M/M by Wintersteen, 2nd by Warner to reject the bid submitted by Bethel Contractors for lease of City Dock space. Poll vote. Motion carried unanimously.

Councilman Warner advised that in the future when storage space at the dock is utilized it should go through normal channels--first come, first served--at the published tariff rate. In addition, Mayor Feaster again pointed out the need to revise the land disposal ordinance which is currently in the hands of the Planning Commission.

In response to a question from Councilman Dale regarding locking of the 2nd Avenue gate this winter, Stuart Greydanus indicated that thus far the State has not abandoned 2nd Avenue, therefore the City does not have the authority to lock the gate. Mr. Greydanus further indicated that negotiations with the State to abandon 2nd

Avenue along with the takeover of ownership of the dock have been conducted. Councilman Dale requested that the City look into this matter further and report back at the September 8 Council meeting.

**Item D: City
Manager's Contract**

CITY MANAGER'S CONTRACT RENEWAL

Mayor Feaster requested that Councilwoman Richardson and Councilman Dale turn in written evaluations to place in the City Manager's personnel file and to assist in preparing a summary evaluation.

City Manager Hohman directed Council's attention to 1) proposed Resolution #711; 2) memo from the Finance Director and 3) proposed City Manager's contract.

Joan Hamilton, long-time resident of Bethel, highly commended City Manager Hohman for the work he has done as City Manager and urged Council to vote in favor of renewing Mr. Hohman's contract.

Council next discussed the documents relating to City Manager Hohman's contract renewal, specifically, Resolution #711 which would remove the City Manager from the PERS plan, and the proposed contract. Several changes to the resolution and the contract were recommended.

motion

M/M by Dale, 2nd by Richardson to approve the contract between the City of Bethel and City Manager Hohman with the following revisions:

Paragraph #1: The effective date of the contract shall be September 1, 1992.

Paragraph #2: Replace the words "per diem" with the word "daily."

Add the following paragraphs:

10. If Mr. Hohman chooses to terminate his services as City Manager, he shall give the City Council a two-week

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notification.

11. Mr. Hohman shall receive written evaluations of his performance as City Manager from the City Council six months from the date this Agreement commences and every six months thereafter.

12. This document supersedes all previous contracts.

13. (a) Mr. Hohman agrees to hold harmless and indemnify Bethel from and against any and all claims and damages, including costs and attorney fees, caused by or resulting from any intentional or malicious act or omission by Mr. Hohman during and in the scope of his position as City Manager.

(b) Bethel agrees to hold harmless and indemnify Mr. Hohman from and against any and all claims and damages, including costs and attorneys fees, caused by or resulting from any act or omission of ordinary negligence by Mr. Hohman in and during the scope of his position as City Manager, but only to the extent such an act or omission can be insured by Bethel at reasonable, affordable premium costs charged by a reasonable, prudent underwriter in the normal course of purchasing municipal liability insurance coverage.

vote

Poll vote. Motion carried. 4-yes; 3-no (Feaster, Vanasse, Warner).

motion

M/M by Dale, 2nd by Warner to approve Resolution #711 as amended by changing the effective date of the amendment to the PERS Agreement to September 1, 1992. Roll call vote. Motion carried unanimously.

motion

M/M by Dale, 2nd by Warner to continue meeting past 10:00 PM. Voice vote. Motion carried unanimously.

Council broke at 10:00 PM for a short recess. At 10:05 PM, Mayor Feaster called the meeting back to order.

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NEW BUSINESS:

**Item A: Amend. #1
to Ord. #163**

**INTRODUCTION OF AMENDMENT #1 TO ORDINANCE
#163, CHAPTER 4.20 OF THE BETHEL MUNICIPAL
CODE--PURCHASING**

Mayor Feaster introduced Amendment #1 to Ordinance #163 by explaining that this was the first step in establishing policy and procedure for the purchasing of insurance.

motion

M/M by Dale, 2nd by Wallace to introduce Amendment #1 to Ordinance #163 for public hearing at the September 8, 1992, Council meeting. Voice vote. Motion carried unanimously.

**Item B: Temporary
Land Lease with Bethel
Contractors**

**TEMPORARY EXTENSION OF LAND LEASE WITH
BETHEL CONTRACTORS**

Mayor Feaster opened the discussion by explaining the City needs to enter into a temporary lease agreement with Bethel Contractors which would allow them to off-load and store gravel at the Bethel Petro Port. The property at issue is the portion of land that was transferred to the City from BNC and had in the past been leased by Bethel Contractors from BNC. Mayor Feaster directed Council to the land use permits which were drawn up in order to allow Bethel Contractors to continue to conduct its operation.

City Manager Hohman further elaborated by stating that he has been negotiating with Bethel Contractors to come to an agreement on the lease of ground they are presently using and have been using since February 1992 when the land was transferred to the City. A temporary agreement for the off-loading was signed Saturday, August 22, 1992. Under the agreement Bethel Contractors pays the sum of \$1.25 per ton plus dockage at the rate of sixty cents per foot times the overall length of the vessel and use of the off-loading area until September 4. The agreement requires Council approval to be effective.

In addition, a Temporary Permit for Use of City Property agreement, also requiring Council approval, was drafted

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and presented to Mr. Doyle. The area that Bethel Contractors is presently and has been storing on is about 18,000 square feet of space; the wharfage rate for lease is 10 cents per square foot, or \$1,800 per month. It was suggested to Mr. Doyle that he pay for the past usage of that land--six months--at the rate he was paying BNC (\$800). At the time that the temporary permit for off-loading was signed, Mr. Doyle indicated that he would come in on Monday, August 24, and pay the \$4,800, bringing him current from the time BNC turned over the property. However, he did not come in with the check. Regarding the longer term of the lease (September 4, 1992 through either May 18 or June 18, 1993), Mr. Doyle objected to paying the rate of 10 cents a square foot for the 18,000 square feet of space. He presented a counter offer at a rate of \$400 per month.

motion

M/M by Warner, 2nd by Dale to approve the temporary agreement for the unloading of barges and to establish intent to allow multiple barges to off-load up to the cut-off date of September 4, 1992. Voice vote. Motion carried unanimously.

motion

M/M by Warner, 2nd by Dale to approve the "Temporary Permit for Use of City Property" at a monthly rental rate of \$800 (paragraph 5B), and insert in paragraph 5B the language "The City would consider accepting gravel at the rate of \$35 per ton in lieu of cash payment. The gravel portion shall be on site by October 1, 1992. Poll vote. Motion carried unanimously.

Councilman Warner stated that his justification for charging \$800 per month instead of \$1,800 per month was: 1) the Council has not designated that 10 acres of property as Port property, therefore the 10 cents per foot might not apply; and 2) the 10 cents per foot storage fee on the City Dock is for a fenced area with lights and some security while the property at issue is entirely undeveloped; and 3) \$800 is the fee that was paid to BNC for approximately 2 acres of space compared to the City property of approximately one-fifth an acre. In addition, the City is resolving an existing problem. For long term use of the

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property, the proper procedure is to go through the land disposal process.

**Item C: Staff
Position**

**CONSIDER REINSTATEMENT OF STAFF ATTORNEY
POSITION**

City Manager Hohman referred Council to a breakdown of expenditures for legal fees from FY 1986 through FY 1992, including the amount budgeted for fiscal year 1993 which reflects that expenses had dropped considerably over this period. A brief discussion concerning the service received by the firm of Hicks, Boyd, Chandler and Falconer followed. Both Council and City Manager Hohman indicated their satisfaction with the quality of service received from that firm.

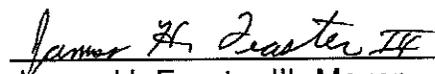
motion

M/M by Warner, 2nd by Wallace to table the reinstatement of the staff attorney position. Voice vote. Motion carried unanimously.

motion

M/M by Wallace, 2nd by Vanasse to adjourn the meeting at 10:40 PM. Voice vote. Motion carried unanimously.

PASSED AND APPROVED THIS 8th DAY OF September, 1992.



James H. Feaster III, Mayor

ATTEST:



Jane Elam, City Clerk