

CITY COUNCIL

*Donna Chris
Kent Harding
Buford McComas
Tad Miller
Joanne Swanson
Don Tubbs
Allan Wintersteen, Mayor*



CITY MANAGER

Ken Weaver

CITY CLERK

Connie Tucker

**City of Bethel
Regular Council Meeting Minutes
August 22, 1995**

I CALL TO ORDER

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

II ROLL CALL

Present Harding, McComas, Miller, Swanson, Tubbs, Wintersteen

Absent Chris (unexcused)

III PEOPLE TO BE HEARD

Susan Taylor, Bethel, stated that a member of the "Just Say Know" committee opposing the local option question made a statement that, if Bethel did go dry, he would lobby in Juneau for less state aid for the social service agencies in Bethel. Ms. Taylor called these remarks "scare tactics" and reminded the Council that if the area loses money, it does not usually get the money back. Ms. Taylor added that she was making the Council aware of this threat, and cautioned against destructive comments.

Rhonda McBride, News Director, KYUK, expressed her concern over the Council's behavior at the August 14, 1995, special meeting. Ms. McBride stated that the Council went from Executive Session into public session without opening the doors of the conference room, and without alerting the reporter waiting that the public session had begun. Ms. McBride stated that the Alaska Press Club attorney thought that this was a violation of the Open Meetings Act. Ms. McBride also criticized the Council for not commenting publicly on the action taken at the meeting until 5:00 p.m. the next day, stating that this was also a violation of the Open Meetings Act. Ms. McBride called the Council's actions overly conservative and warned that it set a dangerous precedent.

Mayor Wintersteen responded to the allegations of a violation of the Open Meetings Act by stating that the Council did not know that the reporter was waiting, and that reporter was

waiting 50-75 feet away from the door and would not have seen when the door opened. Mayor Wintersteen also stated that the Council had opened up the City Manager search in more ways than any other, and added that if a mistake was made, it was not intentional.

Ms. McBride asked the Mayor why he did not tell the reporter what had happened in the meeting when he was asked, and Mayor Wintersteen responded that he had informed the reporter that the City was in the process of hiring a City Manager. Mayor Wintersteen concluded by stating that he felt that the media had extended the search for a City Manager, but the media disagrees.

IV. APPROVAL OF MINUTES

motion M/M by Tubbs, 2nd by Miller to approve the minutes of the August 8, 1995, regular meeting as presented. Voice vote. Motion carried unanimously.

motion M/M by Miller, 2nd by Tubbs to amend the minutes of the August 14, 1995, special meeting by adding Council member Miller's comment regarding commenting publicly on the process of hiring a City Manager. Voice vote. Motion carried unanimously.

V. APPROVAL OF AGENDA AND CONSENT AGENDA

motion M/M by Miller, 2nd by Tubbs to approve, by consent, Item A under New Business. Voice vote. Motion carried unanimously.

motion M/M by Miller, 2nd by McComas to amend the agenda by moving New Business Item C: City Manager Relocation Expenses to Executive Session Item C, and by adding New Business Item C: Resolution #95-42, Executive Session Item D: Legal Strategy-- City of Bethel v. Rodgers, and Executive Session Item E: Legal Strategy--Nunapitchuk, Ltd. v. City of Bethel. Voice vote. Motion carried unanimously.

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

VI. MAYOR'S REPORT

Mayor Wintersteen introduced Ken Weaver as the City's new City Manager and welcomed him to Bethel.

Mayor Wintersteen also thanked William Hunter for his service to the City, adding that Mr. Hunter had accomplished what few City Managers in Bethel had by fulfilling his contract. Mayor Wintersteen stated that Mr. Hunter was hired and charged with following the rules to the letter, and added that Mr. Hunter had done a good job.

Mayor Wintersteen then referred Council to his written report, and mentioned that there were still openings on the Youth Services Committee and the Port Commission, and the Finance Committee would have an opening in September.

VII MANAGER'S REPORT

City Manager Weaver thanked the Council for its selection and added that he would be moving his family to Bethel shortly.

City Manager Weaver referred Council to his written report and requested direction on the following items:

1. Protection Stone Bid Award Authorization

Mayor Wintersteen read the memo requesting Council authorization to award the protection stone bid to the lowest responsive bidder when the bid is opened.

motion M/M by Miller, 2nd by McComas to authorize the City Manager to award the Protection Stone bid to the lowest responsive bidder. Voice vote. Motion carried unanimously.

2. Braund Building RFP Award

Mayor Wintersteen read the memo recommending the Braund Building architectural/engineering design be awarded to EEIS.

motion M/M by Miller, 2nd by Harding to award the architectural/engineering design to EEIS. Voice vote. Motion carried unanimously.

3. Gravel IFB Award

Mayor Wintersteen read the memo recommending the gravel contract be awarded to Foundation Services.

motion M/M by Miller, 2nd by McComas to award the gravel contract to Foundation Services. Voice vote. Motion carried unanimously.

4. Water Truck IFB Award

Mayor Wintersteen read the memo regarding the water truck IFB.

Council member Miller expressed his concern that a water truck would not be able to make the last barge unless a sole-source purchase is approved.

motion M/M by Miller, 2nd by Harding to authorize the City Manager to contract for a sole-source purchase of the water truck, with Alaska purchase preferable.

within the budgeted amount. Poll vote. Motion carried, 4-Yes, 2-No (McComas, Swanson)

5. Sale of Structure IFB

Mayor Wintersteen read the memo regarding the invitation for bids for the sale of the Tomaganuk house.

motion M/M by Tubbs, 2nd by McComas to authorize the Public Works Department to demolish the structure and move the fiberglass building.

Mayor Wintersteen requested further information regarding the move of the fiberglass building, and Council member McComas asked if the Tomaganuk house could be used by the City.

Motion and second withdrawn.

motion M/M by Miller to refer the demolition of the Tomaganuk House and moving the fiberglass building to the City Manager for further review. There was no second.

motion M/M by Tubbs, 2nd by Miller to authorize the demolition of the Tomaganuk house. Voice vote. Motion carried, 5-Yes, 1-No (McComas).

motion M/M by Miller, 2nd by Harding to request the City Manager provide more information regarding moving the fiberglass building. Voice vote. Motion carried unanimously.

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

Council member Miller thanked First Sergeant Burke and Police Chief Chris Liu for following through with the VHF monitoring issue. Mr. Miller thanked the Troopers and the former City Manager for their efforts in obtaining a broader range VHF unit to the Police Department.

Mayor Wintersteen referred to the letter from YKHC regarding the needed repairs at the PATC building and asked if the propane leak had been fixed. City Manager Weaver stated he would provide a status report to Council.

Mayor Wintersteen then referred to a letter from the District Attorney commending Police Officer Walker for his treatment of a crime victim.

VIII REPORTS OF STANDING COMMITTEES

Scheduled dates for upcoming Committee/Commission meetings were announced.

Mayor Wintersteen referred to the minutes of the ad-hoc Cemetery Committee, and informed Council that the committee was asking the City to determine the amount of fill needed to expand the old cemetery towards Dull Lake and the costs involved.

Discussion followed regarding the various options for the cemetery.

motion M/M by Tubbs, 2nd by Miller to direct the City Manager to look into the options proposed and to determine the costs and feasibility of each proposal. Voice vote. Motion carried unanimously.

Council member McComas reported that the Planning Commission met and approved a 38-lot subdivision next to the new cemetery that will consist of low-income housing. Mr. McComas reported that no money was available for piped water and sewer for the subdivision, but that the houses would be constructed to accommodate a future piped system.

motion M/M by Miller, 2nd by McComas to direct the City Manager to develop an internship for the Planning Manager position and hire graduate school graduates.

Council member McComas stated that the City was too far into the hiring process to change. Motion and second withdrawn.

Council member Tubbs reported that the Finance Committee would not meet in August.

Council member Miller deferred his report to the presentation by the Public Works Committee Chair, Mike O'Brien.

Council member Swanson reported that the Transportation Commission met and proposed a draft ordinance regarding alcohol and vehicles for hire, which failed, and the discussion regarding the Commission's role was postponed to the next regular meeting.

Council member Harding reported that the Youth Services Committee had not met, but he had met with the Youth Center Director, who reported that the Center had been closed for repairs in preparation for the school year.

Mayor Wintersteen reported that the Senior Services Committee did not meet in August.

Port Director Greydanus reported that the Port Commission did not have a quorum at the August 21, 1995, meeting.

IX. OLD BUSINESS

Item A: Bethel Bank Stabilization Project--William Hatley Request

Mayor Wintersteen introduced Ken Larson, Project Engineer, of the Corps of Engineers.

Mr. Larson reviewed the activities since July 4, 1995, on the bank stabilization project, reporting that approximately 8100 tons of rock and 50 supersacks were placed in front of the City Dock, and that the area is considered stable.

Mr. Larson also reported that the sixth barge load of rock had arrived and placed at the Mission Road erosion area, where construction of the dike is continuing. Mr. Larson stated that the 3700 supersacks placed in the area appeared to be holding the toe of the permafrost, and that 18,000 tons of rock had been placed in the area with another 43,000 tons remaining. Mr. Larson added that they hoped to be finished by freezeup, with additional work continuing next spring. In response to Council member Miller's question, Mr. Larson stated that the Corps felt that this area was also stable.

Carl Borash, Corps of Engineers, addressed the request of William Hately to extend the stabilization project an additional 2000 feet. Mr. Borash estimated the cost to extend 2000 feet at approximately \$3,240,000, whereas the cost to extend the project the 300 feet, as included in the original design, would be about \$486,000. Mr. Borash discussed the benefits to the City for both the 2000 foot and 300 foot extension, primarily the prevention of land loss. Mr. Borash added that if the City wanted to amend the design, the Corps would have to get approval from the Congress, which would extend the time frame of the project. Mr. Borash responded to Council member Harding's question that Mr. Hately had expressed no interest in extending the project 300 feet, only in extending it the full 2000 feet to protect his property. Mr. Borash also commented on the current design, and stated that it was adequate to protect the fuel port, but 300 feet would be safer.

Mr. Hately then addressed the Council and stated that no one from the City or the Corps had contacted him, and added that he could not do anything with the land because it is Native Allotment land and all transactions must be approved by the BIA. Mr. Hately said that he does not want to lose his property to erosion.

Council member Miller asked if the Corps could do a study to minimize the impact of erosion at the end of the seawall. Mr. Borash responded that there would be erosion at the end of the seawall, but it could be minimized by transitioning into the natural riverbank. Mr. Borash added that the 300 foot extension would aid in that transition, but contended that natural erosion would occur anyway.

Discussion followed on estimated time frames for the studies required for the extensions and the additional costs to the City. Mr. Borash reminded Council that the City's share was 25% and the studies could cost \$100,000-200,000.

Port Director Greydanus reported that the City worked with Land Field Services to acquire the necessary property for the project, and that the City completed the necessary paperwork for Mr. Hately's land, but Mr. Hately turned down all offers to negotiate for the additional 300 feet, so the Corps of Engineers dropped that property from the project.

Further discussion regarding the studies required and the estimated costs followed.

motion M/M by Miller to invite the City Manager, the Corps of Engineers and Mr. Hatley to discuss the matter further and investigate swapping land for the 25% match, as well as investigate the City's legal liability. There was no second.

motion M/M by McComas to include an additional 200 feet in the project. There was no second.

Discussion followed on the benefits of including an additional 200 feet.

motion M/M by Miller, 2nd by Swanson to direct the City Manager to initiate communication with Mr. Hatley, to investigate all options, to investigate the City's legal liability and to investigate swapping land for the City's required match. Poll vote. Motion failed, 1-Yes, 5-No (Harding, McComas, Swanson, Tubbs, Wintersteen).

motion M/M by Swanson, 2nd by Miller to continue the dialogue with Mr. Hatley, while further researching the options. Poll vote. Motion failed, 2-Yes, 4-No (Harding, McComas, Tubbs, Wintersteen).

motion M/M by McComas to put the 200 feet back into the project with the approval of Mr. Hatley. There was no second.

motion M/M by Tubbs, 2nd by Harding to end the project as proposed. Poll vote. Motion carried, 4-Yes, 2-No (Miller, McComas).

Council broke at 9:15 p.m. for a short recess. Mayor Wintersteen called the meeting back to order at 9:25 p.m.

X NEW BUSINESS

Item A: Resolution #95-41: A Resolution Accepting the FY96 Anti-Drug Abuse Grant from the Alaska Department of Public Safety

On consent agenda.

Item B: Discussion Item--Public Works Committee Presentation

Mayor Wintersteen explained that the Council would listen to Mr. O'Brien's presentation and respond at the next regular meeting.

Mike O'Brien, Public Works Committee Chair, addressed Council on the committee's role. Mr. O'Brien stated that the committee's expectations and the Council's expectations were not always on common ground, and blamed a lack of direction from both the Council and the committee.

Mr. O'Brien discussed the Committee's areas of concern, and proposed the Committee examine the following areas:

- ◆ The City cannot provide water and sewer service to the many new developments in town with the existing equipment.
- ◆ Water trucks are not metered, and piped customers are billed at a flat rate instead of being charged for the amount of water used, and the rates are not comparable to the hauled water rates.
- ◆ Employee water and sewer benefit costs the City money with no equity for employees.
- ◆ Summer projects cannot be completed because of limited staff. Can the City hire temporary summer help?
- ◆ Gravel, gravel, gravel.
- ◆ Hazardous waste storage area was included in the budget, but Council cut it.

Mr. O'Brien stated that people who serve on committees have areas of expertise that the Council needs to utilize and allow to offer ideas.

Mayor Wintersteen asked if Mr. O'Brien had any procedural ideas to aid the committee. Mr. O'Brien responded that he would like to see a list of two or three items that the Council feels are relevant and give direction to the Committee regarding the issue.

Discussion followed on setting a work session with the Council and the Public Works Committee to discuss priorities for the Committee. A work session was scheduled for Tuesday, September 5, 1995, at 7:00 p.m. at the Public Works Conference Room.

Item C: Resolution #95-42: A Resolution Submitting the City's Transportation Project Priorities to the State of Alaska Department of Transportation and Public Facilities

Mayor Wintersteen read the priorities listed in Resolution #95-42.

Discussion followed regarding the submission of the priorities to the Department of Transportation and the need for additional information discussed by Council regarding each project.

motion M/M by Swanson, 2nd by Miller to adopt Resolution #95-42 as presented with the provision that the Council suggestions would be added to the application document, and resubmitted.

motion M/M by Miller to amend priority #7 to Resolution #95-42. There was no second.

vote Poll vote on the motion. Motion carried, 5-Yes, 1-No (Miller).

Mayor Wintersteen directed the City Manager to review the notes from the Council work session regarding these priorities and add Council's concerns and suggestions to the application.

XI COUNCIL MEMBER COMMENTS

Council member Tubbs thanked Mr. Hunter for his years of service to the City, and welcomed Mr. Weaver to Bethel.

Council member McComas thanked Mr. Weaver for accepting the position and stated that he was glad to see him arrive in such a timely manner. Mr. McComas addressed Ms. Taylor's comments under People to be Heard, stating that he was misunderstood. Mr. McComas said that his statement was that if 80% of the crimes in Bethel were alcohol-related, then approximately 400 jobs would be unnecessary. Mr. McComas stated that the jobs would not be eliminated because the problems will not go away, adding that Barrow has been dry for one year and no jobs have been eliminated there. Mr. McComas said that the people tracking the statistics in Barrow do not reflect the police calls that are not answered, and reported that a petition in Barrow had gathered enough signatures to place the question on the ballot to go wet. Mr. McComas concluded his remarks by stating that the problem is not people from Bethel, but the 80-85% of the protective custody cases that are from the villages.

Council member Miller congratulated Mr. Hunter on surviving him, adding that he hoped Mr. Hunter meets great success. Mr. Miller welcomed Mr. Weaver to Bethel. Mr. Miller then thanked the Mayor for working on the cemetery issue, and asked that Ptarmigan Road be completed soon. Mr. Miller encouraged all eligible citizens to run for Council, especially Natives and women. Mr. Miller stated that he sees the liquor issue as a health issue rather than a law enforcement challenge, and added that he would hope the sponsors of the dry initiative would become AA sponsors rather than making liquor illegal.

Council member Harding reported that he had decided to apply for a state committee which will meet to decide transportation priorities for the state. Mr. Harding welcomed Mr. Weaver, and thanked Mr. Hunter for his letter to Council and wished him luck.

Council member Swanson welcomed Mr. Weaver and said good-bye and good luck to Mr. Hunter. Ms. Swanson then addressed the local option issue by stating that everyone is concerned about bootleggers and the reason that Barrow went dry is because the children had started drinking. Ms. Swanson stated that there was a time to be silent and a time to speak up. Ms. Swanson expressed her thankfulness and gratitude for the movement, and added that this was not the place to hold these discussions. Ms. Swanson reported that public forums would be held in September on the issue.

Mayor Wintersteen thanked Mr. Weaver for coming. Mayor Wintersteen stated that he was getting tired of all of the dry issue comments, but wanted to comment on a few statistics from DFYS. Mayor Wintersteen reported that of 2263 reports to DFYS from July, 1994-December, 1994, 844 were from Bethel, and in the first six months of 1995, 31 protective custody cases involved children under 18. Mayor Wintersteen also reported that the Fetal

Alcohol Syndrome rate in Bethel was 4.5 per 1000 compared to 3.75 for the state and 1.3 for the United States. Mayor Wintersteen agreed that this was a health issue.

XII EXECUTIVE SESSION

- Item A: Legal Strategy--Crow v. City of Bethel
- Item B: APEA Negotiations Update
- Item C: City Manager Relocation Expenses
- Item D: Legal Strategy--City of Bethel v. Rodgers
- Item E: Legal Strategy--Nunapitchuk, Ltd. v. City of Bethel

motion M/M by Tubbs, 2nd by Harding to go into Executive Session for the purpose of discussing Legal Strategy--Crow v. City of Bethel; APEA Negotiations Update; City Manager Relocation Expenses; Legal Strategy--City of Bethel v. Rodgers; and Legal Strategy--Nunapitchuk, Ltd. v. City of Bethel. Voice vote. Motion carried unanimously.

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

motion M/M by McComas, 2nd by Tubbs to accept the City Attorney's direction regarding Crow v. City of Bethel. Poll vote. Motion carried, 5-Yes, 1-No (Miller).

motion M/M by Miller, 2nd by Harding to extend the current salary schedule for one month, through September. Voice vote. Motion carried unanimously.

motion M/M by Miller, 2nd by McComas to authorize the Finance Director to issue a \$2000 check to the City Manager as a part of the agreed upon moving expenses. Voice vote. Motion carried unanimously.

motion M/M by Miller, 2nd by McComas to follow the City Manager's recommendation regarding City of Bethel v. Rodgers. Voice vote. Motion carried unanimously.

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

XIII ADJOURNMENT

motion M/M by Miller, 2nd by Swanson to adjourn the meeting at 10:58 p.m. Voice vote, Motion carried unanimously.

PASSED AND APPROVED THIS 12TH DAY OF SEPTEMBER, 1995.



Allan Wintersteen, Mayor

ATTEST:



Connie Tucker, City Clerk