



City of Bethel

Port Commission Meeting Agenda

Regularly Scheduled Meeting

January 19, 2015 - 7 pm

City Council Chambers, City Hall, Bethel, AK

Commissioners

Alan Murphy
Chair
Term Expires 2015
(907)543-2805

Greg Roczicka
Vice-Chair
Term Expires 2017
(907)543-2903
groczicka@hotmail.com

Mark Springer
Council Rep.
Term Expires 2015
(907)543-1297
mspringer@cityofbethel.net

Richard Pope
Port Commissioner
Term Expires 2017
(907)543-1900
bethelalaskapc@gci.net

John Dickens
Port Commissioner
Term Expires 2014
(907)543-0684
mightyjades@gmail.com

Ex-Officio

Peter A. Williams,
Port Director
(907)545-4150
pwilliams@cityofbethel.net

Edward Flores
Port Admin
(907)543-2310
eflores@cityofbethel.net

- i. **CALL TO ORDER**
- ii. **ROLL CALL**
- iii. **PEOPLE TO BE HEARD**
- iv. **APPROVAL OF AGENDA**
- v. **APPROVAL OF MINUTES FROM THE REGULAR MEETINGS**
- vi. **DEPARTMENT HEAD COMMENTS**
- vii. **UNFINISHED BUSINESS**
BMC CHAPTER 14.01-14.03
- viii. **NEW BUSINESS**
FY-15 BUDGET
- ix. **COMMISSION MEMBER'S COMMENTS**
- x. **ADJOURNMENT**

City of Bethel, Alaska Port Commission

17 November 2014

Regular Meeting

Bethel, Alaska

I. CALL TO ORDER

A regular meeting of the Port Commission held on November 17th, 2014 at 7 p.m. in the City Council Chambers, Bethel, Alaska

Chair, Alan Murphy called the meeting to order at 7:10 p.m.

II. ROLL CALL

Comprising a quorum of the Commission, the following members were present for roll call:
Comm. Murphy, Comm. Roczicka, Comm. Pope, Comm. Jennings

Members absent were:

Comm. Springer, Comm. Dickens

Ex-Officio members present were:

Peter Williams, Edward Flores

III. PEOPLE TO BE HEARD

None

IV. APPROVAL OF AGENDA

MOVED:	Comm. Roczicka	Approval of Agenda
SECONDED:	Comm. Jennings	
VOTE ON MAIN MOTION	All in favor.	

V. APPROVAL OF MINUTES

MOVED:	Comm. Jennings	Approval of Agenda with correction to Comm. Roczicka's comments
SECONDED:	Comm. Pope	
VOTE ON MAIN MOTION	All in favor.	

VI. DEPARTMENT HEAD COMMENTS

A report was submitted verbally & on paper by the Port Director.

VII. UNFINISHED BUSINESS

BMC Chapter 14

VIII. NEW BUSINESS

IX. COMMISSION MEMBERS COMMENTS

Comm. Roczicka – none

Comm. Pope – None before me

Comm. Jennings – End of term this year, will not be returning.

Comm. Murphy - none

X. ADJOURNMENT

Port Commission adjourned at 7:55 p.m.

Alan Murphy, Chairperson

ATTEST:

Edward Flores, Recorder

put into the USACE budget for this project. We have strong ties with the USACE here in Alaska and they are willing to help. This has been high on the USACE to do list for a long time.

- Jung/Active Parcels-There are two parcels of land needed for the BBSP project that will require a perpetual easement or ownership of the land to be able to fix a portion of the seawall. The parcels have been sub-divided and the survey is due to for approval by the planning commission Dec 11th. After approval by the PC the survey will go to the BIA for approval. The next step will be for the BIA and the Port/City to agree on price of the land. One problem that came to light was the fact that the City does not own the ROW too parts of East Ave. The city has been trespassing for a number of years. If both property owners were too exercise their rights the effect would be the closure of East Ave. to the public. The project is designed with or without the parcels but the issue of trespass would remain. I've been involved for 7yrs and the law firm of K& L Gates has been involved for 10 yrs. trying to resolve this issue. The work involved coordinating the USACE, BIA surveyors, appraisers, our planning dept and planning commission. Due to the complexities of coordinating various issues between the USACE and the BIA we hired K&L Gates. The attorney that has been working with us is Joan Travostino. She has been a wealth of information concerning the BIA and the USACE. Her institutional knowledge will be missed someday. It is the only attorney the Port has employed.
- The shop on Brown Slough needs electrical work and the flooring welded together. We hope to move forward with this work this winter.

Brown Slough

- Permits need to be reviewed and updated to finish the excavation/dredging of Brown Slough. This work would start late January and continue Through February. We will concentrate on the areas we missed the last two years. Weather will play a big part when we start and finish.

City Dock

- The East Timber Wall design is 50% complete. The design is being produced by the USACE. The design is scheduled to finish in April of 2015. No construction funds have been indentified for this project.
- Homeland Security has granted the Port funds,\$46,000, for gates. One will be installed on the city dock. Two more along the seawall. They are to be installed by June 31st. A RFP will have to be completed for purchase of the gates.

Seawall

- The USACE performed a inspection of the Seawall earlier this year and overall found the seawall in good shape. There is some fabric that has become exposed that we will correct. The Grizzley (for screening the armor rock) needs to be set up. We are required to too keep 12,000cu yds. of armor in place for emergencies. This was agreement the City had with the USACE for building and maintaining the seawall. The pile of rock we have is unusable due to dirt that has accumulated in the pile along with the need of the A& B rock being separated. Currently armor rock cost \$250 per cu yd.
- We intend to keep the lower access road open to pedestrian traffic. We will clear snow as needed.

Misc.

- One of our seasonal employees received their CDL permit and was trained . He was a temp. hire ,his last day was Dec. 1st.
- The steel floats were pulled out of the SBH. We were able to do so because of the warm weather.
- We have closed off the access below the Port office due to unsafe conditions.
- There was a fuel spill at the Port Office. The Port employees were quick to respond and have it contained and cleaned. Heavy equipment was used to clean the spill. The D.E.C. was notified of the spill.

Admin.

- Billing for November was completed.

Peter A. Williams
Port Director

PORT OF BETHEL

Post Office Box 1388
Bethel, Alaska 99559
Voice: 907-543-2310
Fax: 907-543-2311



TO: Ann Capela, City Manager
FROM: Peter A. Williams, Port Director
SUBJECT: Dec. 2014 Managers Report

Small Boat Harbor

- USACE has issued a permit to develop a access road to eleven acres in the SBH. The City Planning Dept. issued a permit for this work .
- Calista owns the. Sub-Surface rights in the SBH. We will look at presenting a budget mod to purchase these rights using funds from the FY-15 budget that we don't expect to use.

East Addition

- The Bethel Bank Stabization Project (BBSP) – Jung/Active Parcels –Planning Comm. Approved the sub-dividing these lots in first reading final approval is expected this month. The survey will go to the BIA for approval. A decision will have to made on who will pay for the appraisals when the time comes. It will take the BIA 3yrs. to produce a appraisal.
- The shop on Brown Slough needs electrical work and the flooring welded together. We hope to move forward with this work this winter .

Brown Slough

- Permits need to be reviewed and updated to finish the excavation/dredging of Brown Slough. This work would start late January and continue Through February.

City Dock

- Homeland Security has granted the Port funds,\$46,000, for gates. One will be installed on the city dock. Two more along the seawall. They are to be installed by June 31st. A RFP will have to be completed for purchase of the gates.

Port Director ,Peter A. Williams



CITY OF BETHEL

P.O. Box 1388 Bethel, Alaska 99559

907-543-2047

FAX # 543-3817

June 7, 2012

June McAtee
Vice President- Lands
301 Calista Court, Suite A
Anchorage AK 99518

Re: Request of City of Bethel for subsurface rights to Small Boat Harbor, Bethel, Alaska

Dear Ms. McAtee:

The City of Bethel is working with the Army Corp of Engineers to improve the Small Boat Harbor in Bethel, Alaska. To obtain the funds for the project, the City is required to sign a certification that it has the property rights to complete the project.

The project involves dredging within the Small Boat Harbor and channel to the Small Boat Harbor. The Harbor was built in the 1980s after Bethel Native Corporation transferred the land to the City of Bethel. During the construction and since the construction, the City has worked in the subsurface to build the Small Boat Harbor and to maintain the harbor by removing soil that accumulates on the harbor floor and interferes with boats moving in and out of the harbor. A description of the dredging portion of the project is enclosed in the Environmental Assessment and finding of No Significant Impact, dated February 2012. I also enclose a drawing of the Small Boat Harbor, with the Army Corp project overlay and a copy of the deed from Bethel Native Corporation.

The City requests a written grant of access to the subsurface of the Small Boat Harbor work that matches the deed granted by Bethel Native Corporation. The City requests the written grant by June 29, so that it can complete its certificate by July 1. Please contact the City's special counsel for this matter, Joan Travostino, at 907-777-7608, to discuss the details of the grant.

Peter Williams, Port Director, City of Bethel

Cc: Marcia Davis, Calista
301 Calista Court, Suite A
Anchorage AK 99518

CITY OF BETHEL
EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE 6 MONTHS ENDING DECEMBER 31, 2014

MUNICIPAL DOCK

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
<u>DOCK EXPENDITURES</u>					
52-50-501 SALARIES	35,480.61	124,627.71	280,204.00	155,576.29	44.5
52-50-502 OVERTIME	805.87	2,811.85	12,687.00	9,875.15	22.2
52-50-508 LEAVE CASHOUT	.00	6,125.00	7,353.00	1,228.00	83.3
52-50-510 SOCIAL SECURITY EXPENSE	533.29	3,436.75	5,774.00	2,337.25	59.5
52-50-511 MEDICARE FICA	558.15	2,001.96	4,201.00	2,199.04	47.7
52-50-512 EMPLOYEE GROUP BENEFITS	6,402.00	16,260.20	39,600.00	23,339.80	41.1
52-50-515 UNEMPLOYMENT	16.02	16.02	2,318.00	2,301.98	.7
52-50-516 WORKMEN'S COMP	.00	.00	15,000.00	15,000.00	.0
52-50-517 PERS UNFUNDED EXPENSE	.00	.00	12,831.00	12,831.00	.0
52-50-518 PERS	6,090.69	15,931.13	32,165.00	16,233.87	49.5
52-50-519 UTILITY BENEFIT	1,126.36	4,505.44	7,357.00	2,851.56	61.2
52-50-545 TRAINING/TRAVEL	133.28	1,099.58	7,000.00	5,900.42	15.7
52-50-561 SUPPLIES	807.29	1,890.01	6,500.00	4,609.99	29.1
52-50-563 WEARING APPAREL	.00	742.94	3,000.00	2,257.06	24.8
52-50-600 TIRES	601.85	601.85	.00	(601.85)	.0
52-50-601 VEHICLE MT	6.99	2,311.91	3,000.00	688.09	77.1
52-50-602 GASOLINE/DIESEL/OIL	5,699.13	15,545.54	35,000.00	19,454.46	44.4
52-50-621 ELECTRICITY	659.38	1,517.17	9,500.00	7,982.83	16.0
52-50-622 TELEPHONE	203.27	833.54	3,000.00	2,166.46	27.8
52-50-623 HEATING FUEL	227.06	1,006.92	2,000.00	993.08	50.4
52-50-624 WATER, SEWER, GARBAGE	266.28	1,065.12	20,000.00	18,934.88	5.3
52-50-626 WATER FOR BARGES	1,336.30	6,004.13	12,000.00	5,995.87	50.0
52-50-642 LEGAL FEES	4,752.00	5,870.00	10,000.00	4,130.00	58.7
52-50-643 PLANNING/ENGINEERING FEES	.00	.00	10,000.00	10,000.00	.0
52-50-661 VEHICLE MAINT/REPAIR	181.32	4,531.39	11,076.00	6,544.61	40.9
52-50-666 MUNICIPAL DOCK MAINT.	.00	357.16	6,000.00	5,642.84	6.0
52-50-667 MAINT-SEAWALL	.00	397.50	7,000.00	6,602.50	5.7
52-50-668 MAINT SMALL BOAT HARBOR	1,753.19	5,382.73	7,000.00	1,617.27	76.9
52-50-669 OTHER PURCHASED SERVICES	268.56	1,272.41	8,500.00	7,227.59	15.0
52-50-683 MINOR EQUIPMENT	861.08	1,031.05	3,000.00	1,968.95	34.4
52-50-687 LAND/EASEMENT ACQUISITION	4,740.00	4,740.00	10,000.00	5,260.00	47.4
52-50-690 CAPITAL EXPENDITURES	.00	17,651.00	23,064.00	5,413.00	76.5
52-50-721 INSURANCE	.00	8,873.00	22,000.00	13,127.00	40.3
52-50-724 DUES	.00	150.00	1,000.00	850.00	15.0
52-50-727 ADVERTISING	.00	99.00	1,000.00	901.00	9.9
52-50-738 BAD DEBT EXPENSE	.00	.00	5,000.00	5,000.00	.0
52-50-775 MUNICIPAL DOCK GRAVEL	.00	29,796.00	30,000.00	204.00	99.3
52-50-776 HYDROGRAPHIC SURVEY	.00	.00	35,000.00	35,000.00	.0
52-50-799 MISCELLANEOUS EXPENSES	10.00	30.00	500.00	470.00	6.0
52-50-990 XFER OUT	.00	.00	50,000.00	50,000.00	.0
52-50-996 ADMIN OVERHEAD-IT SVCS	1,347.33	5,389.32	16,168.00	10,778.68	33.3
52-50-998 ALLOCATION ADMIN OVERHEAD	2,353.08	9,412.32	28,237.00	18,824.68	33.3
TOTAL DOCK EXPENDITURES	77,220.38	303,317.65	805,035.00	501,717.35	37.7
TOTAL FUND EXPENDITURES	77,220.38	303,317.65	805,035.00	501,717.35	37.7
NET REVENUE OVER EXPENDITURES	(75,757.35)	(280,762.42)	(805,035.00)	(524,272.58)	(34.9)

CITY OF BETHEL
REVENUES WITH COMPARISON TO BUDGET
FOR THE 6 MONTHS ENDING DECEMBER 31, 2014

MUNICIPAL DOCK

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEARNED	PCNT
<u>INTEREST & PENALTIES</u>					
52-40-403 CITY DOCK-PENALTIES & INT	.00	1,914.37	.00	(1,914.37)	.0
TOTAL INTEREST & PENALTIES	.00	1,914.37	.00	(1,914.37)	.0
<u>CHARGES FOR SERVICES</u>					
52-43-402 CITY DOCK-STORAGE	.00	4,106.40	.00	(4,106.40)	.0
52-43-404 CITY DOCK-PERMITS	.00	780.00	.00	(780.00)	.0
52-43-413 SLOUGH BERTH-MOORAGE	.00	132.00	.00	(132.00)	.0
52-43-424 PETRO YARD - STORAGE	.00	1,502.00	.00	(1,502.00)	.0
52-43-432 SEAWALL-STORAGE	.00	576.00	.00	(576.00)	.0
52-43-433 SEAWALL MOORAGE	.00	676.00	.00	(676.00)	.0
52-43-454 BEACH-STORAGE	.00	1,816.80	.00	(1,816.80)	.0
52-43-463 BOAT HARBOR-MOORAGE	166.25	2,332.25	.00	(2,332.25)	.0
TOTAL CHARGES FOR SERVICES	166.25	11,921.45	.00	(11,921.45)	.0
<u>LEASE REVENUE</u>					
52-44-467 LEASE REVENUE	.00	200.00	.00	(200.00)	.0
TOTAL LEASE REVENUE	.00	200.00	.00	(200.00)	.0
<u>MISCELLANEOUS</u>					
52-45-462 SMALL BOAT HARBOR STORAGE	150.00	350.00	.00	(350.00)	.0
52-45-464 SMALL BOAT HARBOR PERMITS	.00	2,850.04	.00	(2,850.04)	.0
TOTAL MISCELLANEOUS	150.00	3,200.04	.00	(3,200.04)	.0
<u>MISCELLANEOUS</u>					
52-49-487 INVESTMENT INCOME	1,146.78	5,319.37	.00	(5,319.37)	.0
TOTAL MISCELLANEOUS	1,146.78	5,319.37	.00	(5,319.37)	.0
TOTAL FUND REVENUE	1,463.03	22,555.23	.00	(22,555.23)	.0

SMALL BOAT HARBOR
REVENUES AND EXPENDITURES

REVENUES

\$0.01 THRU-PUT	\$	150,000.00
SBH PERMITS	\$	16,962.00
SBH MOORAGE	\$	25,560.00
SBH STORAGE	\$	4,000.00

TOTAL REVENUES **\$** **196,522.00**

PERSONNEL

PORT DIRECTOR @ 20%	\$	20,000.00
ADMIN ASSISTANT @ 33%	\$	13,500.00
2 MAINTENCE	\$	11,000.00
5 SBH ATTENDANTS	\$	57,037.00

PERSONNEL TOTAL **\$** **101,537.00**

M&O

SBH MAINT.	\$	10,000.00
ELECTRICITY	\$	4,100.00
INSURANCE	\$	8,100.00
FUEL	\$	12,000.00
OFFICE SUPPLIES	\$	2,000.00
SEWER&GARBAGE	\$	2,680.00

M&O TOTAL **\$** **38,880.00**

TOTAL EXPENDITURES **\$** **140,417.00**

REVENUE OVER EXPENDITURES **\$** **56,105.00**

Chapter 14.01
GENERAL PROVISIONS

14.01.010	Definitions
14.01.020	Port Director
14.01.030	Duties of Port Director
14.01.040	Compliance with Orders of Port Director
14.01.050	Payments
14.01.060	Administrative Inspections
14.01.070	Facility Damage
14.01.080	Reporting Injury or Damage
14.01.090	Expenses of Corrective Action
14.01.100	City Not Responsible for Loss or Damage
14.01.110	Revenues

14.01.010 Definitions.

As used in this title:

- A. "Beam" means the greatest overall width of the vessel including booms, spars, gins, or any fixed protuberances.
- B. "Boat owner" means the actual or registered owner, charterer, master, agent or the person in navigational control or person responsible for the operation of the boat.
- C. "City" means the city of Bethel.
- D. "Delinquent list" means the record of vessels, their owners or agents, or other users of the port of Bethel who have failed to pay charges when due or who have not furnished proper cargo statements to the port director.
- E. "Derelict" means any vessel moored or otherwise located within the boundaries of the port, seawall, harbors or waterways inside or adjacent to the city limits of the City of Bethel, which reasonably appears to have been forsaken, abandoned, deserted or cast away or which, in the opinion of the harbormaster or any recognized marine surveyor, is unsound, unseaworthy, and unfit for trade or occupation and which reflects substantial evidence of neglect.
- F. "Dockage" means a charge made for vessels at wharves or moored on or adjacent to city property.
- G. "Exclusive Moorage" refers to a signed agreement between the City and the owner/operator of a vessel for a certain, specified moorage space within Bethel City limits during which time services provided by the City of Bethel through the harbormaster may be needed by the owner/operator of the vessel.
- H. "Handling" means the service accorded to cargo movement to or from a vessel.
- I. "Harbor and/or port facilities" means all piers, docks, floats, berths, parking areas and other launching, loading, mooring and repair facilities owned or operated by the city.
- J. "Harbormaster" means the official hired by the City manager to serve as harbormaster and any deputy harbormaster, port security officer, or other city employee authorized or designated by the harbormaster or city manager to enforce the provisions of this chapter. The harbormaster may also be known as the port director.
- K. "Launching area" means that area designated by the port director for the purpose of launching and retrieving boats.

- L. "Length" or "LOA" means the overall length of a watercraft measured from the most forward point at the stem to the aftermost part of the stern of the watercraft, to include the motor.
- M. "Loading area" means that area designated by the port director for the purpose of loading and unloading small items into a boat for noncommercial purposes and is not subject to wharfage charges.
- N. "Manifest" – A record of cargo, goods or passengers carried aboard the vessel. The manifest customarily contains the particulars of the vessel, including its destinations.
- O. "Mooring" – An anchor, dropped in the water and equipped with a floating buoy to which vessels can moor.
- P. "Motor vehicle" means a vehicle which is self-propelled except a vehicle moved by human or animal power.
- Q. "Operator" means the registered master or skipper of a vessel or any other person who is in actual physical control of a vessel.
- R. "Parking area" means that area designated and posted by the port director for the purpose of parking motor vehicles and boat trailers.
- S. "Person" means an individual, firm, association, organization, partnership, business trust, corporation, company or any other business entity.
- T. "Port director" also means Harbormaster or their designee.
- U. "Port facilities" means all docks, floats, berths, wharfs, seawalls, and other landing, launching, mooring, cargo or other facilities located within or alongside the waterways within the city limits of Bethel.
- V. "Port of Bethel" or "port" means all navigable streams, rivers, continuous waterways, the adjacent shorelines and facilities thereto under the ownership or control of the city located within the corporate limits of the municipality, including, but not limited to, the petroleum dock, the city cargo dock, the small boat harbor, the city seawalls and any other similar facilities excepting those areas within the exclusive jurisdiction of the state or federal government.
- W. "Small boat harbor" or "harbor" means that area so designated by surveyed Plat # 82-13 from US Survey 3790.
- X. "Seawall" means the bulkhead constructed of pipe piling, or other material along the waterfront of Bethel.
- Y. "Tariff charges" include all dockage, wharfage demurrage, terminal charges, moorage fees, rentals and any other charges or fees authorized by the port commission and approved by the city council for use of all areas within and along the waterways located within and adjacent to the City of Bethel. Tariff charges shall also include any amounts a person owes the port.
- Z. "Term Moorage" refers to a signed agreement between the City and the owner/operator of a vessel for an unspecified time during which services provided by the City of Bethel through the harbormaster may be needed by the owner/operator of a vessel.
- AA. "Terminal charges" means the charges included in the current Port of Bethel Tariff as filed with the Federal Maritime Commission. "Terminal charges" includes only charges for facilities, goods, or services provided by the city.
- BB. "Thru-Put" – The act of transferring fuel from a vessel from within or adjacent to the waterways of the City of Bethel to within the actual city limits of Bethel. (Sometimes also referred to as "through-put")

- CC. "Transient watercraft" means a vessel whose home port is other than Bethel, or any vessel that is not registered by an exclusive or term moorage agreement with the Bethel small boat harbor.
- DD. "Vessel" means a boat, motorboat, ship, waterborne aircraft, houseboat, float, scow, raft, pile driver, or other floating structure or object used for recreational, commercial, or other purpose upon the waterway or moored at any place on the waterway.
- EE. "Vessel Mooring Agreement" refers to a term moorage, exclusive moorage or daily moorage agreement.
- FF. "Waterway" means any water, lake, river, tributary or lagoon within the boundaries of the City of Bethel.
- GG. "Wharf" means and includes every pier, bulkhead, dock, seawall, landing, float, grid iron, quay and other structure to which vessels make fast or upon which persons or cargo are discharged from a vessel or from which persons or cargo are loaded upon a vessel.
- HH. "Wharfage demurrage" means the charge made against any cargo and commodities left on city premises beyond the time specified in the Port of Bethel Terminal Tariff.

14.01.020 Port director.

- A. *Appointment:* The city manager shall employ the port director (also known as the harbormaster) who shall have general control and supervision of docks, small boat harbors, and boat ramp facilities and shall preserve order at all times about the same. The port director shall enforce all regulations and tariffs governing public use of the small boat harbor, dock, boat ramps, port facilities and all waterways in and adjacent to the City of Bethel city limits.
- B. *Powers and Duties:* The port director is the chief administrator of the port and shall be responsible for the overall supervision and direction of the city port and harbors. The port director is hereby charged with the duty of enforcing all of the provisions of this title and of this Code as they may pertain to the boat harbor and the municipal waters, and any rules and regulations duly adopted under this title, and is hereby empowered to do so. In the performance of such duties, the port director shall have all of the powers of a police officer of the City of Bethel.
- C. *Subordinates.* Whenever a power is granted to, or a duty is imposed upon the port director, that power may be exercised or the duty may be performed by any duly authorized representative or such other person as the port director may designate for the enforcement of this title.
- D. The port director shall enforce the provisions of this title and shall enlist the aid of any duly authorized police officer of the city to take appropriate action for violation of the provisions of this title.
- E. *Port Director – Refusal to Obey.* No person shall intentionally fail or refuse to comply with a lawful order of the port director in any matter pertaining to the operation of the port or its facilities.

14.1.30 Duties of Port Director

The authority and duties of the port director shall include the following:

1. Manage and operate the Bethel Port, small boat harbor, boat ramps and other water-related areas;
2. Perform all duties imposed by state and federal law upon harbormasters, port directors and administrative directors of ports and harbors;
3. Promptly report to the appropriate federal or state agency any violation of the laws of the United States or the state of Alaska for the protection of navigation and preservation of navigable waters and wetlands;
4. Make recommendations to the city manager regarding the appointment, hiring, promotion, layoff, suspension, demotion or removal of all employees of the Bethel port;
5. Regulate the use of municipal wharves, including the allocation of wharf space and its use;
6. Regulate the use of all ports, port facilities, docks and waterways located within or adjacent to the city limits of the City of Bethel;
7. Is responsible for carrying out all applicable laws, ordinances, rules and regulations;
8. Removes, or causes to be removed to a place of safety, any motor vehicle found parked within the port in violation of this title, or in such a manner as to create a significant danger to the safety of persons or property;
9. Takes corrective action if a vessel or person fails to comply with a provision of this chapter, an order of the port director, or a rule or regulation promulgated pursuant to this title by rendering such performance himself;
10. Classifies areas within the harbor for various uses, marks mooring spaces to be assigned, and posts such signs, numbers, markings or other informational devices as will notify and inform interested parties of authorized and prohibited uses of the Bethel port and harbor facilities;
11. Allocates and assigns all mooring spaces;
12. Order any vessel improperly anchored, moored or berthed within the port to move to a location designated by the port director or to cause such vessel to be so moved if the order is not complied with;
13. Prepare and submit to the city manager an annual budget;
14. Prepare and submit to the city manager at the end of each fiscal year a report on the finances and administrative activities of the Bethel Port;
15. Prepare and make available for public distribution an annual report on the Bethel port;
16. Selects, employs, controls and discharges all port employees and such other employees as the city manager and/or human resources director hereafter places upon the supervision of the port director subject to the provisions of the City personnel ordinances and policies;
17. Prepares such reports as may be required on any phase of port activity;
18. Attends all meetings of the port commission;
19. Enforce all ordinances and regulations pertaining to the management and operation of the Bethel waterways;
20. Performs any other duty that may be necessary in the interest of the port area or waterways in and adjacent to the city limits for Bethel;
21. Assume such other authority and perform such other duties as may be lawfully prescribed by the Bethel city council.

14.01.040 Compliance with Orders of Port Director

No person may intentionally fail or refuse to comply with a lawful order of the port director in any matter pertaining to this title.

14.01.050 Payments

- A. All tariff charges are due and payable in United States currency. Failure to pay invoices when due shall place the watercraft, its owners or agents or the user of the port facilities upon a delinquent list. A watercraft whose owner or agents have been placed on the delinquent list shall not be allowed to utilize the port facilities until all past-due balances and late charges have been paid in full. When a watercraft has been placed on the delinquent list, the past-due balance shall accrue a late charge at the rate of one and one-half (1 1/2) percent per month on the unpaid balance.
- B. Storage and other port, boat harbor and miscellaneous fees are also due and payable in United States currency. Failure to pay invoices when due shall place the watercraft or equipment as well as its owners or agents upon a delinquent list. An owner or agent who has been placed on the delinquent list shall not be allowed to utilize the Bethel waterways until all past-due balances and late charges have been paid in full. When an owner or agent has been placed on the delinquent list, the past-due balance shall accrue a late charge at the rate of one and one-half (1 1/2) percent per month on the unpaid balance.
- C. Delinquent lists are public documents and may be published.
- D. The City of Bethel may utilize any legal means available in the collection of past due balances, including, but not limited to, civil action, liens and seizure of property.
- E. The City reserves any right it may have to offset amounts owed by its boat owner or agent for delinquent fees against any amount owing to the boat owners or agents under a contract between the City and the boat owner or agent

14.01.060 Administrative Inspections

- A. The port director may inspect a vessel, its crew and its cargo for the purpose of determining whether they pose a threat to the health, safety or welfare of the port facility or personnel.
- B. Except as provided by subsection (c) of this section, no inspection for which a warrant would be required under the Constitution of the state of Alaska or the United States may be conducted under this section unless the port director first obtains an administrative inspection warrant authorizing that inspection and exhibits the warrant to the master of the vessel prior to the inspection. The port director shall apply to the trial courts of the state of Alaska for inspection warrants. The application shall identify the vessel to be inspected, the authority to make the inspection, the nature and extent of the inspection, and those facts or circumstances which demonstrate a valid public purpose in the effective enforcement of this title sufficient to justify such inspection. Warrants issued under this section shall be returned in ten (10) days.
- C. Where the port director finds that such action is necessary to prevent an immediate and substantial danger to the public health, safety or welfare, the port director may make an inspection permitted under subsection (a) of this section without an administrative inspection warrant provided the port director has announced to the city manager or his

- designee the intention to enter. Such inspections shall be done peaceably and without violence or harm to person or property.
- D. No person shall refuse to allow the port director to enter upon a vessel for purpose specified in this section.

14.01.070 Facility Damage

Any person and vessel damaging any property interest of the Bethel port, harbor or city property shall be strictly liable to the city without regard for fault or negligence for all damages including, but not limited to, costs incurred by the city in repairing or replacing the damaged property, administrative overhead and collection costs.

14.01.080 Reporting Injury or Damage

A person, who is involved in an incident within the port, any port facility, harbor or waterway property which results in the injury or death of a person, or any property damage, shall immediately notify the port director. If the office of the port director is closed, notification shall be given to the Bethel Police Department. The notification shall include the name and address of the person, the type and extent of the injury and the time when the injury occurred, and such other information as shall be requested in an accident form provided by the port director.

14.01.090 Expenses of Corrective Action

- A. If a vessel or person fails to comply with the provisions of this chapter, a rule or regulation promulgated pursuant to this chapter, or an order of the port director, that vessel or person shall be liable for all expense, including administrative overhead, incurred by the city in executing corrective action.
- B. If the port director takes possession or control of a vessel or other property in the course of executing corrective action, such possession or control may be continued by the port director until such time as the expenses required by this section are paid.
- C. The initiation of corrective action under this section is a discretionary function of the port director.

14.01.100 City Not Responsible for Loss or Damage

The city shall not be responsible for loss or damage from fire or other casualty, theft, vandalism, or any other cause of injury to vessels or property moored or located within the port, harbor or other waterways within or adjacent to the City of Bethel.

14.01.110 Revenues

Five cents (\$0.05) of each dollar of fuel thru-put revenue generated by the port shall be transferred to designated accounts as follows:

- A. Two cents (\$0.02) of fuel thru-put revenue generated at the port shall be transferred to a designated deferred seawall maintenance account upon payment,
- B. Two cents (\$0.02) of fuel thru-put revenue generated at the port shall be transferred to a designated deferred municipal dock fund, and
- C. One cent (\$0.01) of fuel thru-put revenue generated at the port shall be transferred to a designated fund for the small boat harbor.

All other revenues produced by the port excluding amounts received from fines imposed under this title shall be held in the port enterprise fund for the maintenance and operation of the port.

14.02 - TERMINAL TARIFF

14.02.010 Enacted

14.02.020 Applicability

14.02.010 Enacted

The city enacts into law the Port of Bethel Terminal Tariff naming rates, charges, rules and regulations for wharfage, term storage, wharf demurrage, dockage and other terminal services and privileges defined herein at Port of Bethel, Municipal Terminal. Tariff rates and charges may be amended from time to time by council resolution.

14.02.020 Applicability

Section 14.02.010 adopts by ordinance terminal tariffs previously promulgated and amended from time to time by the port commission by ordinance and resolution. Nothing in this chapter shall impair or affect the rights, duties, privileges, or immunities of any person arising under the terminal tariffs previously promulgated by the port commission (and adopted by the city council).

14.03 PORT COMMISSION

14.03.010

Composition, term of office and procedures.

14.03.020

Duties.

14.03.030

Vacancies.

14.03.040

Administrative support.

14.03.010

Composition, term of office and procedures.

- A. The port commission shall consist of seven (7) members who shall be residents of the city and shall be appointed by the mayor subject to confirmation by the city council.
1. One (1) of the seven (7) members shall be a city councilmember.
 2. All appointments shall be for staggered three (3) year terms except where an interim appointment is necessary to complete the term of a commissioner who resigns, dies, or is otherwise removed from office.
 3. In the event of vacancies, the mayor, subject to confirmation by the city council, shall make appointments to fill the vacant positions. In the event a seat has six months or less remaining to the unexpired term, the council, at its discretion, may choose to appoint the member to the remainder of the current term as well as to the full term immediately following the expiration date of the unexpired term.
 4. Commissioners can be removed from office for cause only.
 5. The city shall supply staff support for the commission.
 6. Terms shall commence on July 1.
 7. No commission member, or member of a commission member's immediate family or household, may be employed by the Port Department.
- B. The commission shall use Robert's Rules of Order. Regular meetings of the commission will be at least monthly. Special meetings may be called at the discretion of the chairperson or by two (2) members of the commission. All meetings of the commission shall be open to the public.
- C. The commissioners shall elect annually from its members a chair and vice chair and such other officers as it deems necessary. The board may appoint such committees as it deems necessary.
- D. A majority of the commission shall constitute a quorum for the transaction of business. Four (4) affirmative votes shall be necessary to carry any question.
- E. An agenda of meetings shall be prepared and published according to established rules of the city council.
- F. Permanent records, or minutes, shall be kept, for all meetings held. All resolutions and minutes of the port commission or a similar report shall be presented to the city council by a member of the council appointed to serve on the commission, or in his absence, by the city manager. The minutes shall be properly filed in the office of the city clerk and shall be open to inspection by the public.
- G. Alternate Members. The mayor shall appoint up to two (2) additional members to serve as alternate members, subject to confirmation by the council. An alternate member will be activated as a voting member whenever there is an absence or conflict of interest of another member. At all other times the alternate member shall be an ex officio member.

14.03.020 Duties

The port commission shall:

- A. Regulate the operation of the port facilities by promulgating a terminal tariff containing rates, charges, rules and regulations applicable at the port and subject to the approval of the council and the Federal Maritime Commission;
- B. Promulgate rules and regulations relating to the operation of terminal and transportation facilities at the port;
- C. Advise the city council with respect to the port facilities concerning the acquisition, ownership, exchange, transfer, lease, rent, conveyance, or disposal, and use of real or personal property and interest therein;
- D. Review port contracts prior to their execution and monitor and periodically report to the city council concerning the status of all contracts executed with respect to the port facilities;
- E. Advise the city council with respect to the construction, improvement, alteration, or repair of port facilities;
- F. Assist the city council in developing ways and means whereby the city may encourage and permit the development of port facilities by private and public developers and builders;
- G. Hear appeals resulting from actions of the port director and take action on matters referred to the commission by the port director or city council;
- H. Periodically review the budget, capital improvement programs, funding of port facilities and systems and report its findings to the city council;
- I. Perform other such duties as the city council may refer to it from time to time;
- J. Do other such acts as are necessary and proper for the performance of the duties and functions set forth in this title;
- K. The port commission may, at its discretion, hold formal public hearings on any question which may come before it;
- L. The city council shall be the board of appeals for all port commission action.

14.03.030 Vacancies.

- A. A vacancy shall be declared by the commission and filled as provided when a member:
 1. Fails to qualify and take his office within thirty (30) days after confirmation by the city council;
 2. Departs from the city with the intent to remain away for a period of ninety (90) days or more;
 3. Submits a resignation to the city mayor, city clerk, board or port director;
 4. Is physically or mentally unable to attend port commission meetings or attend to commission business;
 5. Is absent from three (3) or more consecutive, regular meetings of the port commission without an absence pre-approved by the commission;
 6. Misses forty (40%) percent or more of the regular board meetings in a twelve (12) month period;
 7. Is convicted of a felony, or misdemeanor, an element of which is a violation of the oath of office; or

8. Is or becomes so directly interested in port or harbor matters in the course of their private affairs that a membership on the port commission creates a conflict or the pervasive appearance of a conflict of interest.
- B. For the purposes of counting attendance, a member participating telephonically shall be counted as present.
- C. The chair of the Port Commission shall notify the city clerk's office of any vacancy on the commission.

14.03.040 Administrative support

The port commission shall receive full cooperation and support from the city manager including full access to any and all information concerning the port of Bethel.

14.03.050 Meetings

The Port Commission shall meet at least once each month at a place and time to be designated by the chair.

14.03.060 Coordination

- A. The Port Commission shall, no later than December 30 of each year, provide the city council with a written review of the port department operations during the preceding fiscal year. The review shall include fee schedules, revenues by source, operating expenditures, customers served, and any recommended amendments to the current Tariff or ordinances. The port director shall review and comment on the recommendations.
- B. The Commission shall submit to the council at least semi-annually a report on port and harbor operations and pending issues.
- C. The Commission shall adopt safety policies acceptable to the City risk manager or such other officer as the city manager may designate.
- D. In emergencies, the harbor shall, to the extent necessary to resolve the emergency, be under the control of the fire chief or such other officer as the city manager may designate.
- E. The Commission shall submit all security plans to the city manager for review and approval prior to submittal to the United States Coast Guard.

14.03.070 Membership in Associations

The Port Commission as a whole may maintain membership in any local, state or national group or association organized and operated for the promotion, improvement or assistance in the administration of port and harbor facilities and, in connection therewith, pay dues and fees thereto.

14.03.080 General Powers

- A. Subject to state laws and City ordinances, the Port Commission shall generally exercise all powers necessary and incidental to operation of all port and harbor facilities in the public interest and in a sound business manner. In particular, and without limitation on the foregoing, the commission shall:
 1. Be responsible for the operation, development and marketing of municipally owned and operated port and harbors, including such facilities as boat harbors, docks, boat launching ramps, and related facilities except as designated by the city council by resolution.

2. Adopt, pursuant to the Bethel Municipal Code, and enforce regulations necessary for the administration of the facilities under its management.
3. Prescribe the terms under which persons and vessels may use the facilities and shall establish and enforce standards of operation.
4. Administer and dispose of City tideland, submerged land, and other land as provided by the council by resolution as subject to Port Commission Administration, subject to the following limitations:
 - a) No sale, purchase, or trade of land shall be made without prior review by the planning commission and approval by the city council by resolution.
 - b) Unless otherwise designated in advance by the city council by resolution, any lease of land shall be limited to marine-related uses, and those uses accessory to tenancy on the boat harbor or use of the port.
 - c) All land transactions by the commission in accordance with this section shall be consistent with the land management plan developed under this title.
5. Shall administer the design and construction of all capital improvements on lands managed by the port commission unless otherwise specified by the city council by resolution. The commission may propose capital improvement projects to and apply for funding from state and federal agencies; provided, that such requests shall be subject to prioritization by the city council with other municipal capital improvement funding requests prior to application for funds. The commission shall, no later than November 30 each year advise the city council of its recommendations for capital improvements to be included in the six-year capital improvement plan prepared by the city manager.
6. Shall enter into memoranda of understanding and similar agreements with public agencies for port or harbor purposes.
 - a) Notwithstanding chapter 4.20 of the BMC, the Port Commission may negotiate and enter into contracts for goods and services; provided, that all legal services shall be provided by, or under the supervision of, the City Attorney, and further provided that all purchases shall be consistent with the requirements set forth in BMC 4.20. All services provided by a City agency other than the City Attorney shall be pursuant to a memorandum of understanding or other instrument providing for payment or such other settlement as the city manager and the council may approve.
 - b) Contracts for public improvements and, whenever practicable, other purchase of supplies, materials, equipment, and services, including professional services, shall be subject to the competitive bidding and property standards and procedures established in chapter 4.20, provided that the commission may, for all contracts, a class of contracts, or a particular contract, specify prior to issuance of a public solicitation that for purposes of applying chapter 4.20, all actions required thereby of the City Manager or the purchasing officer shall be performed by the Port Director, and provided further that any appeal of any protest of a contract so administered shall be from the bidding review board to the Port Commission and thereafter to the superior court.

- c) All contracts and purchases exceeding \$100,000.00 shall require prior assembly approval.

14.03.090 Land Management Plan

- A. After public hearing and deliberation, port commission shall draft and forward to the planning commission and city council a land management plan. The plan shall address the retention, use, disposal, and development of City land under the jurisdiction of the port. After public hearing and deliberation, the planning commission shall forward its recommendation to the city council. Recommended changes to the land management plan shall be developed using the same procedure.
- B. Development of the land management plan, or a change to the plan, shall be guided by the following principles:
1. Multiple use should be encouraged;
 2. A sound local economy will be promoted;
 3. Adequate lands for public development and public use, including recreational beaches with appropriate uplands, should be reserved;
 4. Tidelands should be leased only for specific water-dependent and water-related uses and not sold;
- C. In developing the land management plan to implement the policies outlined in this section, the following issues, without limitation, shall be considered:
1. The supply of publicly owned lands to meet public needs;
 2. The supply of privately owned lands to meet the private-sector needs of the community;
 3. The comprehensive plan, the long-term capital improvements program, and other plans adopted by the city council;
 4. Restrictions created by written instruments, zoning, and state and federal regulations;
 5. Physical, economic, resource, population and social factors affecting the area under consideration;
 6. Comments of the general public, affected landowners, state and federal agencies and local advisory groups;
 7. Ownership patterns and waterfront development plans of private landowners and state and federal agencies;
 8. The development and growth patterns and potentials of different areas of the City and waterfront services that may be needed as a result of that development and growth;
 9. The requirements of public access to and along public and navigable bodies of water;
 10. The protection of other public values including recreational, scenic, wildlife, and other environmental qualities; and
 11. Other matters which are relevant to a land use management plan.
- D. The plan shall contain the following elements:
1. Proposed land acquisitions;
 2. A listing of those lands to be retained for public use;

- E. The plan shall be reviewed by the Port Commission and the Planning Commission if a major unanticipated development affecting basic assumptions occurs, and in any case at least every five years.
- F. Any lease, disposal, or use of land shall conform to the land management plan adopted above, and all other adopted City land use plans.
- G. Upon receipt of a land management plan or a change recommended by the Port Commission and Planning Commission, the city council shall consider the plan, or change, and may adopt the plan or change only after it conducts a public hearing on the matter.

14.03.100 Limitation on Authority

The Port Commission members may commit the City to long-range port development or capital improvement plans or projects only as authorized in advance by the council by ordinance or resolution.