City of Bethel

P.O. BOX 1388
Bethel, Alaska 99559
Phone: 907- 543-2047
Fax: 907-543-4171

Regular City Council Meeting
March 12, 2013
6:30 P.M.
Council Chambers; Bethel, Alaska

City Council Meeting Agenda
Regularly Scheduled Meeting
March 12, 2013-6:30 pm
City Hall 300 State Highway, Bethel, AK
City of Bethel Council Chambers

Joseph Klejka
Mayor
Term Expires 2014
543-2984
jklejka@cityofbethel.net

Gene Peltola Jr.
Vice-Mayor
Term Expires 2013
543-3151
gpeltola@cityofbethel.net

Rick Robb
Council Member
Term Expires 2013
543-1879
rrobb@cityofbethel.net

Mary Sattler
Council Member
Term Expires 2013
545-4954
msattler@cityofbethel.net

Mark Springer
Council Member
Term Expires 2013
545-1450
mspringer@cityofbethel.net

Eric Whitney
Council Member
Term Expires 2014
545-1309
ewhitney@cityofbethel.net

Sharon Sigmon
Council Member
Term Expires 2014
543-3452
ssigmon@cityofbethel.net

Lee Foley
City Manager
543-2047
lfoley@cityofbethel.net

Lori Strickler
City Clerk
543-1384
lstrickler@cityofbethel.net

Patty Burley
City Attorney
543-2047
pburley@cityofbethel.net

Paul Richards
Lobbyist
paul_richards@gci.net

I. CALL TO ORDER
II. PLEDGE OF ALLEGIANCE
III. ROLL CALL
IV. PEOPLE TO BE HEARD – Five minutes per person
V. APPROVAL OF CONSENT AGENDA AND REGULAR AGENDA
VI. APPROVAL OF MEETING MINUTES

a) **P3** *02-12-2013 Regular City Council Meeting Minutes
b) **P9** *02-26-2013 Regular City Council Meeting Minutes

VII. REPORTS OF STANDING COMMITTEES

a) Port Commission
b) Planning Commission
c) Finance Committee
d) Public Works Committee
e) Energy Committee
f) Parks And Recreation Committee
g) Public Safety And Transportation Commission

VIII. SPECIAL ORDER OF BUSINESS

a) **P23** Proclamation, Proclaiming May 25, 2013 As National Missing Children's Day (Mayor Klejka)

IX. UNFINISHED BUSINESS

a) **P27** Public Hearing Of Ordinance 13-02: Establishing Title 12 In The Bethel Municipal Code, Complete Streets (Public Safety and Transportation Commission)
b) **P31** *Introduction Of Ordinance 13-04: Amending Bethel Municipal Code To Repeal BMC 2.05, Responsibilities Of City Council Members, Municipal Officers, Appointed Officials And Employees-Conflict Of Interest And Enacting Section 2.05 City Officers Generally And 2.06 Board Of Ethics (Council Member Sigmon)
c) **P83** *Introduction Of Ordinance 13-05: Amending Terminal Tariff #004 And Providing For An Effective Date (Port Commission)
d) **P123** *Introduction Of Ordinance 13-06: Amending BMC 14.04.060, Fishing From City Cargo Dock And Petroleum Dock Prohibited (Port Commission)
e) **P125** *Resolution 13-05: Opposing The Bethel Airport Master Plan Update's Option Of Westward Expansion Of The Crosswind Runway Due To Its Interference With Historical Land (Council Member Robb)

Agenda posted on March 6, 2013, at City Hall, AC Co., Swansons, and the Post Office.

Lori Strickler, City Clerk's Office
(Items on the agenda noted with an asterisk (*) are considered the consent agenda.
All Resolutions noted with an asterisk (*) will automatically be adopted on the consent agenda unless removed from the consent agenda by Council.
Ordinances introduced with an asterisk (*) on the consent agenda will automatically be introduced and set for **Public Hearing March 26, 2013**)

City Council Meeting Agenda
Regularly Scheduled Meeting
March 12, 2013-6:30 pm
City Hall 300 State Highway, Bethel, AK
City of Bethel Council Chambers

f) **P127** *AM 13-08: Administrative Leave Request For City Clerk To Attend Professional Development Training June 9 Through 13, 2013 (Mayor Klejka)

g) *City Manager Administrative Leave Request For February 27 – March 2, To Travel To Juneau To Lobby On Behalf Of The City (City Manager Foley)

h) *Amending Leave Request For City Attorney From 2/11-2/15/2013 To 2/11 Through 2/12 And 2/28 Through 3/1/2013 (Mayor Klejka)

i) Council's Approval Of Annual Increase For City Clerk, Pending A Satisfactory Annual Evaluation (Mayor Klejka)

X. NEW BUSINESS

a) **P133** *Resolution 13-06: Supporting The 2013 Cama-i Dance Festival By Providing A Donation In The Amount Of Sales Taxes Collected On The Admissions Sold To Attend The Festival (Mayor Klejka)

b) **P139** *Introduction To Ordinance 13-07: Amending Bethel Municipal Code 13.08.125, Service Line Charges To Include Repair And Replacement And To Modify The Time Frame From A Calendar Year To A 12 Month Period (City Manager Foley)

XI. MAYOR'S REPORT

XII. MANAGER'S REPORT

XIII. CLERK'S REPORT

XIV. COUNCIL MEMBER COMMENTS

XV. EXECUTIVE SESSION

a) **P179** Executive Session To Discuss The Annual Evaluation Of The City Clerk As Per Alaska Statutes 44.62.310: Personnel Matters (Unless the Person Has Requested To Have The Subjects Discussed In Public) Or Subjects That Tend To Prejudice The Reputation And Character Of A Person (Mayor Klejka)

XVI. ADJOURNMENT

Agenda posted on March 6, 2013, at City Hall, AC Co., Swansons, and the Post Office.

Lori Strickler, City Clerk's Office

(Items on the agenda noted with an asterisk (*) are considered the consent agenda.
All Resolutions noted with an asterisk (*) will automatically be adopted on the consent agenda unless removed from the consent agenda by Council.
Ordinances introduced with an asterisk (*) on the consent agenda will automatically be introduced and set for **Public Hearing March 26, 2013**)

Approval of the Minutes

City of Bethel City Council Meeting Minutes

February 12, 2013 Regular Meeting Bethel, Alaska

I. CALL TO ORDER

A Regular Meeting of the Bethel City Council was held on February 12, 2013 at 6:30pm, at the City Council Chambers, Bethel, Alaska.

Mayor Joseph Klejka called the meeting to order.

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

PRESENT:
Council Member Joseph Klejka
Council Member Mark Springer
Council Member Rick Robb
Council Member Eric Whitney

ABSENT:
Council Member Gene Jr. Peltola
Council Member Mary Sattler
Council Member Sharon Sigmon

STAFF:
City Manager Lee Foley
City Clerk Lori Strickler

IV. PEOPLE TO BE HEARD

Tundy Rodgers-
Spoke in opposition to the States expansion plan for Tower Road. The State of Alaska 20 Year Expansion Plan intends to expand the runway for the airport right up against the Alaska Territorial Guard Fence. There are other measures that the State can take to expand the airport, invading on the people's land is not the best measure.

Jody Malus-
Read from an article in the Warriors Journal which recognized the efforts of men and women serving in the Alaska Territorial Guard as well as the soldiers currently serving.
Spoke in opposition to the expansion of Tower Road which is currently planned to cut through the Alaska Territorial Guard Memorial Park.

Fritz Grenfell -
Spoke in opposition to the States intent to expand Tower Road into the Alaska Territorial Guard Memorial. Over 600 people signed a petition to get the Alaska Territorial Guard Park established.

Shorty Salzbrun –
Spoke in opposition to the expansion of Tower Road which will impede onto the land of the Alaska Territorial Guard Memorial.

Eric Middlebrook –
Spoke in favor of Resolution 13-04 however encouraged the council to modify the document to include the environment impact of the genetically modified fish.

Buck Bukowski-
Spoke in opposition to the proposed Tower Road expansion. Read for an article in the Delta Discovery regarding the Alaska Territorial Guard Park.

Nancy Elliott-
Spoke on behalf the Bethel Friends of K9 and encouraged the Council to consider funding a full time animal control officer.

David Trantham –
Representing the Alaska Territorial Memorial Park Planning Group opposed the expansion of Tower Road which is expected to impede the Alaska Territorial Memorial Park.

MOVED:	Robb	Motion to suspend the rules to hear from Jody Malus a second time.
SECONDED:	Whitney	
VOTE ON MAIN MOTION	All in favor	

Jody Malus-
Spoke in favor of Resolution 13-04 and encouraged the council to provide more information opposing the Genetically Modified Salmon.

V. APPROVAL OF THE CONSENT AND REGULAR AGENDA

MOVED:	Robb	Motion to approve the consent and regular agenda.
SECONDED:	Whitney	

MOVED:	Robb	Remove Resolution 13-04 from the consent agenda.
VOTE ON MAIN MOTION	All in favor	

VI. APPROVAL OF THE MEETING MINUTES

Item A – 01-26-2012 Regular City Council Meeting
Passed on consent agenda

VII. REPORTS OF STANDING COMMITTEES

Item A- Port Commission –Port Director, Pete Williams –
Said the port harbor is going to be closed to vehicles and snow machines due to open water and construction.

Digging up Browns Slough which is also not safe for snow machines or pedestrians.

Snow machines need to slow down when traveling in the Browns Slough area, there are many pedestrians in the area.

Item B- Planning Commission
Rick Robb, Council Representative-
Planning Commission will be meeting this Thursday to discuss the new BNC Store.

Item C-Public Works Committee
Joseph Klejka, Committee Representative
Meeting will be held on February 27th.

Item D-Energy Committee
Eric Whitney, Committee Representative
A quorum of the body was not established, a meeting was not held.

Item E-Public Safety and Transportation Commission
No one available to provide a report.

Item F- Finance Committee,
David Trantham, Committee Member-
Held the election of new Chair and Vice-Chair.

Sugar Sweetened Beverage Tax Ordinance which failed by the committee.

Item G-Parks and Recreations Committee
No one available to provide a report.

VIII. UNFINISHED BUSINESS

Item A- Public Hearing Of Ordinance 13-02: Establishing Title 12 In The Bethel Municipal Code, Complete Streets.

Mayor Klejka opened the public hearing.
No one wished to be heard.
Mayor Klejka closed the public hearing.

MOVED:	Springer	Motion to postpone until the next Regular City Council Meeting.
SECONDED:	Whitney	
VOTE ON MAIN MOTION	All in favor	

I. NEW BUSINESS

Item A- Resolution 13-04: If AquaBounty's Petition To The United States Food And Drug Administration To Produce Genetically Engineered Salmon Is Approved, That Its Product Be Clearly Labeled As "Genetically Modified."

MOVED:	Whitney	Motion to adopt Resolution 13-04.
SECONDED:	Robb	

Council Member Robb informed the council that he has had an Alaskan Commercial Fishing License.
The Mayor ruled Council Member Robb does not have a conflict of interest.

MOVED:	Springer	Motion to amend the Resolution to amend the language to include "the Bethel City Council opposes the United States Food and Drug Administration's preliminary finding relating to genetically engineered salmon; opposes AquaBounty Technology's petition to produce genetically
SECONDED:	Whitney	

		engineered salmon; and proposes, if AquaBouty Technology's petition is approved, that its products be labeled as "genetically modified."
VOTE ON MOTION	All in favor	
VOTE ON MAIN MOTION	All in favor	

Item B- AM 13-06 Approval Of The Re-Appointment Of Greg McIntyre To The Energy Committee For A Term Of Three Years.
Passed on the consent agenda.

Item C- AM 13-07 Approval Of The Appointment Of Donna Lindsey To The Public Works Committee For A Term Of Three Years.
Passed on the consent agenda.

XII. MAYOR'S REPORT

XIII. MANAGERS REPORT

XIV. CITY CLERK'S REPORT

XV. COUNCIL MEMBER COMMENTS

Council Member Whitney-
Happy there is a lot of snow.
Glad that the Council will have an opportunity to bring up the homelessness issue with the Governor.

Council Member Springer-
Attending the Alaska Municipal League Legislative Conference.
Spent today with Paul Richard lobbying the City's State Priority Requests.

Council Member Robb-
Thanked everyone from the public that came to speak on the various subjects tonight.
Homelessness issue in Bethel; the Point in Time survey is complete and will be available tomorrow to provide to the Governor.
Happy Valentine's Day

Mayor Klejka-
Thankful for all of the snow.
RAVEN is up and running at the hospital.

XVI. ADJOURNMENT

MOVED:	Whitney	Motion to adjourn.
SECONDED:	Springer	
VOTE ON MAIN MOTION	All in favor	

Council adjourned at 7:53

Joseph Klejka, Mayor

ATTEST:

Lori Strickler, City Clerk

City of Bethel City Council Meeting Minutes

February 26, 2013 Regular Meeting Bethel, Alaska

I. CALL TO ORDER

A Regular Meeting of the Bethel City Council was held on February 26, 2013 at 6:30pm, at the City Council Chambers, Bethel, Alaska.

Mayor Joseph Klejka called the meeting to order.

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

IV. PEOPLE TO BE HEARD

PRESENT: Council Member Joseph Klejka
Council Member Rick Robb

ABSENT: Council Member Gene Jr. Peltola
Council Member Mary Sattler
Council Member Mark Springer
Council Member Eric Whitney
Council Member Sharon Sigmon

STAFF: City Clerk Lori Strickler
City Manager Lee Foley

Due to a lack of a quorum, the meeting is adjourned.

XII. ADJOURNMENT

Joseph Klejka, Mayor

ATTEST:

Lori Strickler, City Clerk

Reports of Standing Committees

Public Works Committee Agenda
Special Meeting
February 27, 2013 – 6:00 PM
City Shop Conference Room

MEMBERS

Joseph A Klejka
Council Rep.
Term Expires
11/2012

Frank Neitz
Chair
Term Expires
12/2013

Jennifer Dobson
Vice-Chair
Term Expires
12/2014

Bill Schreiner
Committee Member
Term Expires
12/2013

Scott Guinn
Committee Member
Term Expires
12/2014

VACANT
Committee Member
Term Expires
./.

VACANT
Committee Member
Term Expires
./.

Chuck Willert
Ex-Officio Member

Cheryl Roberts
Secretary/Recorder

AGENDA

I. CALL TO ORDER
II. ROLL CALL
III. PEOPLE TO BE HEARD – (15 Minute Limit)
IV. SPECIAL ORDER OF BUSINESS
   A. Annual Committee Training provided by the City Clerk - 6 pm
   B. Annual Election of Chair & Vice-Chair

V. APPROVAL OF AGENDA
VI. APPROVAL OF MINUTES
   A. Minutes from the previous regular meeting - December 19, 2012 and January 16, 2013.

VII. DIRECTOR'S REPORT

VIII. UNFINISHED BUSINESS
   A. Update - Closeout of 2 Outstanding Grants / ABC Loop
   B. Update - Sewer Lagoon
   C. Update - 5 Year Plan / RFP - Water & Sewer Master Plan
   D. Update - Recycle Center
   E. Update - Institutional Corridor - Feasibility Study
   F. Update - RFP - Cost Analysis of the City of Bethel's Water & Sewer Utilities
   G. Update - City Shop Floor
   H. Update - New BNC / Swansons Complex Road Access
   I. Update - Wind Generation 100kw per Public Building

IX. NEW BUSINESS
   A. Recommendation to Council in regards to Sewage Lagoon Rehabilitation Project
   B. Water and Sewer Utilities Development Priorities
   C. H-Marker Lake Road
   D. TDX Avec Power Plant - Update
   E. Rescheduling of Public Works Committee Meeting - BMC 2.52.130 - Requested by Chair

X. MEMBER COMMENTS

XI. ADJOURNMENT

Cheryl Roberts, Recorder, Public Works Department
Posted: February 21, 2012, AC, Post Office, Swanson's, City Hall

City of Bethel

Committees and Commissions

Recommendation to City Council

Committees and Commissions that wish to make a recommendation to City Council should turn this form in to the City Clerk or to the City Council representative on the committee or commission.

Committee/Commission: Public Works Committee	**Chairman:** Frank Neitz
Date Submitted: 2/28/2013	**Council Rep:** Joseph Klejka

Issue:

To have someone call on the outstanding Grants daily.

Recommendation:

City Manager intended to report back to Committee on the progress.

Other:

Received by: [illegible]
Date: 2-28-2013

City of Bethel

Committees and Commissions

Recommendation to City Council

Committees and Commissions that wish to make a recommendation to City Council should turn this form in to the City Clerk or to the City Council representative on the committee or commission.

Committee/Commission:	**Public Works Committee**	**Chairman:**	**Frank Neitz**
Date Submitted:	**2/28/2013**	**Council Rep:**	**Joseph Klejka**

Issue:

Review the Proposal for the Recycle Center.

Recommendation:

Where are we at in the Budget Process? How much money is needed to run it properly?

Received by: [illegible]
Date: 2-28-2013

City of Bethel

P.O. Box 1388 • Bethel, Alaska 99559-1388
907-543-2047
Fax # 543-4171
Website: www.cityofbethel.org

REGULAR MEETING AGENDA
ENERGY COMMITTEE
Monday, March 4, 2013 – 6:30 p.m.
City Hall Council Chambers, Bethel, AK

Members

Leif Albertson
Chair

Mary Weiss
Vice Chair

Greg McIntyre

Eric Whitney

Shari Neth

Martin Lenard

Alternate Members

Ex-Officio Member

Annette Sutton

I. Call to Order

II. Roll Call

III. People to be Heard

IV. Approval of Agenda

V. Approval of Meeting Minutes
A. December 3, 2012
B. January 2013
C. February 2013

VI. Special Order of Business
A. Election of Chair
B. Election of Vice Chair
C. Committee Training

VII. Old Business
A. Climate Wise (Eric Whitney)
B. Renewable/Alternative Energy Tracking Sheet (Eric Whitney)

VIII. New Business
A. Municipal Solid Waste Gasification (Eric Whitney)
B. Yuut Wind Turbines/ Wind Energy (Mary Weiss)

X. Committee Member Comments

XI. Adjournment

Annette Sutton

Annette Sutton, Ex-officio

POSTED on February 27, 2013.
USPS, AC, SWANSONS, & CITY HALL

Next Energy Committee Meeting will be ***April 1, 2013***

"Deep Sea Port and Transportation Center of the Kuskokwim"

"Deep Sea Port and Transportation Center of the Kuskokwim"

Special Order of Business

City of Bethel Proclamation

Proclaiming May 25, 2013 as National Missing Children's Day in the City of Bethel

WHEREAS, the National Center for Missing and Exploited Children hold annual events to help raise awareness of the threat of child abduction, they inform families about ways to keep their children safe and support victims' families;

WHEREAS, the Center's initiative "Take 25" encourages parents, guardians and educators to take 25 minutes to talk to children about safety in the hopes to prevent another child from being reported as missing;

WHEREAS, on average, 800,000 children are reported missing each year, although many are reunited with their families, there are some who never return home;

WHEREAS, in the community of Bethel there were six children reported missing in 2012 and although all of those stories ended with the child being located, the State of Alaska in total did not fare so well with 55 children not recovered;

WHEREAS, as this issue continues to impact our country each day, it is important that we all join together with law enforcement to protect children from harm by creating greater awareness and through prevention education;

THEREFORE, the City of Bethel, City Council, does hereby proclaim May 25, 2013 as National Missing Children's Day in the City of Bethel.

Signed this 26th day in February, 2013.

_____

Joseph A. Klejka, Mayor

_____

Lori Strickler, City Clerk

Unfinished Business

Introduced by:	Public Safety and Transportation Commission
Date:	January 8, 2013
Introduction Date	January 22, 2013
Public Hearing:	February 12, 2013 February 26, 2013 March 12, 2013
Action:	
Vote:	

CITY OF BETHEL, ALASKA

Ordinance #13-02

AN ORDINANCE OF THE BETHEL CITY COUNCIL PROVIDING FOR A COMPLETE STREETS POLICY AND DIRECTING STAFF TO DEVELOP IMPLEMENTATION STRATEGIES TO INCREASE THE USABILITY OF ALL STREETS FOR ALL MODES OF TRAVEL FOR CITIZENS OF ALL AGES AND ABILITIES IN BETHEL

WHEREAS, The City of Bethel wishes to ensure that all users of our transportation system are able to travel safely and conveniently on all streets and roadways within the public right-of-way in Bethel; and

WHEREAS, a complete street is defined as one which provides a safe, convenient, and context-sensitive facility for all modes of travel, for users of all ages and all abilities; and

WHEREAS, complete streets better serve the needs of those who use transit by providing access to transit systems; and

WHEREAS, complete streets have public health benefits, such as encouraging physical activity and improving air quality, by providing the opportunity for more people to bike and walk safely; and

WHEREAS, complete streets improve access and safety for those who cannot or choose not to drive motor vehicles; and

WHEREAS, complete streets are essential in providing safe routes to school for children; and

WHEREAS, complete streets policies have been adopted legislatively by at least five states, and by at least 36 localities – of which 13 are by local law (resolutions or ordinances); and

Introduced by:	Public Safety and Transportation Commission
Date:	January 8, 2013
Introduction Date	January 22, 2013
Public Hearing:	February 12, 2013 February 26, 2013 March 12, 2013
Action:	
Vote:	

WHEREAS, the City of Bethel currently has a limited complete streets policy; and

WHEREAS, it is the desire of the City of Bethel to formalize a commitment to the principles of complete streets for all of our streets;

NOW THEREFORE BE IT ENACTED, by the City Council of Bethel Alaska that the following changes are made to the Bethel Municipal Code Chapter 12.01 to create a Complete Streets Policy.

THEREFORE BE IT ORDAINED by the City Council of Bethel Alaska as follows:

SECTION 1. Classification. This ordinance is of a permanent nature and shall become a part of the Bethel Municipal Code.

SECTION 2. Amending Section 12.01 of the Bethel Municipal Code is hereby amended as follows (new language is underlined).

Section 12.01 General Provisions

12.01.02 Application

A. The provisions of this chapter will apply to the scoping, design, and construction of projects involving roadways in the City of Bethel.
B. Any exception to applying these provisions to a specific roadway project must be approved by the City Council, with documentation of the reason for the exception.

12.01.03 Requirements

A. Any roadway in the City of Bethel which is to be newly constructed or completely reconstructed must be designed and constructed to:
    1. Provide for the safety and convenience of all users of all ages and of all abilities: pedestrians, bicyclists, transit users, and motorists; and

2. Address the needs of all users both along roadway corridors and crossing the corridors.

B. Any project in which an existing roadway surface is to be restored or rehabilitated, and any remediation of deficient or non-existent sidewalks, shall be reviewed for the potential of making the roadway a complete street.
   1. Consideration shall particularly include proportionality, the scope of work needed to make a complete street reasonable in relation to the scope of the proposed roadway construction, maintenance or improvement.
   2. The application of design standards will be flexible to permit context-sensitive design fitting the roadway design within the context of the neighborhood recognizing that all streets are different and user needs will be balanced.

C. The Public Works and Planning Departments will review current designs standards which apply to new roadway construction to assure that they reflect the best available design standards and guidelines, and effectively implement the Complete Streets Policy above stated.

D. Design standards also serve as guidance for all existing roadway rehabilitation, reconstruction, or resurfacing, to the extent that the work required is reasonably proportional to the scale of the proposed rehabilitation, reconstruction, or resurfacing.

12.01.04 Reporting

An annual report will be made to the City Council by the City Administration showing progress made in implementing this chapter.

SECTION 5. Effective Date. This section shall become ~~effective immediately~~ June 1, 2013 ~~upon the passage by the City Council~~.

Introduced by:	Public Safety and Transportation Commission
Date:	January 8, 2013
Introduction Date	January 22, 2013
Public Hearing:	February 12, 2013 February 26, 2013 March 12, 2013
Action:	
Vote:	

ENACTED THIS _____ DAY OF _____ 2013, BY A VOTE OF ___IN FAVOR AND ___OPPOSED.

_____
Joseph A. Klejka, Mayor

ATTEST:

_____
Lori Strickler, City Clerk

Introduced by: Council Member Sigmon
Introduction Date: March 12, 2013
Public Hearing:
Action:
Vote:

CITY OF BETHEL, ALASKA

Ordinance #13-04

AN ORDINANCE BY THE BETHEL CITY COUNCIL AMENDING THE BETHEL MUNICIPAL CODE TO REPEAL BMC 2.05 RESPONSIBILITIES OF CITY COUNCILMEMBERS, MUNICIPAL OFFICERS, APPOINTED OFFICIALS AND EMPLOYEES-CONFLICT OF INTEREST AND ENACT SECTION 2.05 CITY OFFICERS GENERALLY AND 2.06 BOARD OF ETHICS

BE IT ORDAINED by the City Council of Bethel, Alaska, that:

SECTION 1. Classification. This ordinance is of permanent nature and shall be codified within the Bethel Municipal Code.

SECTION 2. Amendment. Amending Bethel Municipal Code by repealing BMC 2.05 Responsibilities of City Councilmembers, Municipal Officers, Appointed Officials and Employees -Conflicts of Interest and Enacting Bethel Municipal Code 2.05 City Officers Generally.

~~Chapter 2.05~~
~~RESPONSIBILITIES OF CITY COUNCILMEMBERS, MUNICIPAL OFFICERS, APPOINTED OFFICIALS AND EMPLOYEES – CONFLICTS OF INTEREST~~

~~Sections:~~
~~2.05.010 Conduct in office – Investigations.~~
~~2.05.020 Oath.~~
~~2.05.030 Delivery of office.~~
~~2.05.040 Reports.~~
~~2.05.050 Resignation.~~
~~2.05.060 Conflicts of interest.~~
~~2.05.070 Representative of the city of Bethel.~~

~~2.05.010 Conduct in office – Investigations.~~

~~A. Definitions.~~

~~1. Municipal officers shall include the city manager, the city clerk and the city staff attorney of the city of Bethel.~~

~~2. City employees shall include all persons employed full-time or part-time, in a permanent or temporary capacity, in an active or inactive status by the city of Bethel.~~

~~3. Appointed officials shall include all committee and commission members.~~

~~B. The city manager shall have the power to inquire into the conduct of any office, department, officer, or employee of the municipality and to make investigations into municipal affairs and require that books, papers, and other evidence be made available for inspection. Failure to obey such orders to provide books or other documents or evidence may constitute grounds for the immediate discharge or suspension of any employee in accordance with the municipality's personnel policies, applicable law, or codes of conduct. The city council, by a majority vote, shall have the power to inquire into the conduct of any municipal officer, city councilmember, or appointed official about matters pertaining or possibly pertaining to administration of their duties which affect the operation of the affairs of the municipality.~~

~~2.05.020 Oath.~~

~~All employees of the municipality shall, before entering upon the duties of their office, individually take an oath in writing to honestly, faithfully, and impartially perform and discharge the duties of his or her office and trust. This oath shall be filed in their personnel file.~~

~~2.05.030 Delivery of office.~~

~~Whenever an officer, appointed official, or employee leaves office or employment for any reason, he or she shall promptly deliver to his or her successor in office or to the mayor, manager, or other municipal official all municipal property, including books, working papers, records, money, equipment, and effects, that are in his or her custody, possession, or control.~~

~~2.05.040 Reports.~~

~~Every department head shall make a monthly report to the city council of the activities of the department for the preceding month and present a calendar of activities for the upcoming month. Subject to approval of the city manager, the department head may appoint someone familiar with the activities of the department to prepare and make the monthly report. Such monthly report shall include a report on the department's finances.~~

~~2.05.050 Resignation.~~

~~Resignations of municipal officers and appointed officials shall be made in writing and filed with the clerk. The clerk shall immediately notify the mayor or manager and city council. Appointed employees shall follow the resignation procedures in the city's personnel policies.~~

~~2.05.060 Conflicts of interest.~~

~~A. Prohibitions.~~

~~1. No elected official, appointed municipal officer, committee or commission member or municipal employee shall use his or her office or official position for the primary purpose of obtaining financial gain for themselves or their spouse, child, parent or business with which he or she is associated or owns stock. This provision does not apply to financial gain from salary under the terms of employment.~~

~~2. No elected official (except in the case of a member of the city council where the presiding officer or city council rule otherwise as provided in subsection D of this section), appointed municipal officer, appointed official or municipal employee shall participate in any official action in which he or she has a substantial financial interest. Prohibited participation includes voting as a member of the city council, taking part in debate, soliciting the vote of a member of the city council, or encouraging any municipal official or officer to act in a certain way.~~

~~3. No elected official, appointed municipal officer, appointed official or municipal employee may accept from any other elected official, appointed municipal officer, appointed official or municipal employee or any other person, money, gifts valued at more than ten dollars ($10), promises of future benefits, or any other thing of value, for performing any function or service that is a normal part of his or her duties, or in exchange for voting or acting in any particular way on any matter that comes before him or her in the course of his or her duties. This subsection does not prohibit any person from accepting an award or bonus authorized by the city council to be given for meritorious service.~~

~~4. No elected official, appointed municipal officer, appointed official or municipal employee, and no other person shall give or offer to give money, gifts valued at more than ten dollars ($10), promises of future benefits, or any other thing of value to any elected official, appointed municipal officer, appointed official, or municipal employee for performing any function or service that is a normal part of his or her duties, or in exchange for voting or acting in any particular way on any matter that comes before him or her in the course of his or her duties. This subsection does not prohibit any~~

~~person from voting for or participating in granting an award or bonus authorized by the city council to be given for meritorious service.~~

~~B. Financial Interests Which May Be Conflicts of Interest. The following is a list of examples of financial interests substantial enough that any member of the city council, appointed officer, appointed official or municipal employee who falls under any of the categories listed below should not vote or act on. The categories below are not meant to be a complete listing of all possible conflicts of interest. Any instances not covered below should come before the city council for a vote as the individual matters arise. A member of the city council, appointed officer, appointed official or municipal employee should abstain from voting or refrain from acting if:~~

~~1. He or she (or a member of his or her immediate family) individually, jointly, or in partnership with another has an interest in land or buildings, other than his or her residence, which will be affected by the vote or action.~~

~~2. He or she (or a member of his or her immediate family) is party to or beneficiary of a contract for a sum of one thousand dollars ($1,000) or more in value that will be affected by the vote or action.~~

~~3. He or she (or a member of his or her immediate family) is individually, jointly, or in partnership with another the owner of a business, or has an interest in a business of one thousand dollars ($1,000) or more that will be affected by the vote or action.~~

~~4. He or she (or a member of his or her immediate family) is a member of a board of directors or city council or an officer of, or holds a management position with, an organization that has financial dealings of one thousand dollars ($1,000) or more in value with the municipality that will be affected by his or her vote or action.~~

~~5. He or she is an employee of an organization that has financial dealings of one thousand dollars ($1,000) or more in value with the municipality that will be affected by his or her vote or action.~~

~~C. Conflicts of Interest and Disclosure – City Councilmembers.~~

~~1. Each member of the city council shall disclose any financial interest he or she may have in any matter that comes before the city council for a vote. If the member believes that the financial interest is substantial, he or she shall ask to be excused from voting on the matter.~~

~~2. The mayor shall rule on the request of a member of the city council to be excused from voting on a matter in which the member has or believes he or she has a~~

~~substantial financial interest, unless the mayor is the member making the request or has the same or a similar or related financial interest in the same matter, in which case the city council shall designate another councilmember who has no financial interest in the matter to rule on the request.~~

~~3. The decision of the mayor (or designated member of the city council) on the member's request to be excused from voting may be overridden by a majority vote of the city council. Neither the councilmember making the request nor any other councilmember, who has disclosed a similar or related interest in the same matter, may rule on any member's request to be excused from voting on the matter or vote on the question of overriding such a ruling.~~

~~4. If any resident of the municipality believes that a member of the city council may have an undisclosed conflict of interest, the resident may request a confidential meeting with the mayor (or, in the event that a claimed potential conflict of interest involves the mayor, any other member of the city council chosen by the resident requesting the meeting) and the councilmember who may have a conflict of interest. If, as a result of the confidential meeting, the member of the city council with the potential conflict or the mayor decides that the financial interest must be disclosed to the city council, the member of the city council shall disclose the interest to the city council as provided in subsection (C)(1) of this section.~~

~~5. A member of the city council who has a substantial financial interest in a matter before the city council, and who has been excused from voting on that matter, may not participate as a councilmember in the debate on the matter. If the matter is discussed by the city council in executive session, the member shall be excluded during the executive session.~~

~~6. If a conflict of interest is discovered after an official action has been undertaken or completed, the city council may by a majority vote, excluding the vote of any affected member, resolve to rescind the official action or to take any other remedial steps necessary.~~

~~D. Conflicts of Interest and Disclosure – Municipal Officers, Appointed Officials, and Employees.~~

~~1. Each municipal officer, appointed official and employee shall disclose any financial interest he or she may have in any matter that has come before the municipal officer, appointed official or employee for action in the course of his or her duties. If either the municipal officer, appointed official or employee making the disclosure, the mayor (or, in the case of city employees, the city manager) concludes that the financial interest in~~

~~question is substantial, then the municipal officer, appointed official or employee shall not act or participate in taking action on the matter.~~

~~2. Any resident of the municipality who thinks that a municipal officer, appointed official or employee may have an undisclosed conflict of interest may request a confidential meeting with the city manager (in the case of a city employee) or the mayor (in the case of a city municipal officer or appointed official) and the municipal officer, appointed official or employee who may have a conflict of interest. If, as a result of the confidential meeting, the municipal officer, appointed official or employee with the potential conflict concludes that he or she should refrain from acting on the matter, or the city manager (or the mayor) directs the municipal officer, appointed official or employee to refrain from acting on the matter, all proceedings of the meeting with the resident and the city manager (or mayor) will remain confidential. If neither the municipal officer, appointed official or employee nor the city manager (or mayor) decides that the municipal officer, appointed official or employee must refrain from acting, the resident may request the city council to consider the matter at its next regular meeting.~~

~~E. Violations.~~

~~1. Any member of the city council who violates this chapter by knowingly refusing to disclose a financial interest as required by this section may be censured by the city council. Such censure shall be made upon a two-thirds (2/3) majority vote of the city council. No member of the city council may vote on any question of his or her own censure, but may participate in any discussion and debate on the matter.~~

~~2. Any municipal officer who violates this chapter by knowingly refusing to disclose a financial interest as required by this section may be terminated from employment by a two-thirds (2/3) vote of the city council in accordance with the municipal officer's contract with the city of Bethel. The municipal officer has the right to address the city council before any vote on the matter.~~

~~3. Any appointed official who violates this chapter by knowingly refusing to disclose a financial interest as required by this section may be suspended or permanently removed from the committee or commission. Such removal or suspension shall be made upon a two-thirds (2/3) majority vote of the city council. Any suspension shall be for a period of up to ninety (90) days. The appointed official has the right to address the city council before any vote on the matter.~~

~~4. Any employee who violates this chapter by knowingly refusing to disclose a financial interest as required by this section may be terminated from employment by the city manager in accordance with the municipality's personnel policies and applicable law.~~

~~The employee has the right to address the city manager before any decision on the matter.~~

~~2.05.070 Representative of the city of Bethel.~~

~~City councilmembers, municipal officers, and appointed officials of the city of Bethel shall support the direction of the city council when representing the city of Bethel or acting on behalf of the city. All such individuals shall clearly make known any personal communication or action which contradicts city council direction as representing their own personal views and/or ideas.~~

Chapter 2.05
City Officers Generally

2.05.010 Definitions

As used in this chapter, the following definitions shall apply:

A. "Appointed Body" means any municipal commission, board, or committee created by ordinance or resolution with members of the public appointed subject to the confirmation by the City council.
B. "Appointed Official" means a board or commission member appointed by the mayor subject to confirmation by the City Council.
C. "City Official" means a person who holds elective office under the ordinances of the City, or who is a member of a board or commission whose appointment is subject to confirmation by the City Council.
D. "Elected Official" means a person holding an elective office subject to municipal elections under the code.
E. "Financial Interest" includes the receipt of a pecuniary benefit or the expectation of a pecuniary benefit.
    1. A financial interest of a person includes a financial interest of any member of the person's household.
    2. A person has a financial interest in an organization if the person:
        a. Has an ownership interest in the organization or
        b. Is a director, officer or employee of the organization.
    3. Whether a financial interest is substantial is determined on a case-by-case basis.
F. "Hired consultant and contractors" means a person or organization hired by the city as an independent contractor and not as an employee.
G. "Immediate family member" means
    1. The spouse of the person;

2. Another person cohabiting with the person in a conjugal relationship that is not a legal marriage;
3. A child, including a stepchild and an adoptive child, of the person;
4. A parent, sibling, grandparent, aunt or uncle of the person; and
5. A parent or sibling of the person's spouse.

H. "Municipal employee" means any person employed by the city, whether full time or part time, temporary or permanent, but excluding elected officials and appointed officials.

I. "Municipal officer" includes the city manager, city attorney and city clerk.

J. "Source of income" means an employer or other person or entity paying compensation, dividends, or interest, directly or indirectly, for services, products, or investments. If the income being reported is derived from employment by a sole proprietorship, partnership, or corporation in which the reporting person, the spouse or children, or a combination of them hold a controlling interest, that proprietorship, partnership, or corporation may be designated as the source of income without specifying clients or customers if the business is one that is normally conducted on a cash basis and typically does not keep records of individual customers. In all other cases, the clients or customers of the proprietorship, partnership, or corporation shall be listed as sources of income of the person whose income is being reported, whose spouse, children, or a combination of them hold a controlling interest.

2.05.020 Oath.

All municipal officers and city officials shall, before entering upon the duties of their office, individually take an oath, in writing, to honestly, faithfully, and impartially perform and discharge the duties of his or her office and trust. This oath shall be filed in their personnel file.

2.05.030 Resignation.

Resignations of municipal officers and city officials shall be made in writing and filed with the clerk. The clerk shall immediately notify the mayor or manager and city council. Municipal employees shall follow the resignation procedures in the city's personnel policies.

2.05.040 Conflicts of interest and Code of Ethics- Generally

A. A person subject to the requirements of this chapter may not:

1. Use their official position or office for the primary purpose of obtaining personal financial gain or financial gain for an immediate family member or

business with which the person is associated or in which the person owns stock. This provision does not apply to financial gain from salary under the terms of employment.

2. No city official, shall use the implied authority of office or position for the purposes of unduly influencing the decision of others, or promoting a personal interest within the community. City officials will refrain from using their title except when duly representing the city in an authorized capacity. Unless duly appointed by the council to represent the interest of the full council, councilmembers shall refrain from implying their representation of the whole by the use of their title.

3. Solicit or receive money for advice or assistance given in the course of the officer's or employee's employment or relating to that employment.

4. Represent a client before the city council for a fee, except employee members of the unions pursuant to labor agreements.

5. Solicit or accept a gift if it can be reasonably inferred that the gift is intended to influence the elected official's independence of judgment in the exercise of official duties.

a. An item is a "gift" under this subjection if it is:
    i. Money, an item of value, service, loan, travel or hospitality accommodation, entertainment, or employment; and
    ii. Provided to an elected official, or to another person or entity designated by the elected official, for less than full value.
b. Unless rebutted by other factors, food or beverage for immediate consumption is presumed not to be given under circumstances in which it could be reasonably inferred that they are intended to include the elected official's independence of judgment in the exercise of official duties.
c. The following unsolicited gifts are allowed, provided that if disclosure is required, the gift disclosure form is timely filed with the municipal clerk within 30 days of the receipt of the gift:
    i. Payment for a business meal offered as a courtesy in the context of municipal duties, provided that such meals shall not be accepted on a basis so frequent from any one source or a combination of sources as to raise an appearance of the use of the person's public position for private gain. No disclosure is required.
    ii. A discount or price available to public sector officials generally, or to a large business category of public officials to which the elected officials belongs. No disclosure is required.

iii. A monetary gift or award presented in recognition of meritorious, civic, or voluntary service, so long as presented by a recognized civic or non-profit charitable organization presenting such a gift or award as part of an established tradition, and not given as financial inducement for official action. An elected official shall disclose a recognition gift or award in excess of $150.00.

iv. A perishable gift for immediate consumption or display, from member(s) of the public expressing general gratitude or holiday cheer. No disclosure is required.

v. In-state travel and hospitality discounts or accommodations offered or provided to an elected official shall be applied to any municipal expense for the travel. No disclosure is required. Out of state gifts of travel and hospitality related to providing or obtaining information primarily of matters related to the duties of the elected official are allowed. Gifts in this category in excess of $250.00 shall be disclosed to the council prior to acceptance.

d. Gifts that are not connected with the recipient's status as an elected official are outside the scope of this chapter and no disclosure is required.

6. No city official may vote on any question in which the member has a direct or indirect substantial financial interest. Direct or indirect financial interest shall be disclosed to the presiding officer prior to the discussion on the question, for a ruling on a request from the member with the financial interest to be excused from discussion vote. The decision of the presiding officer on a request by a member of the governing body or an appointed body to be excused from a vote may be overridden by the majority vote of the body. If there are not at least four members in attendance who are qualified to vote, the matter shall be tabled until the next regular or special meeting at which four members qualified to vote on the matter are in attendance.

7. No city official, municipal officer, appointed official or municipal employee shall participate in any official action in which he or she has a substantial financial interest. Prohibited participation includes voting as a member of the city council, taking part in debate, soliciting the vote of a member of the city council, or encouraging any municipal official or officer to act in a certain way.

8. No city official municipal officer or municipal employee may disclose information he or she knows to be confidential concerning employees of the city, city property, city government, or other city affairs, including but not limited to confidential information disclosed during an executive session, unless authorized or required by law to do so.

B. Nothing in this section is intended to limit the scope of additional restrictions, prohibitions and disclosure requirements applicable to municipal employees, appointees and elected officials under this chapter.

2.05.050 Improper influence in grants, contracts, or leases.

A. A municipal officer or municipal employee, or immediate family member, may not attempt to acquire, receive, apply for, be a party to, or have a substantial personal or substantial financial interest in a city grant, contract, or lease if the municipal officer or public employee may take or withhold official action that affects the award, execution, or administration of the city grant, contract, or lease;
B. The prohibition in A. of this section does not apply to a city grant, contract, or lease competitively solicited unless the employee;
    1. is employed by the department or division awarding the grant, contract, or lease, or is employed by the department or division for which the grant, contract, or lease is let;
    2. takes official action with respect to the award, execution, or administration of the grant, contract, or lease.
C. A municipal employee shall report in writing to his/her supervisor any personal or financial interest held by the employee, or an immediate family member, in a city grant, contract, or lease that is awarded, executed, or administered by the department or division served by the employee.
D. The city council may provide a waiver from this section as provided in BMC 4.20.240.

2.05.060 Representative of the city of Bethel.

City Officials, municipal officers, and municipal employees of the city of Bethel shall support the direction of the city council when representing the city of Bethel or acting on behalf of the city. All such individuals shall clearly make known any personal communication or action which contradicts city council direction as representing their own personal views and/or ideas.

2.05.070 Outside employment restricted.

Municipal employees shall not engage in any employment or self-employment which is incompatible with or in conflict with his/her public employment. A public employee who wishes to engage in other employment or self-employment shall request prior approval from the city manager. If the manager determines that the employment is not incompatible and is not in conflict with the proper discharge of official duties, the manager may give written approval. Any change in an employee's approved outside

service or employment activities must be reported to the city manager. If the employee is the city manager, city attorney, or city clerk, the employee shall request approval from the city council, which will have the responsibility for determining compatibility, and, upon a determination that the services or employment are not incompatible or in conflict with official duties, may approve the services or employment in writing.

2.05.080 Report of financial and business interests.

A. A candidate for elective municipal office shall file a statement under oath with the city clerk, at the time of filing a nominating petition and declaration of candidacy, specifying the candidate's business interests and income sources, and shall file a similar statement of income sources and business interests with the City Clerk not later than April 15 of each year that they hold office.

B. The city manager and any appointed councilmember and planning commissioner shall file a statement under oath with the city clerk, within 30 days after appointment to office, specifying sources of business interests and income.

2.05.090 Contents of statement.

A. The statement filed by the city manager, elected official, planning commissioner or candidate under this chapter shall be an accurate representation of the financial affairs of the business interests and sources of income for the officer or the officer's immediate family, to the extent those sources of income or business interests are ascertainable by the officer or candidate.

B. The statement filed shall include the following information relating to the filer's immediate family:

1. The source of all income of $5,000 during the preceding calendar year, including taxable capital gains, except that a source of income that is a gift must be included if the value of the gift exceeds $250;

2. The name and address of each business entity owned or in which an interest was held during the preceding calendar year, including a statement of the nature of the interest owned or held, except that an interest held in a retirement account or an interest of less than $5,000 in the stock of a publicly traded corporation need not be included;

3. The name and address of each business in which the filer is an officer, director, manager, or employee during the preceding calendar year;

4. The identity and nature of each interest in real property located within the City limits, including an option to buy, owned at any time during the preceding calendar year;

5. A list of all contracts, bids, or offers to contract with the city during the preceding year, including those made through a proprietorship, partnership, or corporation in which the filer or an immediate family member, or a combination of them, hold a controlling interest.

2.05.100 Modified requirements for professionals.

Notwithstanding other provisions of this chapter, medical and psychiatric doctors, attorneys, and psychologists are not required to disclose as sources of income the names of individual patients or clients who receive professional services normally considered to be confidential. This exemption shall not apply to the identity of any corporation or other business entity having a contract with the professional producing income of $5,000 or more for services to its members or a defined group, nor to the identity of clients receiving services that do not fall within the candidate's or official's field of professional expertise.

2.05.110 Administration and inspection.

The city clerk shall administer the provisions of this chapter. The clerk shall prepare and keep available for distribution standardized forms on which the reports required by this chapter shall be filed. The city clerk may make such alterations to the forms as may be necessary.

2.05.120 Records, public information.

All statements required to be filed by this chapter are public records.

2.05.130 Refusal or failure to disclose.

A. If a candidate fails or refuses to file the statement required by this chapter, his or her filing shall be refused or, if previously accepted, shall be returned and his or her name shall be withheld or removed from the filing records of candidates.

B. A person who refuses or knowingly fails to make a required disclosure of information as provided in this chapter or who files a statement containing false or misleading information knowing it to be false or misleading, shall be guilty of a violation and upon conviction is punishable by a fine as provided for violations in BMC 1.08 and may be removed from office which they are seated.

2.05.140 Application of state statues.

A. Nothing in this chapter is intended to curtail, modify, or otherwise circumvent the application of the Alaska Statutes to any conduct involving bribery or other offenses against public administration.

B. All municipal officers as defined by Alaska Statutes (AS) Chapter 39.50 are exempt from the provisions of AS 39.50 relating to conflicts of interest or financial disclosures.

2.05.150 Conflict of interest-elected city officials.

A. Excepts as provided herein a city official may not participate in any official action in which the official or a member of the officials' immediate family has a substantial financial interest. For purposes of this section participation shall not include discussing the matter with city officials or addressing the city council as a private citizen, but shall include voting and participating in the debate as a council member.

B. A city official shall disclose any substantial financial interest in any matter before the body, prior to debating or voting upon the matter. Any official of the body may raise a question concerning another member's financial interests, in which case the member in question shall disclose relevant facts concerning the official's financial interests in the subject of the action.

C. Whether the direct or indirect financial interest is substantial shall be determined by the presiding officer on a case-by-case basis, with evaluation of these factors:

1. Whether the financial interest is a substantial part of the consideration;
2. Whether the financial interest directly and substantially varies with the outcome of the official action;
3. Whether the financial interest is immediate and known or conjectural and dependent on the factors beyond the official action;
4. Whether the financial or private interest is monetarily significant;
5. Other factors deemed appropriate by the presiding officer under the specifics of the disclosure and the nature of the action taken before the council body, or commission.

D. After a city official has made known any substantial financial interest in any question to be voted upon by the body

1. The officer shall ask to be excused from the debate and vote on the matter;
2. The presiding officer shall rule on the request;

3. The decision of the presiding officer shall be final unless overridden by a majority vote of the body;

E. In the event that the official with a substantial financial interest is the presiding officer, the request shall be ruled upon by a vote of the body. An official may not participate in the matter if the presiding officer or a majority vote of the body determines the financial interest is substantial. Neither the city official making the request nor any other city official, who has disclosed a similar or related interest in the same matter, may rule on any member's request to be excused from voting on the matter or vote on the question of overriding such a ruling.

2.05.160 Conflict of interest – municipal employee.

A municipal employee shall not participate in an official action in which the employee or a member of the employee's immediate family has a substantial financial or private interest. A municipal employee shall disclose, in written narrative form, to their supervisor the employee's financial or private interest in official action and the financial or private interest of any member of the employee's immediate family as defined in 2.05.010 E., if the employee's duties could influence the official action.

A. Whether the municipal employee is prohibited from participation in official action due to substantial financial or private interest shall be determined by the city manager with evaluation of these factors:

1. Whether the financial or private interest held by the employee or a family member is a substantial part of the official action under consideration;

2. Whether the financial or private interest varies directly and substantially with the outcome of the official action;

3. Whether the financial or private interest is monetarily significant;

4. Whether the public disclosure requirements applicable to municipal employees under this chapter have been fully met;

5. Whether public disclosure of the municipal employee's financial or private interest and management of the potential for conflict of interest are sufficient to maintain the integrity of the decision making process.

B. The determination of the city manager shall be filed with the municipal clerk as a public record.

C. A complaint to the city manager or mayor for conflict of interest based on substantial financial or private interest in official action by a municipal employee shall be filed as a notice of potential violation under 2.05.210.

2.05.170 Procedure for declaring potential conflicts of interest –City Manager

The city manager who has or may have a substantial financial interest in an official action shall disclose the facts concerning the manager's financial interests to the city council prior to taking any official action. If the city council determines the manager has a substantial financial interest in the action, the city council shall excuse the manager and assign another city employee to the matter.

2.05.180 Conflict with collective bargaining agreement.

In the event any section or provision in this chapter conflicts with an applicable collective bargaining agreement for a public employee, the collective bargaining agreement shall control with respect to that employee.

2.05.190 Employment prohibited.

No member of the council may be employed by the city in any capacity within a 12-month period immediately preceding or following the term of that individual unless the member is employed as a hired consultant or contractor and a waiver has been provided by the city council as described in BMC 4.20.240.

2.05.200 Political activity. The following limitations shall apply to political activity:

1. Departments, boards, and commissions, of municipal government shall not:

    a. Expend municipal funds for the support, opposition or endorsement of candidates for any elected government office.

    b. Expend municipal funds for paid advertisement which advocates or promotes a particular position, or solicits members of the public to advocate or promote a particular position, on legislation or other action pending before the council.

    c. Permit an administrative division of municipal government to endorse or oppose candidates for elected federal, state, municipal or other local office even if such endorsement does not include expenditure of funds. This prohibition applies to municipal employees while on duty and to the use of municipal property or facilities in a manner not made available to members of the public.

d. Authorize that money held by the municipality be used to influence the outcome of an election, except as permitted by state law under AS 15.13.145.

e. Actively campaign or prepare, publish, broadcast, or distribute by any means material of a partisan nature on any ballot measure, this including referendums, initiatives, bond issues or other special elections.

2. Subject to restrictions in AS 15.13.145 on the use and expenditure of municipal funds to influence the outcome of a ballot proposition or question, the City Manager may designate in advance, in writing, one or more executive employees to appear before the council, appointed public bodies of the municipality, community councils, civic organizations, and media representatives in support of or in opposition to any ballot measure coming before the voters in a municipal election. The designated executive employees shall be selected from among the employees with principal responsibility for carrying out policies and programs relevant to the ballot measure.

3. The limitation against dissemination of partisan materials on bond measures does not apply to municipal employees asked to assist an elected official in the preparation of ballot measures or to respond to inquiries from an elected official concerning any ballot measure.

4. A municipal employee shall not serve as a member of the Bethel City Council or school board or in elective office of the state, federal, or another local government. A municipal employee who is elected to one of these offices shall resign immediately from municipal employment.

5. For purposes of this section, public safety volunteers are not considered municipal employees (BMC 3.64.060).

2.05.210 Procedures for violation reporting.

A. Any person who believes that violation of any portion of this chapter has occurred may file a written complaint of potential violation with the city clerk's office.

B. All written complaints of potential violation submitted under this chapter shall be signed by the person submitting the complaint. A written complaint of potential violation shall state the address and telephone number of the person filing the complaint, identify the respondent, affirm to the best of the person's knowledge and belief the facts alleged in the complaint of potential violation signed by the person are true. The person filing the complaint of potential violation shall identify the section of this chapter the person believes was violated, state why the person signing the complain of potential violation believes the facts alleged constitutes a violation of that

section and identify any documentary or testimonial evidence the person filing the complaint believes are in support of the notification of potential violation.

2.05.220 Conformity to law.

If any section or provision of this chapter is held to be contrary to law by a court of competent jurisdiction or by action of the Alaska State Legislature, that section or provision shall be deemed invalid. All other sections and provision of this chapter shall continue in full force and effect.

2.06 Board of Ethics

2.06.010 Board of ethics established – general provisions.

A. There is hereby established a Board of Ethics.

B. The Board shall be comprised of all members of the city council. The mayor, or the vice-mayor in the mayor's absence, will serve as presiding officer of the Board. In the absence of both, the members of the Board shall elect a presiding officer from among its members.

C. The city attorney or other legal counsel for the Board may assist the Board at every stage of the proceedings, but shall have no vote.

D. A quorum of the Board shall be a majority of all members who are not excused for cause, such as being the complainant, the respondent, a witness, having a conflict of interest, or other for cause recusal. However, in no event may a quorum be less than three.

E. Decisions of the Board shall be adopted by a majority of the members who are qualified to act on the matter, where a quorum is present.

F. Unless the Board delegates such authority to another member or decides that no one shall have such authority, the presiding officer shall have authority to make procedural decisions between Board meetings on behalf of the Board. Examples of matters that may be decided by such delegate include scheduling hearings and other matters, establishing pre-hearing requirements and filing deadlines for motions, exhibits, witness lists, hearing briefs, and deciding other procedural matters.

G. The presiding officer shall vote on every question, unless required to abstain for cause, and shall not have power to veto any action of the Board.

2.06.020 Function and authority.

The Board of Ethics has authority to perform the following functions:

A. Investigate reported violations of Chapter 2.05.

B. Hear and decide written complaints of violations of Chapter 2.05.

C. Hear and decide on requests for exceptions as specified in Chapter 2.05.

D. Make findings and recommendations concerning sanctions, civil penalties and remedies for violations as provided in the code.

E. Adopt recommended policies and procedures governing the board's conduct of business.

F. Upon application of the complainant, respondent, or at the board's discretion, compel, by subpoena the appearance and sworn testimony at a specified time and place of a person the board reasonably believes may be able to provide information relating to a matter under investigation by the board or the production of documents, records or other items the board reasonably believes may relate to the matter under consideration.

G. Administer oaths and receive testimony from witnesses appearing before the board.

H. Request city agencies to cooperate with the board in the exercise of the board's jurisdiction.

I. Request the advising attorney to seek assistance of the district or superior court to enforce the board's subpoena.

J. Conduct investigative hearings in executive session, pursuant to notifications alleging violations of matters within the authority of the board.

2.06.030 Confidentiality; initial review.

A. Each written complaint of a violation of Chapter 2.05 received by the city manager or

mayor shall be submitted to the clerk's office and be assigned an identification number, which shall be used in lieu of names when referring to the complaint to maintain confidentiality. The city manager, city attorney, city clerk and the board shall keep all written complaints of potential violation confidential during investigation and the board's deliberative process. Complaints of potential violation may be disclosed only to the staff members of the city clerk's office providing administrative support to the board, members of the board, and legal counsel. Upon receipt of a notification of potential violation, the board shall, at its next scheduled meeting or earlier, as determined by the board chair, review the complaint of potential violation in executive session and determine if further action on the notification of potential violation is warranted.

B. If the board determines the facts alleged in the notification of potential violation, even if proven, do not constitute a violation, or that the board lacks jurisdiction to address the complaint of potential violation, the board shall return the complaint of potential violation to the complaining party or it may recommend to the person filing the complaint that it be amended and re-filed. Notifications of potential violation returned without further action shall remain confidential.

C. If the board determines the allegation in a complaint of potential violation, if proven, may constitute a violation of a matter within the board's jurisdiction, the board shall:

1. Request and receive assistance from legal counsel to assist the board in all further deliberative processes, investigations and reports.

2. Give the respondent a copy of the complaint of potential violation, along with a copy of the outline of the board's process under this chapter, including notice that the respondent may choose to hold the proceeding in public and may be represented by legal counsel of respondent's choosing and at respondent's own expense; and

3. Notify both the person submitting the complaint of potential violation and respondent of the date(s) on which each may be requested to meet with the board, present documentary or testimonial evidence, and assist the board in resolving the potential violation.

2.06.040 Disclosure of complaint of potential violation prohibited.

A. A complaint of potential violation of Chapter 2.05 is confidential until the board completes a written report for distribution as a public record.

1. No person, including the complainant, shall knowingly disclose to another person, or otherwise make public in violation of this chapter, the contents of a complaint of

potential violation filed with the board, unless:

i. The respondent elects to proceed in public; or

ii. The written report of the board is electronically published by the city clerk.

2. Breach of confidentiality required by any provision of this chapter is a violation of this chapter subject to punishment.

3. Any person involved with a complaint of potential violation, including the filer of the complaint, shall keep the matter confidential. The confidentiality extends from the filing of the complaint and shall continue until the matter is concluded and made public. Maintaining confidentiality is essential to allowing for a neutral investigation into the matter. If the Board finds that any person has violated the confidentiality of a complaint of potential violation, the Board shall refer the matter for investigation. If a person is found to have breached confidentiality, they shall be subject to sanctions of $300 for a first offense, $500 for a second offense and $1,000 for each subsequent offense.

4. Public disclosure resulting from corrective action under this chapter is not a violation of this subsection.

2.06.050 Conduct of investigation and standard of proof.

A. The board's investigation shall be conducted in executive session, unless the respondent requests it be held in a public session. The respondent and the person who filed the complaint, and their counsel, if any, may be present in executive session while the investigation is being conducted.

1. The respondent and the person who filed the complaint of potential violation may identify other individuals and documents that each would like the board to interview and review.

2. If an individual with information bearing on the complaint of potential violation is unwilling to come forward with information, the respondent and the person who filed the complaint of potential violation may each request the board to subpoena the person and any documentary evidence.

3. Persons appearing before the board may be represented by counsel or other person serving in a representative capacity.

4. The board may question the respondent, the person who filed the complaint of

potential violation, and other persons appearing before the board.

5. The board may solicit questions and testimony from the person filing the complaint of potential violation, the respondent and other persons appearing for the purpose of providing information to the board. The board may solicit questions from counsel present to represent persons appearing before the board, but all questions during the board's investigation shall be posed through and by a member of the board. Consistent with due process, the board may limit or prohibit questions suggested to the board by or on behalf of persons appearing before the board.

6. The standard of proof to be applied by the board in determining a violation under Chapter 2.05 is proof by a preponderance of the evidence.

7. Technical rules of evidence do not apply, but the findings of the board shall be based upon substantial evidence, which means reliable and relevant information presented to the board.

8. The board's findings shall be binding.

9. When the board's investigation is conducted in executive session, the public shall be excluded and the session shall be electronically recorded. The recording shall be available for access as a public record after publication by the city clerk of the proposed resolution and settlement under subsection 2.06.110.

2.06.060 Deliberations of the board.

A. Deliberations of the board shall be conducted in executive session.

B. The deliberations of the board shall not be recorded.

C. The respondent, the person filing the complaint, and their counsel shall be excluded from the deliberations. The Board's legal counsel may attend the deliberations.

D. The board shall reconvene in open session when deliberations are complete.

2.06.070 Board member disclosures.

When an investigation is convened in executive session to determine whether the respondent has violated Chapter 2.05, the Board members will be requested to disclose any conflict of interest, ex-parte communications, or other facts that may affect their qualification to hear the matter. After such a disclosure, the other members of the

Board shall determine whether a member shall be excused for cause.

2.06.080 Duty of cooperation.

A city official or the city manager subject to a complaint of a violation shall work cooperatively with the City Clerk to establish a hearing date and shall appear at the place and time set for the hearing, regardless of the respondent's intentions concerning defense or exercise of other rights. Failure to appear, except when failure results from a serious condition or event that prevented the respondent's appearance, is a breach of respondent's duties under this chapter and in itself may result in a summary finding of violation by the Board and imposition of remedies, penalties and disciplinary action under section 2.06.110. Nothing in this section shall prevent the rescheduling of a hearing for cause upon written request of the respondent or the complainant.

2.06.090 Decisions on the record.

Using the identification number of the complaint of potential violation, the board shall vote in open session on these questions:

1. Whether the board finds by a preponderance of the evidence one or more violations within the jurisdiction of the board; and

2. Whether the board recommends further administrative or remedial actions; and

3. What specific sanctions, corrective actions or referrals, if any, the board recommends.

4. If the board does not find a violation under Chapter 2.05, the board shall prepare a confidential statement of closure listing the complainant and respondent, the assigned identification number, the allegations, the hearing date, and the finding that no allegation was substantiated by the board in whole or in part, and the date of board closure. At the sole discretion of the respondent, the board may release the statement of closure as a public document.

2.06.100. Timely completion.

The board shall complete action on a complaint of potential violation and investigations within 90 days of the filing of the complaint of potential violation. By a majority vote, the board may extend the completion date for up to an additional 90 days, or longer for good cause shown.

2.06.110 Sanctions, civil penalties and remedies.

Upon conviction for any violation of Chapter 2.05 or after an investigation conducted by the Board under this chapter, the Board may impose (or recommend in the case of subsection 1.) as a sanction, penalty, or remedy any or all of the following, as appropriate to the seriousness of the violation:

1. A recommendation to the City Council that the office of a City Council member or the position of city manager be declared vacant for a serious violation that is (1) flagrant or (2) willful and knowing.

2. A member of a board or commission may be removed from the board or commission.

3. A public or private reprimand may be given to the official.

4. The official may be ordered to refrain from voting, deliberating, or participating in any matter in violation of Chapter 2.05.

5. The committee assignments of an official may be revoked.

6. An official's privilege to travel at city expense on city business may be revoked or restricted.

7. A contract, or transaction or appointment, which was the subject of an official act or action of the city that involved the violation of a provision of Chapter 2.05, may be voided or terminated.

8. The official must forfeit or make restitution of any financial benefit received as a consequence of a violation of Chapter 2.05.

9. A civil fine of not more than $1,000 per violation may be imposed.

2.06.120 Record of proceedings and public record.

Permanent records and minutes shall be kept of Board's proceedings. Such minutes shall record the vote of each member upon every question. Every decision or finding shall immediately be filed in the office of the City Clerk, and shall be a public record open to inspection by any person. Every finding and recommendation shall be directed to the City Council at the earliest possible date.

2.06.130 Settlement of complaints.

A. The respondent in any case accepted for investigation may propose a resolution and settlement of the complaint. A proposed resolution and settlement will include the admitted violation of Chapter 2.05; the remedial actions agreed to by the respondent subject to the city council's concurrence; any proposed preventive actions to be undertaken to avoid similar violation by respondent or others in the future; and other matters required by the board.

B. A proposed resolution and settlement is subject to approval by the Board and has no effect unless approved by the Board. The Board will give the complaining person the opportunity to review and comment on the proposed resolution and settlement prior to approving it. Until approved by the Board, a proposed resolution and settlement must be kept confidential.

C. The proposed resolution and settlement becomes public record upon final approval by the Board.

SECTION 3. Effective Date. This ordinance shall become effective immediately, upon passage by the City Council.

ENACTED THIS __ DAY OF ___ 2012, BY A VOTE OF _ IN FAVOR AND _ OPPOSED.

ATTEST:

_____
Joseph A. Klejka, Mayor

_____
Lori Strickler, City Clerk

City of Bethel, Alaska

City Clerk's Office

MEMORANDUM

TO:	City Council Members
FROM:	Lori Strickler
DATE:	February 19, 2013
SUBJECT:	Ordinance 13-04 Explanations

Included with this memorandum is a black lined version of the ordinance showing the striking out of old language and the underling of new language. If you have questions about this ordinance please let me know. In accordance with Ordinance 12-05, the Council must pass their Conflict of Interest Ordinance by July 1, 2013.

Chapter 2.05 "Responsibilities of City Councilmembers, municipal officers, appointed officials and employees – Conflicts of Interest" is repealed in its entirety and reformed to coincide with state regulations as well as a standard with other municipal governments.

The City Attorney and City Manager have reviewed this document and provided favorable feedback.

As always, council members are encouraged to contact me prior to the meeting with any questions so that a clear explanation can be made to the body if that question is not already addressed within the content of this memo.

Thank you for your consideration.

~~Chapter 2.05~~
~~RESPONSIBILITIES OF CITY COUNCILMEMBERS, MUNICIPAL OFFICERS, APPOINTED OFFICIALS AND EMPLOYEES – CONFLICTS OF INTEREST~~

~~Sections:~~

~~2.05.010 Conduct in office – Investigations.~~

~~A. Definitions.~~

~~1. Municipal officers shall include the city manager, the city clerk and the city staff attorney of the city of Bethel.~~

~~2. City employees shall include all persons employed full-time or part-time, in a permanent or temporary capacity, in an active or inactive status by the city of Bethel.~~

~~3. Appointed officials shall include all committee and commission members.~~

~~B. The city manager shall have the power to inquire into the conduct of any office, department, officer, or employee of the municipality and to make investigations into municipal affairs and require that books, papers, and other evidence be made available for inspection. Failure to obey such orders to provide books or other documents or evidence may constitute grounds for the immediate discharge or suspension of any employee in accordance with the municipality's personnel policies, applicable law, or codes of conduct. The city council, by a majority vote, shall have the power to inquire into the conduct of any municipal officer, city councilmember, or appointed official about matters pertaining or possibly pertaining to administration of their duties which affect the operation of the affairs of the municipality.~~

~~2.05.020 Oath.~~

~~All employees of the municipality shall, before entering upon the duties of their office, individually take an oath in writing to honestly, faithfully, and impartially perform and discharge the duties of his or her office and trust. This oath shall be filed in their personnel file.~~

Comment [ls1]: Similar language in new section 2.05.020 however "All employees" is removed. When researching changes to the title, I was not able to find any other municipality that required all of their municipal employees to take such an oath.

~~2.05.030 Delivery of office.~~

~~Whenever an officer, appointed official, or employee leaves office or employment for any reason, he or she shall promptly deliver to his or her successor in office or to the mayor, manager, or other municipal official all municipal property, including books, working papers, records, money, equipment, and effects, that are in his or her custody, possession, or control.~~

Comment [ls2]: This section is not duplicated in the updated language. This would be more appropriate as a procedure than a law.

~~2.05.040 Reports.~~

~~Every department head shall make a monthly report to the city council of the activities of the department for the preceding month and present a calendar of activities for the upcoming month. Subject to approval of the city manager, the department head may appoint someone familiar with the activities of the department to prepare and make the monthly report. Such monthly report shall include a report on the department's finances.~~

Comment [ls3]: This section is not duplicated in the updated language. This would be more appropriate as a procedure than a law.

~~2.05.050 Resignation.~~

~~Resignations of municipal officers and appointed officials shall be made in writing and filed with the clerk. The clerk shall immediately notify the mayor or manager and city council. Appointed employees shall follow the resignation procedures in the city's personnel policies.~~

Comment [ls4]: The intent of this section is carried through to new language under section 2.05.030.

~~2.05.060 Conflicts of interest.~~

Comment [ls5]: Much of this section is captured in the new language however not as stringent.

~~A. Prohibitions.~~

~~1. No elected official, appointed municipal officer, committee or commission member or municipal employee shall use his or her office or official position for the primary purpose of obtaining financial gain for themselves or their spouse, child, parent or business with which he or she is associated or owns stock. This provision does not apply to financial gain from salary under the terms of employment.~~

~~2. No elected official (except in the case of a member of the city council where the presiding officer or city council rule otherwise as provided in subsection D of this section), appointed municipal officer, appointed official or municipal employee shall participate in any official action in which he or she has a substantial financial interest. Prohibited participation includes voting as a member of the city council, taking part in debate, soliciting the vote of a member of the city council, or encouraging any municipal official or officer to act in a certain way.~~

~~3. No elected official, appointed municipal officer, appointed official or municipal employee may accept from any other elected official, appointed municipal officer, appointed official or municipal employee or any other person, money, gifts valued at more than ten dollars ($10), promises of future benefits, or any other thing of value, for performing any function or service that is a normal part of his or her duties, or in exchange for voting or acting in any particular way on any matter that comes before him or her in the course of his or her duties. This subsection does not prohibit any person from accepting an award or bonus authorized by the city council to be given for meritorious service.~~

~~4. No elected official, appointed municipal officer, appointed official or municipal employee, and no other person shall give or offer to give money, gifts valued at more than ten dollars ($10), promises of future benefits, or any other thing of value to any elected official, appointed municipal officer, appointed official, or municipal employee for performing any function or service that is a normal part of his or her duties, or in exchange for voting or acting in any particular way on any matter that comes before him or her in the course of his or her duties. This subsection does not prohibit any person from voting for or participating in granting an award or bonus authorized by the city council to be given for meritorious service.~~

~~B. Financial Interests Which May Be Conflicts of Interest. The following is a list of examples of financial interests substantial enough that any member of the city council, appointed officer, appointed official or municipal employee who falls under any of the categories listed below should not vote or act on. The categories below are not meant to be a complete listing of all possible conflicts of interest. Any instances not covered below should come before the city council for a vote as the individual matters arise. A member of the city council, appointed officer, appointed official or municipal employee should abstain from voting or refrain from acting if:~~

~~1. He or she (or a member of his or her immediate family) individually, jointly, or in partnership with another has an interest in land or buildings, other than his or her residence, which will be affected by the vote or action.~~

~~2. He or she (or a member of his or her immediate family) is party to or beneficiary of a contract for a sum of one thousand dollars ($1,000) or more in value that will be affected by the vote or action.~~

~~3. He or she (or a member of his or her immediate family) is individually, jointly, or in partnership with another the owner of a business, or has an interest in a business of one thousand dollars ($1,000) or more that will be affected by the vote or action.~~

~~4. He or she (or a member of his or her immediate family) is a member of a board of directors or city council or an officer of, or holds a management position~~

~~with, an organization that has financial dealings of one thousand dollars ($1,000) or more in value with the municipality that will be affected by his or her vote or action.~~

~~5. He or she is an employee of an organization that has financial dealings of one thousand dollars ($1,000) or more in value with the municipality that will be affected by his or her vote or action.~~

~~C. Conflicts of Interest and Disclosure—City Councilmembers.~~

~~1. Each member of the city council shall disclose any financial interest he or she may have in any matter that comes before the city council for a vote. If the member believes that the financial interest is substantial, he or she shall ask to be excused from voting on the matter.~~

~~2. The mayor shall rule on the request of a member of the city council to be excused from voting on a matter in which the member has or believes he or she has a substantial financial interest, unless the mayor is the member making the request or has the same or a similar or related financial interest in the same matter, in which case the city council shall designate another councilmember who has no financial interest in the matter to rule on the request.~~

~~3. The decision of the mayor (or designated member of the city council) on the member's request to be excused from voting may be overridden by a majority vote of the city council. Neither the councilmember making the request nor any other councilmember, who has disclosed a similar or related interest in the same matter, may rule on any member's request to be excused from voting on the matter or vote on the question of overriding such a ruling.~~

~~4. If any resident of the municipality believes that a member of the city council may have an undisclosed conflict of interest, the resident may request a confidential meeting with the mayor (or, in the event that a claimed potential conflict of interest involves the mayor, any other member of the city council chosen by the resident requesting the meeting) and the councilmember who may have a conflict of interest. If, as a result of the confidential meeting, the member of the city council with the potential conflict or the mayor decides that the financial interest must be disclosed to the city council, the member of the city council shall disclose the interest to the city council as provided in subsection (C)(1) of this section.~~

~~5. A member of the city council who has a substantial financial interest in a matter before the city council, and who has been excused from voting on that matter, may not participate as a councilmember in the debate on the matter. If the matter is discussed by the city council in executive session, the member shall be excluded during the executive session.~~

~~6. If a conflict of interest is discovered after an official action has been undertaken or completed, the city council may by a majority vote, excluding the vote of any affected member, resolve to rescind the official action or to take any other remedial steps necessary.~~

~~D. Conflicts of Interest and Disclosure – Municipal Officers, Appointed Officials, and Employees.~~

~~1. Each municipal officer, appointed official and employee shall disclose any financial interest he or she may have in any matter that has come before the municipal officer, appointed official or employee for action in the course of his or her duties. If either the municipal officer, appointed official or employee making the disclosure, the mayor (or, in the case of city employees, the city manager) concludes that the financial interest in question is substantial, then the municipal officer, appointed official or employee shall not act or participate in taking action on the matter.~~

~~2. Any resident of the municipality who thinks that a municipal officer, appointed official or employee may have an undisclosed conflict of interest may request a confidential meeting with the city manager (in the case of a city employee) or the mayor (in the case of a city municipal officer or appointed official) and the municipal officer, appointed official or employee who may have a conflict of interest. If, as a result of the confidential meeting, the municipal officer, appointed official or employee with the potential conflict concludes that he or she should refrain from acting on the matter, or the city manager (or the mayor) directs the municipal officer, appointed official or employee to refrain from acting on the matter, all proceedings of the meeting with the resident and the city manager (or mayor) will remain confidential. If neither the municipal officer, appointed official or employee nor the city manager (or mayor) decides that the municipal officer, appointed official or employee must refrain from acting, the resident may request the city council to consider the matter at its next regular meeting.~~

~~E. Violations.~~

~~1. Any member of the city council who violates this chapter by knowingly refusing to disclose a financial interest as required by this section may be censured by the city council. Such censure shall be made upon a two thirds (2/3) majority vote of the city council. No member of the city council may vote on any question of his or her own censure, but may participate in any discussion and debate on the matter.~~

~~2. Any municipal officer who violates this chapter by knowingly refusing to disclose a financial interest as required by this section may be terminated from employment by a two thirds (2/3) vote of the city council in accordance with the~~

~~municipal officer's contract with the city of Bethel. The municipal officer has the right to address the city council before any vote on the matter.~~

~~3. Any appointed official who violates this chapter by knowingly refusing to disclose a financial interest as required by this section may be suspended or permanently removed from the committee or commission. Such removal or suspension shall be made upon a two-thirds (2/3) majority vote of the city council. Any suspension shall be for a period of up to ninety (90) days. The appointed official has the right to address the city council before any vote on the matter.~~

~~4. Any employee who violates this chapter by knowingly refusing to disclose a financial interest as required by this section may be terminated from employment by the city manager in accordance with the municipality's personnel policies and applicable law. The employee has the right to address the city manager before any decision on the matter.~~

~~2.05.070 Representative of the city of Bethel.~~

Comment [ls6]: Same language found in new section 2.05.060

~~City councilmembers, municipal officers, and appointed officials of the city of Bethel shall support the direction of the city council when representing the city of Bethel or acting on behalf of the city. All such individuals shall clearly make known any personal communication or action which contradicts city council direction as representing their own personal views and/or ideas.~~

Chapter 2.05
City Officers Generally

2.05.010 Definitions

Comment [ls7]: Definitions were not provided in previous code. Included to help clarify specific portions of the new language.

As used in this chapter, the following definitions shall apply:

A. "Appointed Body" means any municipal commission, board, or committee created by ordinance or resolution with members of the public appointed subject to the confirmation by the City council.

B. "Appointed Official" means a board or commission member appointed by the mayor subject to confirmation by the City Council.

C. "City Official" means a person who holds elective office under the ordinances of the City, or who is a member of a board or commission whose appointment is subject to confirmation by the City Council.

D. "Elected Official" means a person holding an elective office subject to municipal elections under the code.

E. "Financial Interest" includes the receipt of a pecuniary benefit or the expectation of a pecuniary benefit.

1. A financial interest of a person includes a financial interest of any member of the person's household.

2. A person has a financial interest in an organization if the person:

a. Has an ownership interest in the organization or

b. Is a director, officer or employee of the organization.

3. Whether a financial interest is substantial is determined on a case-by-case basis.

Comment [ls8]: This inclusion is important to the title in that every situation will be reviewed by the chair/mayor for determination.

F. "Hired consultant and contractors" means a person or organization hired by the city as an independent contractor and not as an employee.

G. "Immediate family member" means

1. The spouse of the person;

2. Another person cohabiting with the person in a conjugal relationship that is not a legal marriage;

3. A child, including a stepchild and an adoptive child, of the person;

4. A parent, sibling, grandparent, aunt or uncle of the person; and

5. A parent or sibling of the person's spouse.

H. "Municipal employee" means any person employed by the city, whether full time or part time, temporary or permanent, but excluding elected officials and appointed officials.

I. "Municipal officer" includes the city manager, city attorney and city clerk.

J. "Source of income" means an employer or other person or entity paying compensation, dividends, or interest, directly or indirectly, for services, products, or investments. If the income being reported is derived from employment by a sole proprietorship, partnership, or corporation in which the reporting person, the spouse or children, or a combination of them hold a controlling interest, that proprietorship, partnership, or corporation may be designated as the source of income without specifying clients or customers if the business is one that is normally conducted on a cash basis and typically does not keep records of individual customers. In all

other cases, the clients or customers of the proprietorship, partnership, or corporation shall be listed as sources of income of the person whose income is being reported, whose spouse, children, or a combination of them hold a controlling interest.

2.05.020 Oath.

All municipal officers and city officials shall, before entering upon the duties of their office, individually take an oath, in writing, to honestly, faithfully, and impartially perform and discharge the duties of his or her office and trust. This oath shall be filed in their personnel file.

Comment [ls9]: This would limit the oath requirement to the City council, appointed officials, the city manager, city clerk and the city attorney. It would not include other municipal employees. Requiring municipal employees to complete this oath is not common throughout the state although some municipalities still have it.

2.05.030 Resignation.

Resignations of municipal officers and city officials shall be made in writing and filed with the clerk. The clerk shall immediately notify the mayor or manager and city council. Municipal employees shall follow the resignation procedures in the city's personnel policies.

Comment [ls10]: Same intent as provided in previous code however language has changed to reflect the words identified under definitions.

2.05.040 Conflicts of interest and Code of Ethics- Generally

Comment [ls11]: The intent of this chapter is to replace the current conflict of interest code but to allow a reasonable exchange as long as it is clear that exchange is not to influence a vote or action.

A. A person subject to the requirements of this chapter may not:

1. Use their official position or office for the primary purpose of obtaining personal financial gain or financial gain for an immediate family member or business with which the person is associated or in which the person owns stock. This provision does not apply to financial gain from salary under the terms of employment.

2. No city official, shall use the implied authority of office or position for the purposes of unduly influencing the decision of others, or promoting a personal interest within the community. City officials will refrain from using their title except when duly representing the city in an authorized capacity. Unless duly appointed by the council to represent the interest of the full council, councilmembers shall refrain from implying their representation of the whole by the use of their title.

3. Solicit or receive money for advice or assistance given in the course of the officer's or employee's employment or relating to that employment.

4. Represent a client before the city council for a fee, except employee members of the unions pursuant to labor agreements.

5. Solicit or accept a gift if it can be reasonably inferred that the gift is intended to influence the elected official's independence of judgment in the exercise of official duties.

a. An item is a "gift" under this subjection if it is:

   i. Money, an item of value, service, loan, travel or hospitality accommodation, entertainment, or employment; and

   ii. Provided to an elected official, or to another person or entity designated by the elected official, for less than full value.

b. Unless rebutted by other factors, food or beverage for immediate consumption is presumed not to be given under circumstances in which it could be reasonably inferred that they are intended to include the elected official's independence of judgment in the exercise of official duties.

c. The following unsolicited gifts are allowed, provided that if disclosure is required, the gift disclosure form is timely filed with the municipal clerk within 30 days of the receipt of the gift:

   i. Payment for a business meal offered as a courtesy in the context of municipal duties, provided that such meals shall not be accepted on a basis so frequent from any one source or a combination of sources as to raise an appearance of the use of the person's public position for private gain. No disclosure is required.

   ii. A discount or price available to public sector officials generally, or to a large business category of public officials to which the elected officials belongs. No disclosure is required.

   iii. A monetary gift or award presented in recognition of meritorious, civic, or voluntary service, so long as presented by a recognized civic or non-profit charitable organization presenting such a gift or award as part of an established tradition, and not given as financial inducement for official action. An elected official shall disclose a recognition gift or award in excess of $150.00.

   iv. A perishable gift for immediate consumption or display, from member(s) of the public expressing general gratitude or holiday cheer. No disclosure is required.

v. In-state travel and hospitality discounts or accommodations offered or provided to an elected official shall be applied to any municipal expense for the travel. No disclosure is required. Out of state gifts of travel and hospitality related to providing or obtaining information primarily of matters related to the duties of the elected official are allowed. Gifts in this category in excess of $250.00 shall be disclosed to the council prior to acceptance.

d. Gifts that are not connected with the recipient's status as an elected official are outside the scope of this chapter and no disclosure is required.

6. No city official may vote on any question in which the member has a direct or indirect substantial financial interest. Direct or indirect financial interest shall be disclosed to the presiding officer prior to the discussion on the question, for a ruling on a request from the member with the financial interest to be excused from discussion vote. The decision of the presiding officer on a request by a member of the governing body or an appointed body to be excused from a vote may be overridden by the majority vote of the body. If there are not at least four members in attendance who are qualified to vote, the matter shall be tabled until the next regular or special meeting at which four members qualified to vote on the matter are in attendance.

7. No city official, municipal officer, appointed official or municipal employee shall participate in any official action in which he or she has a substantial financial interest. Prohibited participation includes voting as a member of the city council, taking part in debate, soliciting the vote of a member of the city council, or encouraging any municipal official or officer to act in a certain way.

8. No city official municipal officer or municipal employee may disclose information he or she knows to be confidential concerning employees of the city, city property, city government, or other city affairs, including but not limited to confidential information disclosed during an executive session, unless authorized or required by law to do so.

B. Nothing in this section is intended to limit the scope of additional restrictions, prohibitions and disclosure requirements applicable to municipal employees, appointees and elected officials under this chapter.

2.05.050 Improper influence in grants, contracts, or leases.

Comment [ls12]: Although generally covered in the previous section and the following section, this provides specific detail as to how such action should be handled.

A. A municipal officer or municipal employee, or immediate family member, may not attempt to acquire, receive, apply for, be a party to, or have a

substantial personal or substantial financial interest in a city grant, contract, or lease if the municipal officer or public employee may take or withhold official action that affects the award, execution, or administration of the city grant, contract, or lease;

B. The prohibition in A. of this section does not apply to a city grant, contract, or lease competitively solicited unless the employee;

   1. is employed by the department or division awarding the grant, contract, or lease, or is employed by the department or division for which the grant, contract, or lease is let;

   2. takes official action with respect to the award, execution, or administration of the grant, contract, or lease.

C. A municipal employee shall report in writing to his/her supervisor any personal or financial interest held by the employee, or an immediate family member, in a city grant, contract, or lease that is awarded, executed, or administered by the department or division served by the employee.

D. The city council may provide a waiver from this section as provided in BMC 4.20.240.

2.05.060 Representative of the city of Bethel.

Comment [ls13]: Same language as provided in previous code.

City Officials, municipal officers, and municipal employees of the city of Bethel shall support the direction of the city council when representing the city of Bethel or acting on behalf of the city. All such individuals shall clearly make known any personal communication or action which contradicts city council direction as representing their own personal views and/or ideas.

2.05.070 Outside employment restricted.

Comment [ls14]: Language similar to that provided in BMC 3.64.020. It is relevant to this section as well as in the Personnel Rules. The intent of each is not in conflict with one another.

Municipal employees shall not engage in any employment or self-employment which is incompatible with or in conflict with his/her public employment. A public employee who wishes to engage in other employment or self-employment shall request prior approval from the city manager. If the manager determines that the employment is not incompatible and is not in conflict with the proper discharge of official duties, the manager may give written approval. Any change in an employee's approved outside service or employment activities must be reported to the city manager. If the employee is the city manager, city attorney, or city clerk, the employee shall request approval from the city council, which will have the responsibility for determining compatibility, and, upon a determination

that the services or employment are not incompatible or in conflict with official duties, may approve the services or employment in writing.

2.05.080 Report of financial and business interests.

Comment [ls15]: This replaces the AS requirement of Financial Disclosure Statements.

A. A candidate for elective municipal office shall file a statement under oath with the city clerk, at the time of filing a nominating petition and declaration of candidacy, specifying the candidate's business interests and income sources, and shall file a similar statement of income sources and business interests with the City Clerk not later than April 15 of each year that they hold office.

B. The city manager and any appointed councilmember and planning commissioner shall file a statement under oath with the city clerk, within 30 days after appointment to office, specifying sources of business interests and income.

2.05.090 Contents of statement.

Comment [ls16]: Although not minimal, it is important to be transparent when engaging in city action and to insure the City's protection, the financial disclosure statements should encompass as many possible conflict issues that may arise. Although inconvenient for the filer, the intent of the statement is to protect both the filer as well as the City.

The items included in this section mimic that of other communities that have opted out of the Alaska Statute Requirement.

A. The statement filed by the city manager, elected official, planning commissioner or candidate under this chapter shall be an accurate representation of the financial affairs of the business interests and sources of income for the officer or the officer's immediate family, to the extent those sources of income or business interests are ascertainable by the officer or candidate.

B. The statement filed shall include the following information relating to the filer's immediate family:

1. The source of all income of $5,000 during the preceding calendar year, including taxable capital gains, except that a source of income that is a gift must be included if the value of the gift exceeds $250;

2. The name and address of each business entity owned or in which an interest was held during the preceding calendar year, including a statement of the nature of the interest owned or held, except that an interest held in a retirement account or an interest of less than $5,000 in the stock of a publicly traded corporation need not be included;

3. The name and address of each business in which the filer is an officer, director, manager, or employee during the preceding calendar year;

4. The identity and nature of each interest in real property located within the City limits, including an option to buy, owned at any time during the preceding calendar year;

5. A list of all contracts, bids, or offers to contract with the city during the preceding year, including those made through a proprietorship, partnership, or corporation in which the filer or an immediate family member, or a combination of them, hold a controlling interest.

2.05.100 Modified requirements for professionals.

Notwithstanding other provisions of this chapter, medical and psychiatric doctors, attorneys, and psychologists are not required to disclose as sources of income the names of individual patients or clients who receive professional services normally considered to be confidential. This exemption shall not apply to the identity of any corporation or other business entity having a contract with the professional producing income of $5,000 or more for services to its members or a defined group, nor to the identity of clients receiving services that do not fall within the candidate's or official's field of professional expertise.

2.05.110 Administration and inspection.

The city clerk shall administer the provisions of this chapter. The clerk shall prepare and keep available for distribution standardized forms on which the reports required by this chapter shall be filed. The city clerk may make such alterations to the forms as may be necessary.

2.05.120 Records, public information.

All statements required to be filed by this chapter are public records.

2.05.130 Refusal or failure to disclose.

A. If a candidate fails or refuses to file the statement required by this chapter, his or her filing shall be refused or, if previously accepted, shall be returned and his or her name shall be withheld or removed from the filing records of candidates.

B. A person who refuses or knowingly fails to make a required disclosure of information as provided in this chapter or who files a statement containing false or misleading information knowing it to be false or misleading, shall be guilty of a violation and upon conviction is punishable by a fine as provided for violations in BMC 1.08 and may be removed from office which they are seated.

2.05.140 Application of state statues.

A. Nothing in this chapter is intended to curtail, modify, or otherwise circumvent the application of the Alaska Statutes to any conduct involving bribery or other offenses against public administration.

B. All municipal officers as defined by Alaska Statutes (AS) Chapter 39.50 are exempt from the provisions of AS 39.50 relating to conflicts of interest or financial disclosures.

Comment [ls17]: This identifies the City's exemption from Financial Disclosure requirements.

2.05.150 Conflict of interest-elected city officials.

A. Excepts as provided herein a city official may not participate in any official action in which the official or a member of the officials' immediate family has a substantial financial interest. For purposes of this section participation shall not include discussing the matter with city officials or addressing the city council as a private citizen, but shall include voting and participating in the debate as a council member.

B. A city official shall disclose any substantial financial interest in any matter before the body, prior to debating or voting upon the matter. Any official of the body may raise a question concerning another member's financial interests, in which case the member in question shall disclose relevant facts concerning the official's financial interests in the subject of the action.

C. Whether the direct or indirect financial interest is substantial shall be determined by the presiding officer on a case-by-case basis, with evaluation of these factors:

1. Whether the financial interest is a substantial part of the consideration;
2. Whether the financial interest directly and substantially varies with the outcome of the official action;
3. Whether the financial interest is immediate and known or conjectural and dependent on the factors beyond the official action;
4. Whether the financial or private interest is monetarily significant;
5. Other factors deemed appropriate by the presiding officer under the specifics of the disclosure and the nature of the action taken before the council body, or commission.

D. After a city official has made known any substantial financial interest in any question to be voted upon by the body

1. The officer shall ask to be excused from the debate and vote on the matter;
2. The presiding officer shall rule on the request;
3. The decision of the presiding officer shall be final unless overridden by a majority vote of the body;

E. In the event that the official with a substantial financial interest is the presiding officer, the request shall be ruled upon by a vote of the body. An official may not participate in the matter if the presiding officer or a majority vote of the body determines the financial interest is substantial. Neither the city official making the request nor any other city official, who has disclosed a similar or related interest in the same matter, may rule on any member's request to be excused from voting on the matter or vote on the question of overriding such a ruling.

2.05.160 Conflict of interest – municipal employee.

A municipal employee shall not participate in an official action in which the employee or a member of the employee's immediate family has a substantial financial or private interest. A municipal employee shall disclose, in written narrative form, to their supervisor the employee's financial or private interest in official action and the financial or private interest of any member of the employee's immediate family as defined in 2.05.010 E., if the employee's duties could influence the official action.

A. Whether the municipal employee is prohibited from participation in official action due to substantial financial or private interest shall be determined by the city manager with evaluation of these factors:

1. Whether the financial or private interest held by the employee or a family member is a substantial part of the official action under consideration;

2. Whether the financial or private interest varies directly and substantially with the outcome of the official action;

3. Whether the financial or private interest is monetarily significant;

4. Whether the public disclosure requirements applicable to municipal employees under this chapter have been fully met;

5. Whether public disclosure of the municipal employee's financial or private interest and management of the potential for conflict of interest are sufficient to maintain the integrity of the decision making process.

B. The determination of the city manager shall be filed with the municipal clerk as a public record.

C. A complaint to the city manager or mayor for conflict of interest based on substantial financial or private interest in official action by a municipal employee shall be filed as a notice of potential violation under 2.05.210.

2.05.170 Procedure for declaring potential conflicts of interest –City Manager.

The city manager who has or may have a substantial financial interest in an official action shall disclose the facts concerning the manager's financial interests to the city council prior to taking any official action. If the city council determines the manager has a substantial financial interest in the action, the city council shall excuse the manager and assign another city employee to the matter.

2.05.180 Conflict with collective bargaining agreement.

In the event any section or provision in this chapter conflicts with an applicable collective bargaining agreement for a public employee, the collective bargaining agreement shall control with respect to that employee.

2.05.190 Employment prohibited.

No member of the council may be employed by the city in any capacity within a 12-month period immediately preceding or following the term of that individual unless the member is employed as a hired consultant or contractor and a waiver has been provided by the city council as described in BMC 4.20.240.

Comment [ls18]: This allows for individuals to work on contract for the city for specialty services. For example, a previous council member had to go through this waiver process when working on city equipment.

2.05.200 Political activity. The following limitations shall apply to political activity:

1. Departments, boards, and commissions, of municipal government shall not:

    a. Expend municipal funds for the support, opposition or endorsement of candidates for any elected government office.

    b. Expend municipal funds for paid advertisement which advocates or promotes a particular position, or solicits members of the public to advocate or promote a particular position, on legislation or other action pending before the council.

    c. Permit an administrative division of municipal government to endorse or oppose candidates for elected federal, state, municipal or other local office even if such endorsement does not include expenditure of funds. This prohibition applies to municipal employees while on duty and to the use of municipal property or facilities in a manner not made available to members of the public.

d. Authorize that money held by the municipality be used to influence the outcome of an election, except as permitted by state law under AS 15.13.145.

e. Actively campaign or prepare, publish, broadcast, or distribute by any means material of a partisan nature on any ballot measure, this including referendums, initiatives, bond issues or other special elections.

2. Subject to restrictions in AS 15.13.145 on the use and expenditure of municipal funds to influence the outcome of a ballot proposition or question, the City Manager may designate in advance, in writing, one or more executive employees to appear before the council, appointed public bodies of the municipality, community councils, civic organizations, and media representatives in support of or in opposition to any ballot measure coming before the voters in a municipal election. The designated executive employees shall be selected from among the employees with principal responsibility for carrying out policies and programs relevant to the ballot measure.

3. The limitation against dissemination of partisan materials on bond measures does not apply to municipal employees asked to assist an elected official in the preparation of ballot measures or to respond to inquiries from an elected official concerning any ballot measure.

4. A municipal employee shall not serve as a member of the Bethel City Council or school board or in elective office of the state, federal, or another local government. A municipal employee who is elected to one of these offices shall resign immediately from municipal employment.

5. For purposes of this section, public safety volunteers are not considered municipal employees (BMC 3.64.060).

2.05.210 Procedures for violation reporting.

A. Any person who believes that violation of any portion of this chapter has occurred may file a written complaint of potential violation with the city clerk's office.

B. All written complaints of potential violation submitted under this chapter shall be signed by the person submitting the complaint. A written complaint of potential violation shall state the address and telephone number of the person filing the complaint, identify the respondent, affirm to the best of the person's knowledge and belief the facts alleged in the complaint of potential violation signed by the person are true. The person filing the complaint of potential violation shall identify the section of this chapter the person believes was violated, state why the person signing the complain of potential violation believes the facts alleged constitutes a violation of that section and identify any documentary or testimonial evidence the person filing the complaint believes are in support of the notification of potential violation.

2.05.220 Conformity to law.

If any section or provision of this chapter is held to be contrary to law by a court of competent jurisdiction or by action of the Alaska State Legislature, that section or provision shall be deemed invalid. All other sections and provision of this chapter shall continue in full force and effect.

Chapter 2.06

Board of Ethics

Comment [ls19]: This is a new chapter which provides a mechanism for procedures when a complaint is filed.

2.06.010 Board of ethics established – general provisions.

A. There is hereby established a Board of Ethics.

B. The Board shall be comprised of all members of the city council. The mayor, or the vice-mayor in the mayor's absence, will serve as presiding officer of the Board. In the absence of both, the members of the Board shall elect a presiding officer from among its members.

C. The city attorney or other legal counsel for the Board may assist the Board at every stage of the proceedings, but shall have no vote.

D. A quorum of the Board shall be a majority of all members who are not excused for cause, such as being the complainant, the respondent, a witness, having a conflict of interest, or other for cause recusal. However, in no event may a quorum be less than three.

E. Decisions of the Board shall be adopted by a majority of the members who are qualified to act on the matter, where a quorum is present.

F. Unless the Board delegates such authority to another member or decides that no one shall have such authority, the presiding officer shall have authority to make procedural decisions between Board meetings on behalf of the Board. Examples of matters that may be decided by such delegate include scheduling hearings and other matters, establishing pre-hearing requirements and filing deadlines for motions, exhibits, witness lists, hearing briefs, and deciding other procedural matters.

G. The presiding officer shall vote on every question, unless required to abstain for cause, and shall not have power to veto any action of the Board.

2.06.020 Function and authority.

The Board of Ethics has authority to perform the following functions:

A. Investigate reported violations of Chapter 2.05.

B. Hear and decide written complaints of violations of Chapter 2.05.

C. Hear and decide on requests for exceptions as specified in Chapter 2.05.

D. Make findings and recommendations concerning sanctions, civil penalties and remedies for violations as provided in the code.

E. Adopt recommended policies and procedures governing the board's conduct of business.

F. Upon application of the complainant, respondent, or at the board's discretion, compel, by subpoena the appearance and sworn testimony at a specified time and place of a person the board reasonably believes may be able to provide information relating to a matter under investigation by the board or the production of documents, records or other items the board reasonably believes may relate to the matter under consideration.

G. Administer oaths and receive testimony from witnesses appearing before the board.

H. Request city agencies to cooperate with the board in the exercise of the board's jurisdiction.

I. Request the advising attorney to seek assistance of the district or superior court to enforce the board's subpoena.

J. Conduct investigative hearings in executive session, pursuant to notifications alleging violations of matters within the authority of the board.

2.06.030 Confidentiality; initial review.

A. Each written complaint of a violation of Chapter 2.05 received by the city manager or mayor shall be submitted to the clerk's office and be assigned an identification number, which shall be used in lieu of names when referring to the complaint to maintain confidentiality. The city manager, city attorney, city clerk and the board shall keep all written complaints of potential violation confidential during investigation and the board's deliberative process. Complaints of potential violation may be disclosed only to the staff members of the city clerk's office providing administrative support to the board, members of the board, and legal counsel. Upon receipt of a notification of potential violation, the board shall, at its next scheduled meeting or earlier, as determined by the board chair, review the complaint of potential violation in executive session and determine if further

action on the notification of potential violation is warranted.

B. If the board determines the facts alleged in the notification of potential violation, even if proven, do not constitute a violation, or that the board lacks jurisdiction to address the complaint of potential violation, the board shall return the complaint of potential violation to the complaining party or it may recommend to the person filing the complaint that it be amended and re-filed. Notifications of potential violation returned without further action shall remain confidential.

C. If the board determines the allegation in a complaint of potential violation, if proven, may constitute a violation of a matter within the board's jurisdiction, the board shall:

1. Request and receive assistance from legal counsel to assist the board in all further deliberative processes, investigations and reports.

2. Give the respondent a copy of the complaint of potential violation, along with a copy of the outline of the board's process under this chapter, including notice that the respondent may choose to hold the proceeding in public and may be represented by legal counsel of respondent's choosing and at respondent's own expense; and

3. Notify both the person submitting the complaint of potential violation and respondent of the date(s) on which each may be requested to meet with the board, present documentary or testimonial evidence, and assist the board in resolving the potential violation.

2.06.040 Disclosure of complaint of potential violation prohibited.

A. A complaint of potential violation of Chapter 2.05 is confidential until the board completes a written report for distribution as a public record.

1. No person, including the complainant, shall knowingly disclose to another person, or otherwise make public in violation of this chapter, the contents of a complaint of potential violation filed with the board, unless:

i. The respondent elects to proceed in public; or

ii. The written report of the board is electronically published by the city clerk.

2. Breach of confidentiality required by any provision of this chapter is a violation of this chapter subject to punishment.

3. Any person involved with a complaint of potential violation, including the filer of the complaint, shall keep the matter confidential. The confidentiality extends from the filing of the complaint and shall continue until the matter is concluded and made public. Maintaining confidentiality is essential to allowing for a neutral investigation into the matter. If the Board finds that any person has violated the confidentiality of a complaint of potential violation, the Board shall refer the matter for investigation. If a person is found to have breached confidentiality, they shall be subject to sanctions of $300 for a first offense, $500 for a second offense and $1,000 for each subsequent offense.

4. Public disclosure resulting from corrective action under this chapter is not a violation of this subsection.

2.06.050 Conduct of investigation and standard of proof.

A. The board's investigation shall be conducted in executive session, unless the respondent requests it be held in a public session. The respondent and the person who filed the complaint, and their counsel, if any, may be present in executive session while the investigation is being conducted.

1. The respondent and the person who filed the complaint of potential violation may identify other individuals and documents that each would like the board to interview and review.

2. If an individual with information bearing on the complaint of potential violation is unwilling to come forward with information, the respondent and the person who filed the complaint of potential violation may each request the board to subpoena the person and any documentary evidence.

3. Persons appearing before the board may be represented by counsel or other person serving in a representative capacity.

4. The board may question the respondent, the person who filed the complaint of potential violation, and other persons appearing before the board.

5. The board may solicit questions and testimony from the person filing the complaint of potential violation, the respondent and other persons appearing for the purpose of providing information to the board. The board may solicit questions from counsel present to represent persons appearing before the board, but all questions during the board's investigation shall be posed through and by a member of the board. Consistent with due process, the board may limit or prohibit questions suggested to the board by or on behalf of persons appearing before the board.

6. The standard of proof to be applied by the board in determining a violation under Chapter 2.05 is proof by a preponderance of the evidence.

7. Technical rules of evidence do not apply, but the findings of the board shall be based upon substantial evidence, which means reliable and relevant information presented to the board.

8. The board's findings shall be binding.

9. When the board's investigation is conducted in executive session, the public shall be excluded and the session shall be electronically recorded. The recording shall be available for access as a public record after publication by the city clerk of the proposed resolution and settlement under subsection 2.06.110.

2.06.060 Deliberations of the board.

A. Deliberations of the board shall be conducted in executive session.

B. The deliberations of the board shall not be recorded.

C. The respondent, the person filing the complaint, and their counsel shall be excluded from the deliberations. The Board's legal counsel may attend the deliberations.

D. The board shall reconvene in open session when deliberations are complete.

2.06.070 Board member disclosures.

When an investigation is convened in executive session to determine whether the respondent has violated Chapter 2.05, the Board members will be requested to disclose any conflict of interest, ex-parte communications, or other facts that may affect their qualification to hear the matter. After such a disclosure, the other members of the Board shall determine whether a member shall be excused for cause.

2.06.080 Duty of cooperation.

A city official or the city manager subject to a complaint of a violation shall work cooperatively with the City Clerk to establish a hearing date and shall appear at the place and time set for the hearing, regardless of the respondent's intentions concerning defense or exercise of other rights. Failure to appear, except when failure results from a serious condition or event that prevented the respondent's appearance, is a breach of respondent's duties under this chapter and in itself may result in a summary finding of violation by the Board and imposition of remedies, penalties and disciplinary action under section 2.06.110. Nothing in

this section shall prevent the rescheduling of a hearing for cause upon written request of the respondent or the complainant.

2.06.090 Decisions on the record.

Using the identification number of the complaint of potential violation, the board shall vote in open session on these questions:

1. Whether the board finds by a preponderance of the evidence one or more violations within the jurisdiction of the board; and

2. Whether the board recommends further administrative or remedial actions; and

3. What specific sanctions, corrective actions or referrals, if any, the board recommends.

4. If the board does not find a violation under Chapter 2.05, the board shall prepare a confidential statement of closure listing the complainant and respondent, the assigned identification number, the allegations, the hearing date, and the finding that no allegation was substantiated by the board in whole or in part, and the date of board closure. At the sole discretion of the respondent, the board may release the statement of closure as a public document.

2.06.100. Timely completion.

The board shall complete action on a complaint of potential violation and investigations within 90 days of the filing of the complaint of potential violation. By a majority vote, the board may extend the completion date for up to an additional 90 days, or longer for good cause shown.

2.06.110 Sanctions, civil penalties and remedies.

Upon conviction for any violation of Chapter 2.05 or after an investigation conducted by the Board under this chapter, the Board may impose (or recommend in the case of subsection 1.) as a sanction, penalty, or remedy any or all of the following, as appropriate to the seriousness of the violation:

1. A recommendation to the City Council that the office of a City Council member or the position of city manager be declared vacant for a serious violation that is (1) flagrant or (2) willful and knowing.

Comment [ls20]: Modify title 2 to accommodate this action

2. A member of a board or commission may be removed from the board or commission.

3. A public or private reprimand may be given to the official.

4. The official may be ordered to refrain from voting, deliberating, or participating in any matter in violation of Chapter 2.05.

5. The committee assignments of an official may be revoked.

6. An official's privilege to travel at city expense on city business may be revoked or restricted.

7. A contract, or transaction or appointment, which was the subject of an official act or action of the city that involved the violation of a provision of Chapter 2.05, may be voided or terminated.

8. The official must forfeit or make restitution of any financial benefit received as a consequence of a violation of Chapter 2.05.

9. A civil fine of not more than $1,000 per violation may be imposed.

2.06.120 Record of proceedings and public record.

Permanent records and minutes shall be kept of Board's proceedings. Such minutes shall record the vote of each member upon every question. Every decision or finding shall immediately be filed in the office of the City Clerk, and shall be a public record open to inspection by any person. Every finding and recommendation shall be directed to the City Council at the earliest possible date.

2.06.130 Settlement of complaints.

A. The respondent in any case accepted for investigation may propose a resolution and settlement of the complaint. A proposed resolution and settlement will include the admitted violation of Chapter 2.05; the remedial actions agreed to by the respondent subject to the city council's concurrence; any proposed preventive actions to be undertaken to avoid similar violation by respondent or others in the future; and other matters required by the board.

B. A proposed resolution and settlement is subject to approval by the Board and has no effect unless approved by the Board. The Board will give the complaining person the opportunity to review and comment on the proposed resolution and settlement prior to approving it. Until approved by the Board, a proposed resolution and settlement must be kept confidential.

C. The proposed resolution and settlement becomes public record upon final approval by the Board.

SECTION 3. Effective Date. This ordinance shall become effective immediately, upon passage by the City Council.

ENACTED THIS __ DAY OF ___ 2012, BY A VOTE OF _ IN FAVOR AND _ OPPOSED.

ATTEST:

_____
Joseph A. Klejka, Mayor

_____
Lori Strickler, City Clerk

Introduced by: City Manager
Date: March 12, 2013
Public Hearing:
Action:
Vote:

CITY OF BETHEL, ALASKA

ORDINANCE #13-05

AN ORDINANCE ADOPTING THE CITY OF BETHEL TERMINAL TARIFF #004, NAMING RATES RULES AND REGULATION FOR TERMINAL SERVICES AT THE PORT OF BETHEL ALASKA

BE IT ORDAINED that the City Council of Bethel, Alaska,

SECTION 1. Classification. This ordinance is not permanent in nature and shall not be placed in the Bethel Municipal Code.

SECTION 2. The attached City of Bethel Terminal Tariff #004, is hereby adopted. It shall be adhered to by all traffic without specific notice of arrangement.

SECTION 3. Effective Date. This ordinance becomes effective ten days after the passage by the City Council except for the Inbound Petroleum Products (thru put fee), shall become effective March 1, 2014.

PASSED AND APPROVED THIS _ DAY OF MARCH 2013, by a vote of__in favor and _ opposed.

ATTEST:

_____
Joseph A. Klejka, Mayor

_____
Lori Strickler, City Clerk

PORT OF BETHEL

TERMINAL TARIFF NAMING

RATES, RULES, AND REGULATIONS

for

TERMINAL SERVICES

At

THE PORT OF BETHEL, ALASKA

TERMINAL TARIFF #OO4

Introduced: March 2OO8
Revised and Adopted: February 10, 2009
Revised and Adopted: XXXX

NOTICE TO THE PUBLIC
This tariff is published and filed as required by law and is, therefore, notice to the public, shippers, consignees, and carriers, that the rates, rules and charges apply to all traffic without specific notice, quotation, or arrangement.

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NOTES:

EXPLANATION OF SYMBOLS AND ABBREVIATIONS

Cont.	Continued
Period -	12 hours or less
Ft. -	Foot
Cu. -	Cube
Gal. -	U.S. gallons
Lbs. -	Pounds
LOA -	Length Overall
MT-	Metric Ton
N.O.S. -	Not Otherwise Specified
PUA -	Preferential Use Agreement
LT-	Long Ton
ST-	Short Ton
Sq. -	Square
Wt. -	Weight
$-	U.S. Currency
Day -	Calendar Day

CONVERSION TABLES

1 Pound -	0.453592 Kilograms
1 Kilogram -	2.20462 Pounds
1 Short Ton -	2000 Pounds
1 Short Ton -	0.892857 Long Tons
1 Short Ton -	0.907185 Metric Tons
1 Long Ton-	2,240 Pounds
1 Long Ton -	1016.05 Metric Tons
1 Long Ton -	1.120 Short Tons
1 U.S. Gallon -	3.78543 Liters
1 Gallon Fresh Water -	8.34 Pounds
1 Short Ton Fresh Water -	239.808 Gallons
1 Foot -	0.304801 Meters
1 Meter -	3.28083 Feet

DEFINITIONS

The following definitions are used throughout the Terminal Tariff and are listed in the Bethel Municipal Code (BMC), Chapter 14.02, Section 14.02.020, for reference:

1. **Beam-** The greatest overall width of a vessel.
2. **Berth-** The space allotted to a vessel at anchor or at a wharf.
3. **Boat Owner-** The actual, or registered, owner, charterer, master, agent, or person in the navigational control, or person responsible for the operation of the boat.
4. **City-** The City of Bethel.
5. **Delinquent List-** 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.
6. **Derelict-** Any watercraft moored, or otherwise located, within the Port which is forsaken, abandoned, deserted, or whose owner fails to contact the Port Director within seven (7) days after written notice declaring the watercraft to be abandoned is attached to said watercraft.
7. **Dockage-** A charge made for vessels at wharves, or moored on, or to, City property.
8. **Floating Docks/Floats-** Docks/floats equipped with, or without, gangways that are secured to the seawall, or appurtenant to it, for the use of small vessels.
9. **Free Time-** The period during which cargo and or vessels may occupy space at the Port of Bethel free of charges as specified in Item 200 of the Port of Bethel Terminal Tariff.
10. **Handling-** The service accorded to cargo movement to, or from, a vessel.
11. **Harbormaster-** The individual charged with directly supervising and facilitating cargo, freight, fuel, and Small Boat Harbor operations; the Port Director's designee.
12. **LOA-** The overall length of a watercraft measured from the most forward point at the stem (bow) To the after most part of the stern of the watercraft, to include the motor.
13. **Haul-out-** When a vessel is pulled, skidded, lifted, or floated and left partially or completely upon any Port facility or Port property.
14. **Local Boats-** Watercraft operating out of the Port and whose owners, or operators, are residents of the City of Bethel.
15. **Moorage-** The act or an instance of mooring, the place a vessel may be moored, a charge for mooring.

DEFINITIONS (Continued)

16. **Mooring-** Any weight, chain, rope, float, structure, or any appliance used for anchoring purposes by a watercraft which is not carried aboard a watercraft as part of it.

17. **Motor Vehicles-** A vehicle that is self-propelled except a vehicle moved by human, or animal power.

18. **Person-** An individual, firm, association, organization, partnership, business trust, corporation, company, or any other business entity.

19. **Port Director-** The Director of the Port, or the Port Director's designee.

20. **Port Facilities-** All docks, floats, berths, wharfs, seawalls, and other landing, launching, mooring, cargo, or other facilities located within the Port of Bethel.

21. **Port of Bethel, or Port-** 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.

22. **Small Vessels-** Boats, or other crafts, less than thirty-two (32) feet length overall (LOA) including, but not limited to, motor boats, steam ships, float planes, canal boats, tugs, barges, sailing vessels, and every structure, or vehicle designed, or adapted, to be navigated either wholly, or partially, on water and used to transport people, or property.

23. **Seawall-** The bulkhead constructed of pipe piling, or other material, along the waterfront of the City of Bethel.

24. **Summer Season-** June 1st through October 31st

25. **Transit cargo or transit freight-** Cargo or freight onboard which upon arrival at the Port is not to be discharged at the Port.

26. **Though-rated cargo-** Inbound cargo at the Port of Bethel and transferred to a vessel other than the vessel upon which it arrived with a final destination other than the Port of Bethel.

27. **Transient Watercraft-** A watercraft whose home port is other that Bethel, or any watercraft that is not registered by an exclusive, or term, moorage agreement with the Bethel Small Boat Harbor.

28. **Vessel-** ~~Ships, or crafts, of all types in excess of thirty-two (32) feet length overall (LOA) including, but not limited to, motor ships, steam ships, canal boats, tugs, barges, sailing vessels, motor boats, and every structure adapted to be navigated from place to place for the transportation of property and persons by any means~~. (a)Every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water. The US Code, Title 1, Chapter 1, (b)any ship or craft, or any structure capable of navigation, International Convention on Salvage 1989. (c)Every description of water craft, including non-

DEFINITIONS (Continued)

Displacement craft and seaplane, used or capable of being used as a means of transportation on Water, International Collision Regulations 1972 - COLREGS

29. **Wharf-** includes every pier, bulkhead, dock, seawall, landing float, gridiron, 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.

30. **Wharfage Demurrage-** The charge made against any cargo and commodities left on or attached to City premises beyond the time specified in item 202 of the Port of Bethel Terminal Tariff.

31. **Winter Season-** November 1st through May 31st

32. **Terminal Charges-** The charges included in the current Port of Bethel Terminal Tariff as filed with the Federal Maritime Commission. Terminal charges include only charges for facilities, goods, or services provided by the City of Bethel. **See Vessel**

33. **Watercraft or Boats-** Any vessel, or small vessel, including, but not limited to houseboats, float planes, waterborne aircraft, floats, scows, rafts, pile drivers, or any other floating structure adapted to be navigated from place to place, used for recreational, commercial, or other purpose upon the waterways within the Port, or moored at any place within the Port.

34. **Small Boat Harbor, or Harbor-** That area so designated as the Bethel Small Boat Harbor.

35. **Loading Area-** That area designated by the Port Director for the purpose of loading and unloading small items into a boat for non-commercial purposes and is not subject to wharfage charges.

36. **Launching Area-** That area designated by the Port Director for the purpose of launching and retrieving boats.

37. **Parking Area-** That area designated and posted by the Port Director for the purpose of parking motor vehicles and boat trailers

38. **Tariff Charges-** These 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 the Port. Tariff charges shall also include any amounts a person owes the Port under the Bethel Municipal code (BMC), Sections 14.02.070 and 14.02.085 or 14.08.030 (G). Bethel City Ordinances 01-18-2 and 209-05, 1992, are applicable

SECTION 1

GENERAL RULES AND REGULATIONS **ITEM NO.**

APPLICATION OF TARIFF 100

The rates, charges and tariffs set forth in this document are addressed in the Bethel Municipal Code, Chapter 14, Section 14.02.050.

(a) GENERAL APPLICATION OF TARIFF:
Vessel charges and assessments provided in this tariff are applicable to all vessels, self- propelled, or other than self-propelled, when such vessels are provided with dockage services, or other vessel services named in this tariff. Rates, charges, rules and regulations provided herein apply to any and all merchandise received at, or shipped from, the facilities, or properties, operated under the jurisdiction and control of the Port of Bethel, and specifically to the City Dock, Petroleum Dock, Seawall, appurtenant structures thereto, and waterways under the management of the Port Director. Information and applications for services are maintained at the Port of Bethel office.

(b) SUBJECT TO CHANGE:
The rates named in this tariff, revisions, or supplements thereto, are based upon ordinary traffic and labor conditions. If and when these conditions change because of demand of labor for increased wages, strikes, congestion, or other causes not reasonably within the control of the Port of Bethel, resulting in an increased cost of service, the rates are subject to change without notice, or the charge for services may be assessed on the basis prescribed in this Tariff.

(c) TARIFF EFFECTIVE:
The rates, charges, rules and regulations named in this tariff, additions, revisions, or supplements thereto will apply on all freight and/or cargo received at facilities subject to this tariff on and after revisions, or supplements thereto. Unless otherwise specified, all transit freight/cargo received at and undelivered prior to effective dates of tariff, revisions, or supplements thereto, will be charged the rates in effect on the date such freight/cargo was received, until entire lot, or shipment, has been withdrawn.

(d) ACCEPTANCE OF TARIFF:
Use of Port of Bethel facilities will be deemed as an acceptance of this tariff, revisions, or supplements, and the terms and conditions named therein.

SECTION 1

GENERAL RULES AND REGULATIONS **ITEM NO.**

APPLICATION OF TARIFF (Continued) 100

(e) RESERVATIONS OF AGREEMENT RIGHTS:
Right is reserved by the Port of Bethel to enter into agreement with carriers, shippers, consignees and/or their agents concerning rates and services, providing such agreements are consistent with existing local, state and national law governing the civil and business relations of all parties concerned.

THIRD PARTY ACCESS INCLUDING STEVEDORES AND LONGSHOREMEN 101

(a) DEFINITION:
All labor must be contracted through shipping agents, stevedoring agencies, or vessel agents, owners/operators. This item provides information regarding access, responsibilities, and requirements related to third party employers and employees. Third party access applies to stevedores, longshoremen, independent contractors, and other non-Port employees with business at the Port. Third party contractors performing stevedoring operations shall be permitted through the Port of Bethel. Refer to fees and charges listed elsewhere in this document.

(b) CARE IN THE PERFORMANCE OF OPERATIONS:
Third party employees shall exercise care in the performance of their operations in order to prevent injury to, or death of, any person and damage to, or destruction, or loss of property, whether of the Port, of the third party, of the vessel being loaded/unloaded, or of another party (Bethel Municipal Code, Sections 14.02.070 and 14.02.080).

When cargo/freight is in an elevated position, such as suspended from a crane hook, a safety line should be attached to the load and handled by a Safety Watch person to prevent spillage, or unplanned descent, which has the capability to produce injury, or death. In all cases, the Safety Watch should ensure that individuals are prevented from walking under a raised load and remain clear of cargo/freight operations.

Safety helmets (hard hats) and safety vests are required when working cargo and freight on, or at, Port of Bethel facilities. The use of steel-toed shoes/boots is strongly recommended.

SECTION 1

GENERAL RULES AND REGULATIONS **ITEM NO.**

THIRD PARTY ACCESS INCLUDING STEVEDORES AND LONGSHOREMEN (Continued) **101**

A person who is involved in an incident within the Port, or any Port facility 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. (Bethel Municipal Code, Section 14.02.080; Ordinance 209.5, 1992)

(c) COMPLIANCE FIRE AND SAFETY PRECAUTIONS:

Any third party operating at the Port of Bethel shall take all necessary safety and fire precautions, and comply with recognized commercial and marine safety practices, procedures, and regulations. Any welding/open flame "hot work" must be approved by the Port Director, or Harbormaster, and the City of Bethel Fire Department. When "hot work" is being conducted, a Fire Watch will be assigned for the entire duration of the work being performed. The Fire Watch shall not be assigned other duties while performing this vital safety function and shall, at all times while "hot work" is ongoing, be not more than 20 feet from the work area.

All vehicles using Port of Bethel facilities must have an ABC Dry Chemical Fire Extinguisher in the vehicle, or the vehicle will be denied access (United States Coast Guard Safety Inspection Number 2960940 dated June 13, 2007).

(d) THIRD PARTY AND PORT INDEPENDENT CONTRACTORS:

The term "Third Party Employers," refers to employers of stevedores, vessel employees, longshoremen, independent contractors, and all other non-City employees.

In any service relationship the Port of Bethel and any third party shall be independent contractors, each to the other, and shall not be agents, or employees, one for the other, for any purpose.

SECTION 1

GENERAL RULES AND REGULATIONS **ITEM NO.**

THIRD PARTY ACCESS INCLUDING STEVEDORES AND LONGSHOREMEN (Continued) 101

(e) EFFICIENT AND EXPEDITIOUS VESSEL WORK:
In order to ensure efficient and expeditious loading and discharge of vessels, and the maximum utilization of the full capacity of the Port of Bethel, third party employers will:

(1) Make use of the appropriate facilities and equipment furnished by the Port of Bethel.

(2) have at least one (1) qualified supervisor present at the loading/unloading site at all times while cargo/freight operations are in progress.

(3) Have at least one (1) responsible officer, or representative available for contact by the Port of Bethel at all times, with full power and authority to make all operational decisions, including granting permission to customers to claim and/or pick up cargo, freight, or equipment. At a minimum, the third party will keep the Port of Bethel fully informed at all times as to how and where such officer, or representative, can be contacted by the Port.

(4) Cooperate fully with the Port of Bethel in all respects by advising as far in advance as possible the type of vessel, Master's estimate of the quantity of cargo to be loaded, or discharged, estimated time required to load, or discharge, and any special problems that may exist or arise; determining the equipment needed for the operation, and coordinating sequence and timing of operations for the convenience and efficiency of Port operations.

(5) Promptly restore terminal and/or dock working areas to a clean, safe and orderly condition on completion of third party operations.

LIMITS OF LIABILITY 102

No provision contained in this tariff shall limit or relieve the City of Bethel and Port of Bethel from liability for its own negligence nor require any person, vessel or lessee to indemnify or hold harmless the City of Bethel and Port of Bethel from liability for its own negligence.

SECTION 1

GENERAL RULES AND REGULATIONS **ITEM NO.**

APPLICATION OF RATES 103

(a) Unless otherwise provided, rates are given in dollars per short ton, lineal feet, cubic feet, square feet, or U.S. gallon, whichever creates the greater revenue.

(b) Users of Port facilities are required to furnish copies of invoices and a separate manifest for both inbound and outbound cargo and/or freight. Invoices and manifests shall be on company letterhead and will contain the name of the consignee, accurate weight, a personal contact, and a voyage number. Additional pages, if required, must clearly indicate company name and voyage number to avoid confusion.

(c) Specific commodity rates will take precedence over any general or specified rates.

(d) All current rates and fees schedules will be available at the Port of Bethel office.

INSURANCE 104

Rates named in this tariff do not include insurance of any kind.

RESPONSIBILITY FOR COLLECTION AND TERMS OF PAYMENT 105

(a) RESPONSIBILITY FOR CHARGES:

Vessels, their owners, agents, masters, and shippers, or consignees, of goods docking at, or using, the facilities covered by this tariff, agree to be responsible, jointly and severally, for the payments of charges assessed in accordance with this tariff. Rates, rules and regulations of this tariff and liability for charges apply without regard to the provision of any bills of lading, charter party agreement, third party agreement, contract, or any other conflicting documents (Bethel Municipal Code, Section 14.02.055).

SECTION 1

GENERAL RULES AND REGULATIONS **ITEM NO.**

RESPONSIBILITY FOR COLLECTION AND TERMS OF PAYMENT (Continued) **105**

Any charges accruing to the use of Port of Bethel facilities and/or services that are not contested within twenty (20) calendar days from the date of the invoice will become fully due and payable. Any contested charges submitted after twenty (20) calendar days will be considered invalid and will not be considered.

(b) TERMS AND CONDITIONS OF PAYMENT:
Use of Port of Bethel facilities; or services, is conditioned upon satisfactory assurance of the Port that applicable charges will be paid when due. All charges are due and payable, in U.S. currency, as they accrue, or upon completion of service, or use.

The Port of Bethel may require payment of charges in advance, as follows:

(1) By the vessel, its owners, or agents before vessel is assigned a berth and commences loading, or unloading, operations.

(2) By the cargo owner, shipper, or consignee before cargo leaves the custody and control of the Port of Bethel.

(3) For all charges on perishable cargo, or cargo of doubtful value, and household Goods.

(4) Payment terms are cash unless the Port of Bethel customer, prior to the use of Port facilities and/or services, has established credit worthiness, or has posted adequate security acceptable to the Port of Bethel and has thereby been relieved of cash payment requirements by the Port.

(c) COMPLIANCE WITH TERMINAL USE PERMIT CONDITIONS:
Use of Port facilities and services shall comply with the conditions of the Terminal Tariff as published by the Port of Bethel (Refer to Page 38, item 207)

SECTION 1

GENERAL RULES AND REGULATIONS **ITEM NO.**

DELINQUENT ACCOUNTS 106

(a) TIME OF DELINQUENCY:
All invoices will lie declared delinquent 31days after the date of the invoice, and as such, will be charged a monthly finance charge of 3.00% (36% per annum), or portion thereof, for that the particular invoice. Any and all extra expense, including legal fees, litigation costs, or costs of agents employed to affect collection shall also be assessed to, and payable by such accounts (Bethel Municipal Code, Section 14.02.085).

(b) DELINQUENT LIST:
The Port of Bethel will maintain a current listing of all vessels, their owners and/or agents whose invoices are delinquent. Those individuals, or entities, on the delinquent list will not be allowed to use any Port of Bethel facilities, or services, until their past due account is settled in full.

LIABILITY FOR LOSS, DAMAGES, OR INJURY 107

(a) LIMITS OF RESPONSIBILITY:
No persons other than employees, or agents, of the holder of an authorized Stevedoring Permit shall be permitted to perform any services on any premises, or at any facilities, of the Port of Bethel, except upon written authorization of the Port Director, or the Harbormaster.

The Port of Bethel will not be responsible for any loss, damage, injury, or death, including, but not limited to, loss, damage, injury, or death, caused by earthquakes, fire, frost, heating, dampness, leakage, the elements, evaporation, natural shrinkage, wastage, or decay, animals, rats*, mice, or other rodents, moths, weevils, or other insects, leakage, or discharge from sprinkler fire systems, collapse of building, or equipment, or by floats, logs, or pilings required in breasting vessels away from the Dock, or seawall, nor will it be liable for any loss, damage, injury, or death, or delay arising from insufficient notification, or from war, insurrection, shortage of labor, combinations, riots, or strikes of any person in its employ, or in service of others, or from any consequences arising here from, except, the Port of Bethel shall not be relieved from liability for its own negligence. (Bethel Municipal Code, Section 14.02.090).

SECTION 1

GENERAL RULES AND REGULATIONS **ITEM NO.**

LIABILITY FOR LOSS, DAMAGES, OR INJURY (Continued) **107**

(b) CONTROL PROCEDURES:

*The Alaska Board of Game has issued stricter rat and rodent control procedures in 2007, making it a misdemeanor for vessels with rats and rodents on board to enter into, or use, Alaskan waters. These more stringent steps were initiated due to an increase in rodent populations in various Alaskan ports, and the ability of rats and rodents to survive as far north as Nome (Alaska Administrative Code, Chapter 5, and Section 5AAC92.141).

(c) SERVICES ON PORT OF BETHEL PREMISES:

Except for the portion resulting from the negligence of the Port of Bethel, if any, owners, shippers, consignees, and carriers shall indemnify, defend, save and hold the City of Bethel, Port of Bethel, harmless from and against all charges, losses, damages, liabilities, expenses, causes of action, suits, claims, demands, or judgments of any nature whatsoever that may be incurred, or rise from, or grow out of, use of Port of Bethel facilities.

(d) PROVISIONS:

The provisions of this item are applicable to all persons, corporations, associations and the like who in any manner come upon, or use, the terminal facilities, except to agents, or employees of the Port. All such persons, corporations, associations and the like shall be strictly liable and responsible for damage to property or for damage or injury to, or for death of, any person, or persons, which may be occasioned by any acts, or omission of such persons, or the acts, or omissions of their agents, or employees. All such persons who come upon, or use, the terminal facilities shall be deemed to have irrevocably agreed to indemnify the Port of Bethel for any such loss, or damage to persons, or all such liability, together will all costs and expenses incurred by the Port in investigating, or defending, claims therefore, including, but not limited to, court costs, expert's fees and attorney fees.

SECTION 1

GENERAL RULES AND REGULATIONS **ITEM NO.**

RIGHTS OF THE PORT 108

(a) RIGHTS RESERVED:
The Port of Bethel reserves the right to furnish equipment, supplies, and materials, and to perform all services in connection with the operation of its facilities, under rates and conditions named herein.

(b) RIGHT TO APPROVE:
The Port of Bethel reserves the right to approve, if it so deems necessary, the vessel agent's, or owner/operators, use of their own equipment, supplies and materials and performing all services in connection with the operation of the loading and unloading of cargo and gear. When, during the course of cargo/freight/logging operations, and in the opinion of the Port Director and/or Harbormaster, a condition, or issue, concerning safety, or damage to any Port of Bethel facility, manifests itself, the operation in question shall be halted until the situation is corrected.

(c) RIGHT TO REFUSE FREIGHT
The Port of Bethel reserves the right, without responsibility for demurrage, loss, or damage attaching, to refuse to accept, receive, or unload, or to permit vessels to discharge freight:

(1) For which previous arrangements for space, receiving, unloading, or handling have not been made by shipper, consignee, or carrier.

(2) Deemed extra offensive, perishable, or hazardous.

(3) The value of which may be determined as less than the probable Port charges.

(4) Not packed in packages, or containers, suitable for standing the ordinary handling incident to its transportation. Such freight, however, may be repacked, or reconditioned, at the discretion of the Port of Bethel, and all expense, loss, or damage incident thereto, will be the responsibility of the shipper, consignee, owner, or carrier.

(5) Applicable portions from the Code of Federal Regulations (CFR) 49, Parts 100-185 Pertain.

(d) RIGHT TO REMOVE, TRANSFER, OR WAREHOUSE FREIGHT:
Hazardous, or offensive, freight, or freight which, by its nature, is liable to damage other freight, is subject to immediate removal, either from Port of Bethel facilities, or to other locations within said premises, with all expense and risk of loss, or damage, becoming the responsibility of the owner, shipper, or consignee.

SECTION 1

GENERAL RULES AND REGULATIONS **ITEM NO.**

RIGHTS OF THE PORT (Continued) 108

Freight remaining at Port of Bethel facilities after expiration of free time (15 calendar days are allowed for local cargo/freight, and 30 calendar days are allowed for through-rated cargo/ freight), and freight remaining after the clearance of a vessel, may be piled, or re-piled, to make space, transferred to other locations, or receptacles, on/at Port of Bethel premises, or removed to public, or private warehouses, with all expense and risk of loss, or damage, becoming the responsibility of the owner, shipper, consignee, or carrier.

(e) EXPLOSIVES:
The acceptance, handling, or storage of explosives, or excessively flammable material will be subject to special arrangements with the Port of Bethel and governed by rules and regulations of federal, state and local authorities. A separate hazardous material (HAZMAT) manifest must be provided in writing to the Port of Bethel before any operations involving these types of materials commence (CFR-49, Parts 100-185, apply). Special arrangements with the Port of Bethel may include handling fees.

(f) OWNER'S RISK:
Glass, liquids, and fragile articles will be accepted only at owner's risk for breakage, leakage, or chafing. Freight on open ground, or on open wharf, is at owner's risk for loss, or damage.

Owners and operators of any waterborne craft, and any equipment on the aforementioned craft, or on Port of Bethel land areas, will be held liable for any damage to Port of Bethel facilities caused by their alongside vessels and/or equipment, and will have thirty (30) calendar days in which to restore, repair, or pay for said damages.

SHIPPER REQUESTS AND COMPLAINTS 109

Shipper requests and complaints may be made by any shipper by filing a written statement with the Port Director, City of Bethel, Post Office Box 1388, Bethel, Alaska 99559.

SECTION 1

GENERAL RULES AND REGULATIONS **ITEM NO.**

DEMURRAGE OR DELAYS 110

In furnishing services related to loading and unloading vessels, no responsibility for any demurrage whatsoever will be assumed by the Port.

Delays in loading, unloading, receiving, delivering, or handling freight, arising from combinations, riots, or strikes of any person in the employ of the Port of Bethel, or in the services of others, or arising from any other cause not reasonably within control of the Port of Bethel, will not entitle the owners, shippers, consignees, or carriers of the freight to a waiver of wharf demurrage, or any other terminal charges, or expenses, that may be incurred.

The Port of Bethel does not accept liability for losses to vessel owners/operators, third party contractors, and others that are caused by adverse weather.

MANIFESTS REQUIRED OF VESSELS 111

Masters, owners, agents, or operators, of vessels are required to furnish the Port of Bethel with complete copies of vessel manifests showing the port of discharge and the weights and measurements of all freight loaded, or discharged at the facilities of the Port of Bethel. Manifests shall, at a minimum, include Equipment Number, Consignee, Shipper, Quantity, Weight of Commodity, and Remarks. Manifests must be submitted to the Port of Bethel 24 hours in advance, ~~at a minimum,~~ for arrivals ~~and departures~~. The Port Director must receive manifests and bills of lading prior to the arrival of inbound vessels. Outbound manifests and bills of lading listing cargo loaded across the port will be furnished to the Port Director concurrent with the departure of outbound vessels. Failure to submit a manifest as required herein may result in a fine of two hundred fifty dollars ($250.00) and a denial of Port use privileges. If the Port of Bethel or the City is required to provide personnel for the purpose of checking freight on or off any vessel at any Port facility, the master, owner, agent, or operator of said vessel shall be charged the hourly man-hour labor rate for Port personnel established under Section 2, Item 205 of this Tariff.

SECTION 2

DESCRIPTIONS AND SCHEDULE OF CHARGES **ITEM NO.**

GENERAL DESCRIPTIONS 200

(a) BERTHING:

The Port of Bethel must be notified 24-hours in advance of any intent to dock/undock vessels at any of its facilities. Vessels intending to berth/moor, or depart, Port of Bethel facilities shall use sufficient tugs to dock/undock the vessel/barge in a safe manner. Safe working speed will be maintained given prevalent conditions. Line Handlers shall be used. In all cases, prudent seamanship and current Rules of the Road apply.

(b) FREE TIME FOR CARGO AND MOORAGE:

(1) Cargo - The initial period during which cargo may occupy space assigned to it on Port of Bethel property, free of wharf demurrage, or terminal storage charges, immediately prior to the loading, or subsequent to the discharge, of such cargo on, or off, the vessel.

Cargo/freight, or equipment, in working areas, or that otherwise interferes with activities at the Port of Bethel, may be moved by Port personnel. In such cases, labor and equipment charges may be assessed.

Free time of fifteen (15) days is allowed for local cargo and thirty (30) days is allowed for through-rated cargo.

(2) Moorage Free Time - Durations of one (1) hour, or less, during which a vessel may occupy space assigned to it at a Port of Bethel facility free of moorage charges. Example of moorage free time would be a short stop for a medical emergency, or to pick up/drop off personnel.

(c) LOAD LIMITS:

Cargo shall be stacked, or piled on, or at, Bethel Port facilities so as to produce a uniform loading for the areas covered. Containers shall not be stacked higher than four (4) high, and flats shall not be stacked higher than ten (10) high. No containers, or flats, shall be closer than six (6) feet to the perimeter of the City Dock.

(d) NORMAL WORKING HOURS:

Normal working hours for Bethel Port personnel are generally 0700 to 1900 (7:00 a.m. To 7:00 p.m.)Hours, seven (7) days per week from ~~May~~ June 1 through October 31 (summer season), and 0800 to 1700 (8:00a.m. to 5:00p.m.), five (5) days per week from November 1- through May 31st (winter season). Holidays are routinely worked, as necessary, or required, throughout the summer season to facilitate terminal operations, during the winter season the following holidays are observed by Bethel Port Personnel: Veteran's Day, Thanksgiving Day, day after

SECTION 2

DESCRIPTIONS AND SCHEDULE OF CHARGES **ITEM NO.**

GENERAL DESCRIPTIONS (Continued) **200**

Thanksgiving, Chief Eddie Hoffman Day, Christmas Eve, Christmas Day, New Year's Day, President's Day, and every day designated by public proclamation by the President of the United States, or the Governor of the State of Alaska, as a legal holiday. Hours will be posted at the Port Office.

(e) CALL OUTS:
Call outs of Bethel Port personnel per person, before, or after, established working hours, shall be $200.00 per hour with a minimum two (2) hour charge. Taxes are in addition to the callout cost. Pre-arranged after hours access will be $100.00 per person per hour with a minimum two (2) hour charge.

(f) RESERVATIONS:
Reservations shall be made by facsimile, telephone, email, HF 4125, the Automated Information System (AIS) when available, or marine VHF, channels 10, or 16. Mainline carriers need to provide at least 24 hours advance notice of arrivals and departures. Local carriers need to provide a minimum of eight (8) hours advance notice of arrival and departures. Failure to notify the Port of Bethel of arrivals, departures, and cancellation of a confirmed schedule, or reservation, less than 24 hours in advance may result in a charge of $250.00. Taxes will be assessed over and above this cancellation charge.

(g) RESPONSIBILITY FOR HOUSEKEEPING:
Users of Port of Bethel facilities/property will be required to maintain it in an orderly manner as prescribed by the Port Director, or Harbormaster. If a user does not properly clean up the space(s) used, the Port Director, or Harbormaster, shall order the work performed and the user will be billed at cost plus a thirty (30%) percent overhead charge.

Housekeeping of flammable cargo requires special provisions. Users, shippers, consignee, and persons in charge of ships will be held responsible for the following:

(1) Providing steam, or other heating means, to assure proper flow of petroleum products requiring such heat.

(2) Removal of temporary lines upon completion of receipt, or discharge of flammable liquids.

(3) Preventing, or containing, any and all spillage, or leakage, associated with the receipt, or discharge, of their cargo(s). Spillage and/or leakage of petroleum products, or flammables must be cleaned up immediately.

SECTION 2

DESCRIPTIONS AND SCHEDULE OF CHARGES **ITEM NO.**

GENERAL DESCRIPTIONS (Continued) 200

(4) Cleaning all petroleum products from lines located on, or adjacent to, the Terminal after vessel completes loading, or discharge.

(h) POINT OF REST:
Point of Rest is defined as that area on, or at, a Port of Bethel facility that is assigned for The receipt of inbound cargo from a vessel and from which inbound cargo may be delivered to the consignee, and that area which is assigned for the receipt of outbound cargo from shippers for vessel loading.

DOCKAGE - GENERAL INFORMATION 201

(a) DEFINITION:
Dockage is the charge assessed against a vessel for berthing at a wharf, piling structure, pier, bulkhead structure, or bank of land, or for mooring a vessel so berthed.

(b) CALCULATION:
The period of time upon which dockage will be assessed shall commence when the vessel is made fast to a wharf, or when a vessel is made fast to a vessel so berthed, or when a vessel comes within, or moors within, a slip, and shall continue until such vessel is completely free from and has vacated such berth, or slip. In calculating dockage, billing rates are expressed in 24-hour periods, with a minimum of 12-hour per charged footage. For billing purposes, partial periods will be rounded up to the next half period.

(c) VESSELS REQUIRED TO VACATE BERTH:
The Port of Bethel reserves the right to order a vessel to shift its position at a wharf, to change berths, or to vacate a berth, when not actually engaged in loading, or discharging, freight/ cargo, or when occupying a berth beyond the time scheduled by the Port Director, or Harbormaster. Any vessel upon notice to move which refuses, or fails, to move, may be shifted, or moved by tug, or otherwise, and any expenses, damage to vessels, or berth during such removal will be charged to the vessel so moved.

(d) CHARGES ON VESSEL SHIFTING:
When a vessel is shifted directly from one berth to another berth operated by the Port of Bethel, the total time at such berths will be considered together in computing the dockage charge.

DOCKAGE - GENERAL INFORMATION (Continued) 201

(e) DOCK ASSIGNMENTS:
The Port Director, or Harbormaster, have sole authority to determine how a vessel must use the Port of Bethel (e.g. the exact location for berthing), to reserve the vessel's arrival and departure time, and to maintain a written schedule of such reservations prepared from the Vessel Docking Request forms.

(f) RESOURCE ALLOCATION RULES:
Vessels berthed, but not taking on, or discharging, freight/cargo, may be required to shift berths, or move elsewhere, so the Port of Bethel can accommodate vessels with freight/cargo to load, or discharge. In any event, the Bethel Port Director and/or Bethel Harbormaster have full authority to reset berthing and Port of Bethel use priorities.

(g) GOVERNMENT VESSELS:
Government vessels may use the Port of Bethel. Only vessels belonging to Alaska Marine Highway System are exempt from all charges at Port of Bethel facilities. Government vessels such as those registered with the U.S. Navy, National Oceanic and Atmospheric Administration, U.S. Fish and Wildlife Service, and Alaska Department of Game, may use Port of Bethel Facilities on a space available basis if they call infrequently (no more than twice in any one calendar year) and for short periods of time (24 hours, or less). In such instances they are exempt from dockage charges only, but must pay for all other services when rendered. All government ships must vacate facilities belonging to the Port of Bethel when requested to do so. Government agencies that have User Agreements on file with the City and Port of Bethel will pay for dockage and other services as outlined in individual agreements, for the duration of those agreements.

SECTION 2

DESCRIPTIONS AND SCHEDULE OF CHARGES **ITEM NO.**

DOCKAGE – FEES AND CHARGES 201

(h) DOCKAGE RATES/CARGO TRANSFER:

Dockage rates/cargo transfers, expressed in $ (U.S. dollars) per 24-hour period, with a minimum 12-hour per charged footage, will be assessed as follows (except as otherwise provided):

Overall Length of Vessel (Ft.)		**Charge Per 24-Hour Day**		
Over	*But Not Over*	*2013*	*2014*	*2015*
0	100	153.00	157.59	162.32
101	125	181.00	186.43	192.02
126	150	209.00	215.27	221.73
151	175	264.00	271.92	280.08
176	200	295.00	303.85	312.97
201	225	328.00	337.84	347.98
226	250	359.00	369.77	380.86
251	275	391.00	402.73	414.81
276	300	423.00	435.69	448.76
301	325	455.00	468.65	482.71
326	350	490.00	504.70	519.84
351	375	575.00	592.25	610.02
376	400	610.00	628.30	647.15
401	425	646.00	665.38	685.34
426	450	682.00	702.46	723.53
451	475	715.00	736.45	758.54
476	500	753.00	775.59	798.86
501	525	790.00	813.70	838.11
526	550	828.00	852.84	878.43
551	575	865.00	890.95	917.68
576	600	903.00	930.09	957.99
601	625	978.00	1,007.34	1,037.56
626	650	1,165.00	1,199.95	1,235.95
651	675	1,353.00	1,393.59	1,435.40
676	700	1,540.00	1,586.20	1,633.79
701	725	1,728.00	1,779.84	1,833.23
726	750	1,915.00	1,972.45	2,031.62
751	775	2,103.00	2,166.09	2,231.07
776	800	2,290.00	2,358.70	2,429.46
801	Up	$2,300.00 plus $5.00 for each foot LOA in excess of 800 feet		

SECTION 2

DESCRIPTIONS AND SCHEDULE OF CHARGES **ITEM NO.**

DOCKAGE – FEES AND CHARGES 201

(i) HAUL-OUTS:
When a vessel is hauled out of the water and placed partially or completely upon any Port facility, including but not limited to the City Dock and Beach #1 during June 1 and October 15 of each year, the vessel will be charged a daily dockage rate for the length of the vessel.

(j) SEAWALL MOORING:
A vessel assigned a Seawall mooring permit will be charged a one time fee of twenty – six US dollars ($26.00) per lineal foot at the rate for the summer season. Rates for the summer season (June 1 through October 31) will be assessed as follows: Vessels moored alongside the Seawall, or the east side of the City Dock within Brown's Slough, will be charged $26.00 per lineal foot of designated wall space. Moored vessels will not extend out from the Seawall more than 100 feet maximum. Outboard vessels shall not be longer than the inboard vessel to which they are moored. Moorage of more than two (2) vessels wide is not allowed. Vessels will not be allowed to moor outboard of each other in Brown's Slough. The daily dockage rate will apply for any vessel in excess of 100 ft or two vessels wide. Rates listed above in the LOA Table do not include taxes.

Vessels that are moored outboard of the first vessel and have a load will be charged a daily dockage rate and the rate for a seawall mooring permit shall not apply. Daily dockage rates will be applied to vessels not in their designated berth as stated in there Seawall mooring permit.

Vessels moored in Brown's Slough during the winter season (November 1 to May 31) will be charged ten cents per square foot per month. All winter storage must be prearranged with the Port Director/City Manager for all Port facilities.
Vessels will not be allowed to moor outboard of each other in Brown's Slough at any time.

SECTION 2

DESCRIPTIONS AND SCHEDULE OF CHARGES **ITEM NO.**

STORAGE – GENERAL INFORMATION 202

(a) DEFINITION:

Terminal Storage is the service of providing warehousing, or other terminal facilities, for the storing of inbound, or outbound, freight/cargo, or gear/equipment, after the expiration of free time. This includes closed or covered storage, open or ground storage, bonded storage when available, and refrigerated storage when available after storage arrangements have been made.

(b) CONDITIONS GOVERNING ACCEPTANCE OF CARGO FOR MONTHLY STORAGE:

When space is available and arrangements are entered into prior to arrival of freight/cargo at the Terminal, monthly storage may be permitted on in-transit freight/cargo interchanged with, or between, cargos carriers at rates set forth herein.

(c) CALCULATIONS:

Equipment/Freight/cargo received for storage will be billed on a semi-monthly (twice per month) rate during the summer season (June 1 through October 31), and on a monthly (once monthly) rate during the winter season (November 1 through May 31). If storage for winter season (November 1 to May 31) is paid in full at the start of the winter season the customer will receive a five percent discount. If equipment/freight/cargo is pre-paid there will be no refunds if removed before May 31 (end of winter season).

SECTION 2

DESCRIPTIONS AND SCHEDULE OF CHARGES **ITEM NO.**

STORAGE – GENERAL INFORMATION (Continued) **202**

(d) CONDITIONS GOVERNING ACCEPTANCE OF CARGO FOR DAILY STORAGE:
When space is available and arrangements are entered into prior to arrival of freight/cargo at the Terminal, storage may be permitted on in-transit freight/cargo interchanged with, or between, cargo carriers at rates listed below.

STORAGE – FEES AND CHARGES **202**

(e) MINIMUM CHARGES:

(1) Minimum charges for storage, open areas: $0.30 per square foot, monthly, or semi- monthly, depending on the season.

(2) Minimum charges for storage, closed areas: $0.30 per square foot, monthly, or semi-monthly, depending on the season.

(3) Minimum charges for hazardous materials (HAZMAT): $0.50 per square foot, monthly, or semi-monthly, depending on the season.

(4) All charges listed in 1-3 above are "before taxes."

(f) STORAGE RATES - OPEN AREAS:

Commodity	Monthly Charge (Nov 1-May 31)	Semi-Monthly Charge (Jun 1-Oct 31)
*Equipment	$0.30 per sq. ft.	$0.30 per sq. ft.
All Other Freight/Cargo	$0.30 per sq. ft.	$0.30 per sq. ft.
Gravel, sand, Rock	$0.30 per sq. ft.	$0.30 per sq. ft.
(All Types and Sizes - No free Time for Gravel, Sand, and Rock)		
**Hazardous Materials	$0.50 per sq. ft.	$0.50 per sq. ft.

Logs any size $0.30 per sq. ft. per week, no free time

SECTION 2

DESCRIPTIONS AND SCHEDULE OF CHARGES **ITEM NO.**

STORAGE – FEES AND CHARGES (Continued) 202

*Equipment includes all types of rolling stock, flats with and without freight/cargo, chassis', empty and loaded containers, boats including tugs, small craft with or without trailers, private/ personal-owned vehicles awaiting pickup or outbound transit, barges, and cranes.

(g)(STORAGE RATES - HAZARDOUS MATERIALS (HAZMAT)
** The maximum storage period for hazardous materials (HAZMAT) on the City Dock and/or Beach #1 (short-term storage area) is ten (10) calendar days. Failure to remove HAZMAT off the City Dock and/or Beach #1 within this established time period will result in a doubling of storage rates. Long-term storage areas are defined as the City Dock East Addition and the Port's Storage Yard located adjacent to the Petroleum Dock.

(h) Anything stored or residing in/on Port Facilities & not removed from the Facilities for 9 (nine) continuous months and not used for stevedoring purposes will be billed double the storage fees. The Port of Bethel has the right after 24 (twenty-four) months or 2 (two) years of continuous storage to seize and remove or remove and dispose of anything that is stored at any port of bethel facility longer than 2 years

WHARFAGE – GENERAL INFORMATION 203

(a)DEFINITION:
Wharfage is a charge assessed for cargo passing, or conveyed over, onto, or under, wharves, or between vessels, when berthed at a wharf. Wharfage is solely the charge for the use of the wharf and does not include charges for any other service.

(b)TAXES:
No taxes are assessed on wharfage.

(c) APPLICATION:
Wharfage rates listed in this tariff will be charged for all freight/cargo, excluding ship's gear and over stow received onto, or over, all property belonging to the Port and/or City of Bethel. Ship's gear and over stow includes any cargo/ freight/ equipment that is offloaded and then reloaded onto the same vessel and which departs on the same voyage and vessel.

(d) OVERSIDE:

All freight, cargo, or petroleum products, loaded, or discharged, over the side of a vessel directly to, or from, another vessel, barge, lighter, draft, or to, or from, the water while the vessel is berthed, or moored, will be assessed half the regular wharfage rate.

SECTION 2

DESCRIPTIONS AND SCHEDULE OF CHARGES **ITEM NO.**

WHARFAGE – FEES AND CHARGES **203**

(e) SCHEDULE OF CHARGES:
Charges are in U.S. Dollars.

Commodity	Charge
Freight, or Cargo (Includes all goods, equipment, or merchandise conveyed in a vessel, barge, or marine vehicle)	~~$8.20~~$9.02 per short ton
*Through-Rated Freight, or Cargo	~~$10.25~~$11.28 per short ton
Hazardous Material	~~$8.20~~$9.02 per short ton plus $25.00 for each container, flat, or pallet containing more than 800 lbs. of hazardous material as defined in the CFR 49 parts 100 to 185. Rolling stock will be exempt from the $25.00 fee. The manifest for this type of cargo must indicate each consignee
Through-Rated Hazardous Material	~~$10.25~~$11.28 per short ton plus $50.00 per container.
Seafood	~~$8.20~~$9.02 per short ton
Inbound Petroleum Products (thru put fee)	~~$0.04~~$0.05 per U.S. gallon
All Types of Sand and Gravel less than 3 inches(-3")	~~$1.25~~$2.00 per short ton
All Types and Sizes of Rock greater than 3 inches(+3")	~~$8.20~~$9.02 per short ton
All Types and Sizes of Logs	$0.30 per square foot (wharfage fee)

(Logs may not be stacked more than 8 foot high)

*Freight and/or cargo will not be considered Through-Rated unless a manifest is received 24-hours in advance with verifiable routing and clearly identifying where the freight and/or cargo's final destination is. If the freight and/or cargo is not removed from the Port of Bethel within thirty (30) calendar days, the Through-Rated designation will be voided and regular charges will be applied at the rate of $8.20 per short ton on and off any Port facility. Freight already billed as through rated cargo that has forfeited its through rated designation due to time restraints will be charged the difference of $6.76 per short ton.

SECTION 2

DESCRIPTIONS AND SCHEDULE OF CHARGES **ITEM NO.**

WHARF DEMURRAGE **203**

(f) DEFINITION:
Wharf demurrage is a charge assessed against freight/cargo/equipment remaining in, or on, Terminal facilities after the expiration of free time unless arrangements have been made for storage. After free time expires, storage charges will be assessed.

(g) MINIMUM CHARGES:
Minimum charges are set forth on page 27of this Tariff.

HANDLING – GENERAL INFORMATION **204**

(a) DEFINITION:
Handling is the service of moving freight/cargo and/or equipment from a vessel moored alongside a dock, wharf, or seawall, from a dock, wharf, or seawall to a moored vessel. Charges for handling are assessed against vessels, their owners, operators, or the party ordering the handling service.

(b) SPILLAGE:
All spillage and/or leakage of petroleum products, or flammables, shall be reported to the Port Director, ~~Harbormaster~~ Port Office, U.S. Coast Guard and Alaska Department of Environmental Conservation (ADEC) without delay. Clean up will commence immediately - no exceptions!

Port Office – (907)543-2310

Port Director – (907)545-4150

National Response Center – 1-800-424-8802

ADEC – (907)543-2315

USCG – (907)271-6700

(c) LINE HANDLING;

All labor must be contracted through shipping agents, stevedoring agencies, or vessel agents, owners, or operators.

(d) EXCEPTION - APPLICATION OF MAN-HOUR RATES ON HANDLING:

When the services of handling of freight and/or cargo are required, the Port of Bethel reserves the right to apply applicable man-hour rates ($105.00 per person per hour).

HANDLING – FREE AND CHARGES 204

(e) STEVEDORING PERMITS - THIRD PARTY CONTRACTORS:

(1) Full Service Permit: This permit enables the holder to unload and/or load common carriers, or contract vessels, and allows local carriers to deliver, or remove, freight/ cargo from designated areas. RATE: $600.00.

SECTION 2

DESCRIPTIONS AND SCHEDULE OF CHARGES **ITEM NO.**

HANDLING – FREE AND CHARGES (Continued) 204

(2) Specialty Permit: This permit allows the holder to engage in loading and unloading of ships, or barges. It also allows the holder to provide a specialty service. Holders of this permit will be subject to depart the City Dock during the period that mainline common carrier vessels have berthing reservations. RATE: $450.00.

(3) Independent Permit: An Independent Permit allows only the loading and unloading of fishery products to vessels no less than 150 feet in length overall (LOA). RATE: $300.00.

(4) Decals: Windshield decals will be issued by the Port of Bethel to permit holders without cost so that vehicles entering and leaving Port facilities are readily identifiable as belonging to valid permit holders. Decals will be displayed on the lower right hand side (passenger side of vehicle) of the windshield. Decals for 1-3 vehicles are free; 4-10 vehicles $35.00 each vehicle; 10-20 vehicles $45.00 for each vehicle.

(5) Prospective Permit Holders: Prospective permit holders will be required to provide a listing of vehicles and equipment to be used under the auspices of the issued permit at the time of application. A new vehicle and equipment listing will be required each year during the application process.

LABOR 205

(a) LABOR RATES:
Labor as described in this section of the Tariff refers to Port employees hired for specific tasks. It does not refer to third party employees.

(b) SPECIFIC LABOR COST SERVICES:
Unless otherwise provided for individual items, man-hour rates will be charged on services not arranged through a third party, including, but not limited to, the following:

(1) Services of loading, unloading, handling, or transferring commodities not provided for by third party employers.

(2) Services of extra sorting, inspection, cleaning, etc.

(3) Materials and supplies furnished by the Port of Bethel in connection with services shall be billed at actual cost plus 18% for administrative costs.

(4) When equipment is used in performance of services, the charge will not be less than the Tariff rate.

SECTION 2

DESCRIPTIONS AND SCHEDULE OF CHARGES **ITEM NO.**

LABOR (Continue) **205**

(c) SCHEDULE OF MAN-HOUR RATES:
Unless otherwise stated herein, the basic rate for Port labor is $105.00 per man-hour.

(d) ELECTRIC SERVICES FOR VESSELS:
Electric Services may be available through the Bethel Utilities Corporation (BUC) at vessel owner/operators expense. All installations must meet Underwriter's Laboratory (UL) standards.

(e) FRESH WATER FOR VESSELS
Water deliveries shall be arranged through the Port Office. Fresh water will be furnished to vessels as follows:

Volume	**Rate**
Regular call out hours 8a.m. – 5p.m. Monday – Friday	
Hook-up Fee	$130.00
Rate per Gallon	$0.17
After hours call out charge	$70.00

NOTE: Rates are subject to change without notice!

(f) GRAY WATER SERVICES FOR VESSELS:
Arrangement for gray water services for vessels will be made through the Port Office. Gray water will be removed from vessels as follows:

Volume	**Rate**
Regular call out hours 8a.m. – 5p.m. Monday – Friday	
Hook-up Fee	$155.00
Rate per Gallon	$0.18
After hours call out charge	$70.00

NOTE: Rates are subject to change without notice!

(g) REFUSE REMOVAL AND DISPOSAL CHARGES:
The following charges will be made when a ship places refuse in a Port-supplied box, or dumpster:

(1) 4-Yard Dumpster: $125.00

(2) 8-Yard Dumpster: $225.00

A request to dump a dumpster must be made no later than 10 am Monday through Saturday, no service on Sundays.

SECTION 2

DESCRIPTIONS AND SCHEDULE OF CHARGES **ITEM NO.**

LABOR (Continue) **205**

NOTE: No wood, pallets, metal, heavy plastics such as crab line, or poly totes, fish waste, chemicals, or food additives, or hazardous materials are allowed in dumpsters. If vessels require any of these prohibitive materials to be hauled to the Landfill by the Port of Bethel, the following charges shall apply:

(1) Pallets, or wood, per dump truck load: $625.00
(2) Other waste, or scrap, per dump truck load: Landfill charges plus $250.00 plus 18% Administrative Fee.

NOTE: placing prohibited material in a dumpster and/or failure to sort refuse required by Landfill will result in a penalty equal to any fees incurred by the Port plus a 30% Administrative charge, or equal to any time and material plus a 30% Administrative Charge, whichever is greater.

(h) USED OIL DISPOSAL:
The Port of Bethel and its facilities may accept used oil. Used oil is defined as engine oil that is unmixed with any other product, when prior arrangements are made with the Port Director, or the Harbormaster, the Port of Bethel can provide drums and hauling services at a cost of $8.00 per gallon plus the cost of the containers, or any other expenses that may arise in disposing of used oil. Payment for this service will be made directly to the Port of Bethel.

(i) SOLID AND LIQUID WASTE MATERIALS:
No solid or liquid waste products shall be disposed of on, or at, Port of Bethel facilities without prior authorization of the Port Director, or Harbormaster. Solid and liquid waste will only be accepted if placed in non-flammable and leak-proof containers. The fee for providing these services shall be the basic rate for Port of Bethel labor of $105.00 per man-hour per person plus any additional costs that may be incurred with this operation. Only non-hazardous material will be accepted.

VESSEL OVERHAUL

206

(a) REPAIRS AND MAINTENANCE:

When work is performed on tugboats, barges, or other types of maritime craft while they are in temporary storage on the City Dock, or on Beach #1, the area where the work is being performed must be cleaned up at the end of each working day. Failure to clean up after the work is performed could result in the owner/operator being assessed a clean-up fee plus being denied future temporary storage privileges. Tarpaulins, or some form of heavy-duty material must be placed under the section of the hull being scraped, or worked on, so as to preclude all of the residue being left on the land where the craft is located. Owner/operators shall be responsible for disposal of any debris, or residue, and for restoring the ground base to original condition when work is completed.

PORT OF BETHEL

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

February 27, 2013

Bethel City Council

RE: Designation of Port Revenues in Excess of Expenditures

The Port of Bethel Fund is divided into three (3) separate revenue categories. I will address each individually. Though these agreements are no longer in place they show that when these facilities were built that maintenance and operation (M&O) costs would be identified and revenues collected from the facilities to cover the M&O costs. Replacement costs are not mentioned but should also be identified and funds set aside for future infrastructure replacement costs.

1. **Cargo Dock:** The dock was built in 1974 by the State of Alaska. There was at that time a M&O agreement between the State of Alaska and the City of Bethel. This agreement, dated April 1974, clearly outlines the use of revenues for the facility. Any revenues in excess of expenses are to be placed in a Designated Maintenance Account for the City Dock. The dock currently generates revenues in excess of expenses by approximately $100,000 annually. These excess revenues are what have allowed us to provide matching funds for the Small Boat Harbor projects.

2. **Seawall and Bank Stabilization:** The seawall and bank stabilization projects are joint projects between the City of Bethel and the US Army Corps of Engineers (COE). The M&O agreement between the COE and the City, dated March 1997, outlines that a $0.02 fuel thru-put be in place, and dedicated exclusively to the Designated Maintenance Fund. The additional $0.02 now in place is deemed discretionary, so long as the money is used on waterfront projects.

3. **Small Boat Harbor:** The M&O agreement between the COE and the City, dated September 1982, states that the harbor is to be self-sustaining. The revenues generated from the harbor are to be used for M&O of that facility. The agreement goes further, saying that use permits should remain as inexpensive as possible.

Revenues generated from the Municipal Dock such as moorage, wharfage, ect. and the balance of the thru-put fee of $0.02 need to fund improvements for the City Dock and the waterfront in general. This includes the Petroleum Dock. If the Small Boat Harbor is not funded separately both the Small Boar Harbor and the waterfront will suffer and a band-aid approach to various needs will proceed. Without a clear goal on how to fund capital projects and major maintenance projects, such as resurfacing roadways, access areas for the river, dock surfaces, lighting, surveillance, et cetera. These areas will be maintained poorly and undercapitalized.

Respectfully,

Peter A. Williams
Port Director

Introduced by: Port Commission
Date: March 12, 2013
Public Hearing:
Action:
Vote:

CITY OF BETHEL, ALASKA

Ordinance #13-06

AN ORDINANCE BY THE BETHEL CITY COUNCIL AMENDING BETHEL MUNICIPAL CODE CHAPTER 14.04.060 FISHING FROM CITY CARGO DOCK AND PETROLEUM DOCK PROHIBITED

WHEREAS fishing from the petroleum dock and the city dock is prohibited during the months of June, July, and August;

WHEREAS the Port Commission found fishing to be un-safe for the remaining nine months of the year;

WHEREAS Personal Protective Equipment (PPE) must be worn when using the cargo dock and petroleum dock;

WHEREAS life, health and safety is an issue within the area because of lack of supervision and due to the use of heavy equipment working in these areas;

THEREFORE BE IT ORDAINED by the City Council of Bethel, Alaska, that:

SECTION 1. Classification. This ordinance is permanent in nature and shall become a part of the Bethel Municipal Code.

SECTION 2. Amendment. Chapter 14.04.060 of the Bethel Municipal Code is amended as follows: (new language is underlined and old language is stricken out):

14.04.060 Fishing from city cargo dock and petroleum dock prohibited.

Fishing from the petroleum dock and the city cargo dock is prohibited ~~from the months of June, July and August.~~

SECTION 3. Effective Date. This ordinance shall become effective immediately upon passage by the City Council.

ENACTED THIS DAY OF 2012, BY A VOTE OF IN FAVOR AND OPPOSED.

_____
Joseph A. Klejka, Mayor

ATTEST:

_____
Lori Strickler, City Clerk

City of Bethel, Alaska

Introduced by: Council Member Robb
Date: March 12, 2013
Action:
Vote:

CITY OF BETHEL, ALASKA

Resolution # 13-05

A RESOLUTION BY THE BETHEL CITY COUNCIL OPPOSING THE BETHEL AIRPORT MASTER PLAN UPDATE AS CURRENTLY PRESENTED WITH A WESTWARD EXPANSION OF THE CROSSWIND RUNWAY EXTENSION

WHEREAS, the Department of Transportation (DOT) is working on the Bethel Airport Master Plan Update which will provide guidelines for the Bethel Airport's development over the next 20 years;

WHEREAS, one option for expansion provided by DOT and DOWL HKM, the engineering firm assigned to the project, will expand the crosswind runway extension to the west which would require relocation of the existing Tower Road;

WHEREAS, with the plan currently under the "Recommendations" stages of the planning process, the Bethel City Council strongly encourages DOT to reconsider the suggested expansion westward and consider one of the three other options for an eastward expansion;

WHEREAS, if the westward expansion were to occur, as currently proposed, the Tower Road relocation would cut through the Alaska Territorial Memorial Park and Bethel's only rifle range as well as back up to the City's Memorial Cemetery;

WHEREAS, The Alaska Territorial Memorial Park honors those veterans, often neglected by history, who volunteered to keep Alaska safe during World War II;

WHEREAS, The Alaska Territorial Memorial Park was conceived and developed by concerned citizen volunteers in cooperation with the City of Bethel, the Alaska National Guard, and the community at large;

WHEREAS, The Alaska Territorial Memorial Park, still under development, is the culmination of numerous hours of volunteer work by citizens of Bethel, many of them veterans;

WHEREAS, The Alaska Territorial Memorial Park has been supported by communities, tribes, and individuals from around the State;

Introduced by: Council Member Robb
Date: March 12, 2013
Action:
Vote:

WHEREAS, Bethel has not had a shooting range for over 20 years;

WHEREAS, The shooting range, just recently opened and still under development, has been the work of volunteers from the community, the city, and the Bethel Sportsman's Club;

WHEREAS, The shooting range will have long term benefits for the people of Bethel and the region. These benefits include general firearms safety, a place for training for law enforcement, a training ground for subsistence hunting, youth, and the community;

. **WHEREAS**, The Bethel Friends of the NRA Committee has hosted 12 annual fundraising dinners in Bethel. Most were sold out, and the community has donated over $250,000 over this time the NRA Foundation;

WHEREAS, The community of Bethel has demonstrated tremendous support for the Alaska Territorial Guard Memorial Park and the Shooting Range;

WHEREAS, There are other viable options for expansion of the Bethel Airport to the east;

WHEREAS, with the impacts to religious and historical sites as well as a site established for life safety, the Bethel City Council cannot support the westward expansion as proposed, and encourages DOT to reconsider the impact to not only the community, but the region if a westward expansion is further considered;

NOW, THEREFORE, BE IT RESOLVED that the Bethel City Council opposes the suggested expansion of the Bethel Airport to the west and encourages the Department of Transportation to focus on the three eastward expansion options.

ENACTED THIS __ DAY OF __2013 BY A VOTE OF _ IN FAVOR AND _ OPPOSED.

_____
Joseph Klejka, Mayor

ATTEST:

_____
Lori Strickler, City Clerk

City of Bethel Action Memorandum

Action memorandum No.	13-08		
Date action introduced:	2-26-2013	Introduced by:	Mayor Klejka
Date action taken:		☐ Approved	☐ Denied
Confirmed by:			

SUBJECT/ACTION: *Approve Training and Travel request for the City Clerk June 9 through June 13, 2013.*

Route to:	Department/Individual:	Initials:	Remarks:
X	Finance Director		

Attachment(s):

Cost Estimate for Travel and Training

Northwest Clerks Institute Advanced Academy PD IV - Information Page

Amount of fiscal impact		Account information:
	No fiscal impact	
$1,991.30	Funds are budgeted for.	10-52-545
	Funds are not budgeted. Budget modification is required. Affected account number:	

Action memorandum 13-08 is sponsored by the Mayor on behalf of the City Clerk.

The City Clerk, Lori Strickler, is working on obtaining the designation of Master Municipal Clerk having received her Certificate for Certified Municipal Clerk in 2010.

The Master Municipal Clerk program is one of the two professional designations granted by the International Institute of Municipal Clerks. The MMC program is an advanced continuing education program that prepared participants to perform complex municipal duties. The program has an extensive and Rigorous educational component and a professional and social contribution component.

The Professional Development Training provides specialized training specific to the skill set for city clerks.

T.A. #: _____

City of Bethel

Travel Authorization Form
COST ESTIMATE

City Clerk	IIMC Advanced Academy	Northwest Clerks Institute
Department	Activity	Program
Lori Strickler	City Clerk	2-26-2013
Employee Requesting Authorization	Title	Date
International Institute of Municipal Clerks	University Of Puget Sound	6/10/13 – 6/13/13
Conference Title and Sponsor	Conference Site	Date of Meeting

Explanation of Travel Request:

Education opportunity as well as a requirement for obtaining the Master Municipal Clerk designation.

					Estimated Totals	Account #
Registration Fees (Specify whom check is payable to and attach copy of documentation)					$500.00	10-52-545
Payable to:	**University of Puget Sound**					
P.O. #:						
Transportation						
Airline(s):	Alaska Airlines				$991.30	10-52-545
Travel Agency:						
Confirmation #:						
P.O. #:						
Car Rental Co.:						
Confirmation #:						
P.O.#						
Hotel Name:	Dorm Room+ some meals				$300.00	10-52-545
Confirmation #:						
P.O. #:						
Meals:	#		Daily Rate			
Breakfast	2	X	$12.00	=	$24.00	10-52-545
Lunch	3	X	$16.00	=	$48.00	10-52-545
Dinner	4	X	$32.00	=	$128.00	10-52-545
Cab Fare:						
Miscellaneous: (Explain in written detail on an attached sheet)						
TOTAL EXPENSES:					**$1,991.30**	
Per Diem Advance Requested:						10-52-545

Approvals:

Department Head / Date	**City Manager / Date**	**Finance Director / Date**

New Business

Introduced by: Mayor Joseph Klejka
Date March 12, 2013
Action:
Vote:

CITY OF BETHEL, ALASKA

RESOLUTION #13-06

A RESOLUTION SUPPORTING THE 2013 CAMA-I DANCE FESTIVAL BY PROVIDING A DONATION IN THE AMOUNT OF SALES TAXES COLLECTED ON ADMISSIONS SOLD TO ATTEND THE FESTIVAL

WHEREAS, the Cama-i Dance Festival is a celebration of culture and dance;

WHEREAS, more than 20 dance groups and more than 400 dancers, drummers and singers between the ages of 2 and 92 will celebrate the Yup'ik Eskimo tradition of dance;

WHEREAS, Cama-i promotes cultural diversity as Native Alaskan, Native American and international groups share in the common language of dance;

WHEREAS, Cama-i also provides for additional activities during the festival such as a Miss and Mr. Cama-i contest, native foods dinner for everyone, a quilt show and arts and crafts sales;

WHEREAS, through dance, song and crafts, the traditions of Alaskan Native tribes are communicated to hundreds of people during the three-day festival;

WHEREAS, the Cama-i Dance Festival promotes positive activities in the Bethel community and generates positive statewide publicity for the City of Bethel while bringing many visitors to the Bethel community;

WHEREAS, the City of Bethel recognizes the significance of the Cama-i Dance Festival and supports the dancers.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Bethel, Alaska, supports the Cama-i Festival and will donate an amount equal to the amount of sales taxes collected on the admissions sold to attend the 2013 Cama-i Dance Festival.

Be it further resolved that the Cama-i organizers would first file a tax return on the event and remit the sales tax to the City. The City would then make a donation equal to the amount of sales tax collected on admissions.

PASSED AND APPROVED THIS _ DAY OF _ 2013, BY A VOTE OF 6 IN FAVOR AND 0 IN OPPOSITION.

_____
Joseph A. Klejka, Mayor

ATTEST:

_____
Lori Strickler, City Clerk

Bethel Council on the Arts
Cama-i Dance Festival 2013

"Pirciryaraput Kayuput ~ Our Culture, Our Strength"

City Council
City of Bethel, Clerk
Bethel, AK 99559

February 28, 2013

Dear City Clerk,

The Bethel Council on the Arts is once again hosting the Cama-i Dance Festival March 22nd to 24th, 2013. This year the festival is dedicated to Neva Rivers of Hooper Bay and the theme is *"Pirciryaraput Kayuput ~ Our Culture, Our Strength"*. Cama-i is a three day festival of dancing, singing, arts and crafts, good food and sharing. This year's celebration brings folks together from the Yukon-Kuskokwim delta with groups from across Alaska and international communities in the common language of dance and song. *Attached is a flier listing our invited dance groups and events of the festival; please share it with others in your organization, make copies and post in public places.*

Cama-i is planned as a breakeven event, has no paid staff and relies on community support and the help of over 500 volunteers.

Thank you for the City of Bethel contribution last year, which was sales tax exemption for this community event. We are asking for your support again this year.

If your organization has a banner, you may come to the high school on Friday 3/22nd between 12 noon -3 pm and hang the banner in the hallway near the concession booth (entrance area to gym). Please bring appropriate tape to put up the banner and e-mail Linda so that we can plan where they will go.

Your contribution will help defray the costs of putting on this major event that brings so many cultures and communities together. If you need further information or have any questions, please contact Linda (see info below).

On behalf of the Cama-i festival committee, we would like to thank you in advance for your support of our community's Cama-i Dance Festival 2013!

Quyana Cakneq, thank you,

Linda Curda and Carol Ann Willard, Cama-i Dance Festival Committee Co-Coordinators
lrcurda@alaska.edu 907-952-4436 cell carol_willard@ykhc.org 543-6329 day

"Pirciryaraput Kayuput ~ Our Culture, Our Strength"

Cama-i Dance Festival 2013

March 22nd – 24th

Dedicated to: Neva Rivers, Hooper Bay

Sponsored by the Bethel Council on the Arts

Bethel High School

Friday, 22nd: Doors open at 5:00 pm; Dancing 5:30 p.m. to midnight
Saturday, 23rd: Doors open at 11:30 am; Dancing 12 noon - midnight
Sunday, 24th: Doors open at 12:30 pm; Dancing 1:00 pm to 9:00 pm

DANCE GROUPS: INVITED !!!

Local:
* Bethel Traditional Dancers
* Upallret
* Yuraret Dancers
* BRHS Warriors
* Ayaprun Elitnaurvik
* Mikelnguut Elitnaurviat
* BRHS JROTC Drill & Step Teams
* Delta Illusion Dancers

Regional:
* Hooper Bay Traditional Dancer
* Meyoruk Dancers
* Quinhagak – 1st dance
* Nightmute Dancers
* St Mary's dancers

Ak. Native:
* Atxam Taligisniikangis, Atka
* St. Lawrence Dancers

National:
* Stepping Cloggers
* Electric Fiddle

International:
* Pacific Island Dancers

****

Additional Activities:

* *Native Arts & Craft Sales*
* *Room of Memory*
* *Miss & Mr Camai Pageant*
* *Heart of the Drums*
* *YK Delta Memoriam*
* *"Up Close & Personal" Seminars to learn about the dances*
* *"Smile Alaska Style" - YKHC free dental check-ups Sat. March 23rd*
* *Native Foods Dinner Sat. March 23rd 4-7 pm free for everyone!*
* *Lion's Pancake Breakfast – Sunday March 24th 10 am*
* "Talk About Touch" book signing with Sandy Kleven and Patrick Minock
* *Live Web cam at www.bethelarts.com see past Cama-i Festivals*

To RESERVE a Native CRAFT TABLE

Call: Minnie at 543-1835 or
e-mail: Mini_Sallison_Fritts@yahoo.com

Introduced by: City Manager Foley
Introduction Date March 12, 2013
Public Hearing:
Action:
Vote:

CITY OF BETHEL, ALASKA

Ordinance #13-07

AN ORDINANCE BY THE BETHEL CITY COUNCIL AMENDING BETHEL MUNICIPAL CODE 13.08.125 SERVICE LINES-CHARGES, TO INCLUDE REPAIR AND REPLACEMENT UNDER THE CHARGES AND TO AMEND THE PERIOD OF TIME FROM "CALENDAR YEAR" TO WITHIN A "12 MONTH PERIOD"

WHEREAS, although repair is identified as a reason for the charges in the body of the code, it is implied under A, B, and C that the charges will only be applied for the rebuilding of the pump;

WHEREAS, calendar year has been modified to 12 month period to coincide with the language provided in the body "annual frequency";

Now, therefore be it enacted by the City Council of Bethel Alaska as follows:

Section 1. Classification. This ordinance is of permanent nature and shall be codified within the Bethel Municipal Code.

Section 2. Amendment. The Bethel Municipal Code is amended as follows (new language is underlined and old language is stricken out):

13.08.125 Service lines – Charges.

The city will perform maintenance on grinder pumps used for the piped sewer system. The charges will only be assessed if repair is attributed to negligence, as determined by the Public Works ~~piped~~ Utilities Maintenance Foreman. At the time the customer receives service to rebuild, repair or replace a grinder pump, the customer will be billed for the following charges in relation to the annual frequency with which a grinder pump is rebuilt, repaired or replaced: If the property that receives the repair or replacement ~~has~~ is a multi-dwelling unit, then the person to whom the water account's name is in is responsible for the expense.

A. First rebuild/repair/replacement per ~~calendar year~~ 12 month period	$50.00
B. Second rebuild/repair/replacement per ~~calendar year~~ 12 month period	$225.00
C. Third and all subsequent	$450.00

rebuilds/repair/replacement per
~~calendar year~~ 12 month period

SECTION 3. Effective Date. This ordinance shall become effective upon passage by the Bethel City Council.

Enacted by the Bethel City Council by a vote of _ in favor and _ opposed.

ATTEST:

_____
Joseph A. Klejka, Mayor

_____
Lori Strickler, City Clerk

Mayor's Report

Manager's Report

CITY OF BETHEL

Post Office Box 1388
Bethel, Alaska 99559
Voice: 907-543-1373
Fax: 907-543-1394

March 5, 2013

From: Lee M. Foley, City Manager

To: Bethel City Council

-

Info: Lori Strickler, City Clerk

Subj: City Manager's Report

Listed below are some of the action items and activities that I've been working on, and involved in, for the period February 19 – March 5, 2013

CITY ADMINISTRATION ACTION ITEMS AND ACTIVITIES

Projects:

- **YK Aquatic Center** - Regular weekly teleconference meetings between the Project Management Team and City Administration are held each Friday at 9:00 a.m. The following items are germane:

  1. Arctic Foundations has completed construction of the final 67 pilings and transported them to Lynden Air Cargo for shipment to Bethel. The cost for these final pilings is $380,024.00. However, by paying the invoice prior to March 15, 2013, the cost will be reduced to $368,623.28, a savings of $11,400.72. The piles will be shipped in 3 increments, the first arriving on March 5, the second on March 6, and the final on March 8.

- **Airport Master Plan** – After discussions with Representative Herron, DOT revised their intent to run their road through the Veteran's Cemetery & ATG Memorial Park. Subsequently, I teleconferenced with DOT representatives on March 4, 2013, and reviewed their revised plan with the Planning Director. This new iteration calls for a future apron extension that would run straight through the new rifle range. A copy of this alternative is in your Council packets.

- **Tundra Ridge Road** – The DOT is proposing an amendment to the original MOA for Maintenance & Operation that was signed in 2003. The Administration strongly recommends adoption of the amendment as written because it does not allow for circumstances beyond the City's control, or for situational issues that may be ongoing

when snow clearance is in progress. It is for those very reasons that the City's Snow Clearance Policy contains language stating that snow berms will be removed to the greatest extent possible, as conditions and circumstances allow. If Council approves the amendment as written, the City will be placed in an untenable position with respect to road clearance. Essentially, approval as written will enable a family to direct how the City will conduct its operation and maintenance of roads. The Amendment, and a copy of the original MOA, are both enclosed for Council's review.

Miscellaneous:

- **Yukon Lodge –** The City Attorney has been pursuing a resolution to the issues presented by the Yukon Lodge with the BIA and the Native land owner. I'm pleased to inform Council that on March 4, 2013, the owners of the building known as the Yukon Lodge received a 30-day eviction notice from the BIA that was served by Sergeants Drake and Corbett of the Bethel Police Department. The eviction notice also requires them to remove the building from the premises.

- **Institutional Corridor –** In discussions with Senator Hoffman and Representative Herron during my visit to Bethel, it became clear that the City needed to take a more active role in seeking funding for this project. In particular, the feeling in Juneau was that with all of the new projects being built along Chief Eddie Hoffman Highway, if they are unable to connect to a common water and sewer system, they will not be able to operate and become dormant. Were that to happen, funding for future projects in Bethel would be extremely hard to come by.

- **City's Funding Priorities –** I traveled to Juneau to lobby on behalf of the City's priorities during the period February 27-March 2, 2013. In company with our Lobbyist, Paul Richards, I met with the following Legislators and/or their staffs: Senator Mike Dunleavy, Representative Jonathon Kress Thomson, ***Senator Lyman Hoffman,*** Representative Doug Isaacson, Representative Neal Foster, Representative Bob Lynn, Representative Mia Costello, Representative Mark Neuman, Representative & Majority Leader Lyn Pruitt, Representative Gabriella LeDeoux, Senator Hollis French, Representative Petty Wilson, Representative Dan Sadler, Representative Kurt Olson, Representative & Speaker of the House Mike Chenault, Representative Benny Nageak, ***Representative Bob Herron,*** and Senator Dennis Eagan.

- **Potential Civil Litigation –** Former City Council member Willie Keppel has contacted the City through his attorney, threatening potential civil litigation for personal defamatory comments aired on KYUK. The letter, and related internal memorandum, are being provided under separate cover.

Enclosures

STATE OF ALASKA

FRANK MURKOWSKI, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

STATEWIDE DESIGN & ENGINEERING SERVICES DIVISION
CENTRAL REGION – HIGHWAY DESIGN

4111 AVIATION AVE.
ANCHORAGE, AK 99502 or
P.O. BOX 196900
ANCHORAGE, ALASKA 99519-6900
(907) 269-0590 FAX (907) 243-4409

February 6, 2003

RE: Tundra Ridge Road MOA
STP-0001(207)\54289

Mr. Robert E. Herron
City Manager
City of Bethel
P.O. Box 388
Bethel, Alaska 99559

Dear Mr. Herron:

We received the City's signed copies of the Memorandum of Agreement (MOA) for Tundra Ridge Road on January 24 and our Regional Director has subsequently signed them both. One copy is enclosed for your files.

As mentioned in previous letters the design of the Tundra Ridge Road project is 50% complete. We will now continue the design process and reinitiate negotiations to acquire ROW across the two native allotments. We will continue to set as a goal construction in 2004 with the knowledge that acquisitions of this type often take up to two years to complete, potentially slipping the project into 2005.

Please call me if you have any other questions concerning this matter.

Sincerely,

John E Dickenson

John Dickenson
Project Manager

/bjs

Enclosure: Final-Signed MOA Tundra Ridge Road

cc: Carl Berger, City Council Member, City of Bethel
Jerry Drake, City Council Member, City of Bethel
Adrei Jacobs, City Council Member, City of Bethel
Joy Shantz, City Council Member, City of Bethel
Stanley "Tundy" Rogers, City Council Member, City of Bethel
Hugh Short, Mayor, City of Bethel
Brad Sworts, Kuskokwim Area Planner
John Tolley, Chief, Planning and Administration
David E. Trantham, Jr. City Council Member, City of Bethel
Hank Wilson, P.E., Chief, Highway Design

Memorandum of Agreement
Between State of Alaska and
City of Bethel

The parties to this agreement of the State of Alaska acting through its Department of Transportation and Public Facilities (hereafter DOT&PF) and City of Bethel, a municipality established under Alaska law (hereafter the Municipality)

WHEREAS, DOT&PF has the authority to plan, design, and construct Tundra Ridge Road Paving, identified as Project STP-0001(207), located within the boundaries of the Municipality (hereafter the project);

WHEREAS, the Municipality desires that DOT&PF plan, design and construct the project; and

WHEREAS, the Municipality has by resolution or ordinance agreed to accept title to the project and to maintain and operate the project upon its completion.

IT IS THEREFORE AGREED by the parties, in consideration of the mutual promises contained in this agreement, as set forth below, regarding the planning, design, construction, maintenance, and operation of the project:

1. PROJECT RANKING

(a) DOT&PF shall, while ranking this project with other projects during the preparation of the State Transportation Improvement Plan (STIP) and capital budgeting process, recognize that the Municipality has agreed to accept title to the project and to maintain and operate the project upon completion.

(b) If the Municipality withdraws its promise, before the advertisement for construction has begun, to accept title, and maintain and operate the project upon completion, DOT&PF will re-score the project and place it in the STIP according to its revised ranking.

(c) If the local agency withdraws its promise after the construction advertisement, the DOT&PF may proceed forward with construction. In the evaluation of Municipality projects for 6 years after the breach of promise, the DOT&PF will not include any consideration in project scoring for contribution toward the cost of construction, and the assumption of maintenance and title, until the Municipality has cured the breach to the DOT&PF's satisfaction.

2. PLANNING, DESIGN, AND CONSTRUCTION

DOT&PF shall plan, design, and construct the project within the approved scope and funding. DOT&PF will obtain all local, state and federal permits necessary to complete the project. DOT&PF shall have no claim against the Municipality for cost overruns or if the money available is not adequate to complete the project.

3. MAINTENANCE AND OPERATIONS

(a) The Municipality agrees to maintain and operate the project consistent with the 23 CFR §1.27 and DOT&PF's Alaska Highway Maintenance and Operations Manual (AHMOM)

- for the project's design life which is 10 (ten) years

commencing upon the substantial completion of the construction of the project. DOT&PF shall inform municipality of that date. In the event of conflict between 23 CFR §1.27 and AHMOM, the more stringent provisions set the minimum standards.

(b) The Municipality shall perform its activities under this agreement at its sole cost and expense and without reimbursement from DOT&PF. The Municipality's maintenance activities include, but are not limited to:

(1) planning, scheduling, administration, and logistics of maintenance activities,

(2) traffic control and safety;

(3) preservation of drainage in an as-built condition, including maintenance of all culverts, ditches, storm sewers, gutters, dry wells, and under-drains if any are constructed as part of the project;

(4) embankment protection, including erosion control, to as-built conditions;

(5) roadside management;

(6) snow and ice removal;

(7) snow and ice control, including all plowing, sanding, culvert and storm sewer thawing, snow hauling, winging, opening of shoulders, ice scraping, drift control, snow slide removal, and associated tasks as may be required for the safe and timely passage of the public;

(8) maintaining signs and delineators in an as-built condition and their replacement, including posts and foundations, when damaged, unreadable, or worn out;

(9) highway marking and repainting as required to maintain performance of their intended function, but only to the extent completed as part of the project;

(10) repair of street lights as required to ensure a functioning system, including repair/replacement of lenses, light bulbs, photo cells, contacts, relays, and wiring if any are constructed as part of the project;

(11) removal of debris, rubbish, and dead animals;

(12) signing of seasonal weight restrictions as may be required by local conditions;

(13) pothole repair using asphalt products on an as-needed basis;

(14) annual crack sealing;

(15) repairs of minor rutting, waves, sags, humps, corrugations, raveling, alligator cracks, pitting and bleeding on a basis; and

(16) minor bridge repairs, which includes painting of localized rust areas, re-decking, and repair of guardrail and railing sections to the extent any are constructed as part of the project.

4. INDEMNIFICATION

The Grantee shall hold the State, its officers, employees, and agents (collectively, "the State") harmless from and defend and indemnify the State for liability, claims, or causes of action arising out of this Deed and Assignment or relating to the property and facilities being deeded and the obligations being assigned.

Notwithstanding the foregoing, the Grantee shall have no obligation to hold harmless and indemnify the State to the extent the State is determined to be liable for its own acts or omissions, except that:

to the maximum extent allowed by law, the Grantee shall hold the State harmless from and indemnify the State for liability, claims, or causes of action arising from an alleged defect in the design or construction of facilities existing on the premises at the date of this grant, regardless of negligence or other fault, if such liability, claim, or cause of action arises out of an incident that occurs more than two years after the Grantee assumes maintenance responsibilities for the facilities.

The Grantee's duty to defend shall apply regardless of whether it is also alleged that the State's acts or omissions contributed to the injury (including injury to personal property, real property or persons, including fatal injury).

Neither liability, claims or causes of action arising from injuries which occurred prior to the date of this transfer nor liabilities imposed by, or claims or causes of action arising from or asserted under AS 46.03.822 shall be governed by this paragraph.

5. TITLE DOCUMENTS

(a) Upon completion of the project, DOT&PF shall execute a quit claim deed that conveys all of its right, title, and interest in the real property occupied by the project to the Municipality, subject to utility permits issued under 17 AAC 15, encroachment permits issued under 17 AAC 10.010-17 AAC 10.015, and driveway permits issued under 17 AAC 10.020-17 AAC 10.990, and subject to Alaska Statute requirements for disposal of land.

(b) The quit claim deed issued under this paragraph shall revert to DOT&PF if any real property occupied by the project ceases, for any reason, to be used for a public facility.

6. PROPERTY MANAGEMENT

The Municipality agrees that its management of the right of way is subject to the provisions of 23 CFR §1.23. The Municipality may not allow any encroachment within the right of way of the project without the prior consent of DOT&PF and the Federal Highway Administration. The Municipality may not sell any portion of the right of way without the prior consent from DOT&PF and the Federal Highway Administration. In the event that DOT&PF and the Federal Highway Administration give their consent to the disposal of any portion of the right of way for the project, the Municipality shall pay proceeds of the sale to DOT&PF, which DOT&PF will credit to the appropriate federal aid accounts.

7. DISPUTE RESOLUTION

(a) Except for disputes for third party claims for which the provisions of paragraph 4 are applicable, in the event of a dispute under this agreement that the parties cannot resolve within 15 days, the DOT&PF and the Municipality each agree that they shall each appoint an arbitrator, who shall between them agree to the appointment of a third arbitrator. The three arbitrators shall decide the matter of the appropriate fees for their services. Each party

shall bear the expenses of any arbitrator that they appoint and shall pay half of the cost of the third arbitrator.

(b) The arbitrators may conduct such proceedings as they believe are necessary to resolve the matter before them. They may, in the exercise of their discretion, proceed on the record, and the cost of such record to be borne equally by the parties.

(c) The arbitrators' decision of a matter before them is final and may only be changed or modified under the provisions of AS 9.43.120 and AS 9.43.130.

8. THE WHOLE AGREEMENT

This agreement constitutes the entire agreement between the parties. There are no other understandings or agreements between the parties, either oral or memorialized in writing regarding the matters addressed in this agreement. This agreement may not be amended by the parties unless agreed to in writing with both parties signing through their authorized representatives.

Dated: 1/28/03

State of Alaska
Department of Transportation
and Public Facilities

By: _____
David R. Eberle
Title: Regional Director, Central Region

DATED: 01/14/03

City of Bethel

By: _____
Robert E. Herron
Title: City Manager

ACKNOWLEDGMENT OF MUNICIPALITY

Subscribed and sworn to or affirmed before me by Robert HERRON, who is City MANAGER of the City of Bethel, a municipality established under Alaska law, on this 14 day of Jan, 2003.

STATE OF ALASKA
NOTARY PUBLIC
Colleen Soberay
My Commission Expires July 13, 2005

Colleen Soberay
Notary Public, State of Alaska
My commission expires: 7/13/05

ACKNOWLEDGMENT OF STATE OF ALASKA

Subscribed to and sworn to or affirmed before me by David R. Eberle, who is Regional Director of the Department of Transportation and Public Facilities on this 28 day of January, 2003.

CANDACE EDWARDS
NOTARY
PUBLIC
STATE OF ALASKA

Candace Edwards
Notary Public, State of Alaska
My commission expires: 4/20/05

ACKNOWLEDGMENT OF THE ASSEMBLY
OR COUNCIL OF THE MUNICIPALITY

Be it remembered that on the 14th day of Jan, 2003 at a regular meeting, of the City Council of Bethel, a municipality established under Alaska law, granted its approval of the foregoing instrument.

Dated: 1/14/03

_____
Clerk

Project Name: **Bethel Tundra Ridge Road Paving Amendment One**
Federal Project Number: STP-0001(207)
State Project Number: 54289

MEMORANDUM OF AGREEMENT
BETWEEN
THE STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
AND
THE CITY OF BETHEL
AMENDMENT ONE

The original Agreement was executed January 28, 2003 by the State of Alaska Department of Transportation and Public Facilities (hereinafter called the State) and the City of Bethel (hereinafter called the Municipality). The Agreement is now amended to add a maintenance requirement and rename the roadway.

The Agreement is hereby amended as follows:

1. Page 4, Section 3, add subsection number 17 to read:

"17. No berms of any kind shall be created from the Municipality's grading and snow removal operations that would impede egress and ingress of the private and public approaches along Tundra Ridge Drive and Uamuralria Drive."

2. Page 6, Add Section 9 "ROADWAY NAME CHANGE" to read:

"The Municipality agrees to rename the roadway corridor between Ptarmigan Street and H-Marker Road from Tundra Ridge Drive to Uamuralria Drive."

APPROVALS:

Lee M. Foley	City Manager	Date
Rob Campbell, P.E.	Regional Director, Central Region	Date

Management Team Reports

PORT OF BETHEL

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

TO: Lee Foley, Bing Santamour, Lori Strickler

FROM: Peter A. Williams, Port Director

SUBJECT: March 2013 Managers Report

Small Boat Harbor

- Dredging Project – Feb. 2nd thru Feb. 20th.
A meeting took place between USACE, Denali Drilling, and the Port to discuss the project. Feb. 20th- equipment and personnel showed up on the job site. There is a meeting every Tuesday at 10:00 a.m. with the USACE, Denali Drilling and the Port to discuss the progress of the project, currently they are installing a grid to help excavate to the proper depth.

Port Commission recommendations to increase the thru-put fee from $0.04 to $0.05 per gallon to cover M&O costs for SBH, sent to city council.

- G.O. Bonds - Jeanie Mason (CED) reports the some draft language is being reviewed which she doesn't have a full understanding of. They are scheduled to be sold the first week of April 2013

East Addition

- Bethel Bank Stabilization Project – BIA sent Richard Jung the documents that Mr. Jung needs to sign for the BIA to start the process of subdividing his lot. This means that both Active/Jung are in contact with the BIA. Both have expressed interest resolving what's needed for the easements on the road and the easements for Bethel Bank Stabilization Project. The funding the USACE has designated for this project continues to be held up due to the federal government being unable to resolve the issues over the federal budget. The request for funding, 3M, was made in 2011 for the FY-12 federal budget .

Brown Slough

- Dry excavation project started to9 remove the rock pile at the mouth of the slough and excavate to minus three below MLLW or to remove 1600 cu yds. of material. The bathometric survey shows that there is plus two ft. of water where we are excavating.
- 2/4 Fencing put in place
- 2/5 Permits reviewed with PND and posted
- 2/6 started excavation
- 2/8 ceased operations per ADEC request for further soil sampling. SGS Environmental received samples 2/28 and the results should be returned by 3/6

East Timber Wall

– 2/21 USACE received the award from Denali Construction to design the East Timber Wall . Estimated cost of design is $250,000 and $50,000 was set aside for our match of 20%. The

UASCE is preparing a Support Agreement for the City to review. The City Attorney will look at this document when we receive it.

City Dock

-Snow has been removed and the Dock is accessible for use. Connexs were removed for transport to villages up and down river, pilings for Aquatic Center are ready for delivery, Vitus Marine is working on the M/V Centaur, BSI reports they will deliver 5K ton of freight and we are helping to coordinate this freight on the dock.

-The Port Commission has sent the rate increase and changes to the Terminal Tariff #004 to the City Council.

-Negotiations with Kuskokwim Seafoods LLC continue and have begun with Seattle Action Services with their delinquent accounts.

-Public access to the river will have to be at the beach at the Joe Lomack bldg. & down at Standard Oil Road.

-We are trying to keep the access along the wall shoveled out.

Petro Yard

- The where abouts of the gravel and the pilings for the pool was shown to the contractors.

Petro Dock

Crowley FUA was looked at by the Port Commission they had some questions for the city attorney and will look at it again on 3/18/13

Equipment

-V&E line item 52-50-661 is over drawn $5,000 due to purchasing tires and repairs for the 950 loader,spare parts for the excavator and repairs to the dump truck.

Peter A. Williams
Port Director

Planning Department Report

From: Rachael Pitts, Planning Director
Date: March 1, 2013

The Planning Director has been making modifications to department paperwork to reflect the federal floodplain requirements. We now issue a Site Plan Permit for development in the floodplain.

The City Manager has provided some feedback, and Dowl HKM has made some modifications to the Bethel Airport Master Plan. A map of changes has been provided to the City Manager for review. The major issue is the proposed road corridor on the west side of the airport.

The Director attended an ANCSA workshop in Anchorage to learn more about the Settlement Act and its relevance in Bethel.

A follow-up on Lot 15, which was transferred to the Alaska National Guard for the construction of the Readiness Center, indicates we should get it transferred back to the City by the end of the year.

Zoning: We have a zoning application for Residential on 150 acres located near Tundra Ridge Subdivision. The Planning Commission will hear the request on March 14th.

Site Plan Permit Applications and Code Enforcement: We have issued five Site Permits to date.

GIS: The Planning Department has produced a zoning map, and is now able to more easily interface with the public about Bethel zoning.

Construction Projects:

Swimming Pool: City staff worked with Pro Dev to evaluate replies to the RFP for special construction inspections. A groundbreaking ceremony was held to initiate the project on February 26th. Bethel Services has received a Site Plan Permit from the Planning Department for fill and foundation. The Director and Dave Cobb met with BUC to discuss the power requirements for the project.

BNC Commercial Project (Kipusvik): Anna Hoffman attended the Planning Commission meeting and provided information on the elevations and interior décor of the project.

Prematernal Home and Long Term Care Facility: Siding is being installed.

Opportunities: There may be a grant available to move a family in a flood prone home to a new home. If anyone can identify an appropriate property, possibly by the Slough, let the planner know.

MEMORANDUM

DATE: 3/1/2013

TO: Lee Foley, City Manager

FROM: Chuck Willert, Public Works Director

SUBJECT: Manager's Report –

Programs/Divisions

Public Works Director:

We are working with CH2M Hill engineers in regards to getting a RFP out for the Public Works Shop floor this week, March 5, 2013.

We are working to get another RFP out for two truck chassis's and one stainless steel highway sander by next week, March 11th.

Utility Maintenance:

This month we responded to six after hour callouts. We also flushed three sewer lines this month in ASHA. We also had a glycol leak in BHWTP which was fixed immediately. There was four freeze ups in City Sub. We were able to thaw two of them. We also had a water leak at Tunista Inc. which was fixed by the owner. We also continue to blue tag overdue accounts for our Billing Department. We also continue to monitor our liftstations on a daily basis and rebuild sewer pumps when needed.

Hauled Utilities:

We've been trying to cut down on overtime. Because of attendance there is still quite a bit. Routes are getting done. Three drivers responded to a fire callout in Larson Sub on 2/9/2013. Training on the new guy seems to be going pretty good. In a couple of weeks we will have another guy on the roster. This will help out a lot.

Property Maintenance:

Buildings are being checked daily for heat and adjusted according to outside temperatures. Problem valves or pumps are replaced or something done with. Entrance ways, decks and stairs are being shoveled, ice chipped and sanded as needed. The hot and cold water is run through the systems to make sure everything is in good shape with the plumbing. We have had some issues with the diesel fuel nozzles on our Fuel Delivery Building. We had bought some inexpensive equipment and found out the foreign made hardware is not worth the trade off. The stuff just does not hold up in extreme conditions or for that matter in any product we have to work with. Prior to Presidents Day we checked and changed hardware and flags in most locations.

We had Pioneer Door out here to inspect and adjust our overhead doors in all our buildings. A little preventative maintenance goes a long ways. I have been showing families Cemetery plots and having to clear snow off them. It is once again filling up and I will have to look at getting another section ready. We have been working on a room over at what we call the P.D. annex for the engineer that will be staying in town tracking the new Aquatic/Rec Center. I have been using Community Service Workers to assist me. We have lots of projects going on and they have been of tremendous help. I use them all the time. We will be getting some one out here soon I hope to look at our ventilation system at the Court House. He has been giving me lots of excuses and I will be looking for someone else soon if he does not show.

Road Maintenance:

Streets and Roads have been working on widening roads of the snow berms that have been caused from drifting snow and plowing the roads during the blizzards. In between snow storms we have been working on widening the roads and moving back the rather large snow berms. Now that we've been working at a larger scale with all the berms we've been using two loaders steady to push the snow back and haul it off the roads. Also now we started to use the D5 dozer in pushing the snow off the road in places where the loaders cannot get to it or in areas that we cannot push it off the road. We windrow it to the center of the road with either the D4 or the graders and haul it off with the two loaders.

Streets and Roads have been digging the ice at the two water pump

houses where the trucks fill up with the 420 backhoe when needed. This is from the water trucks over flowing when they fill up and freezing up on the ground causing a mountain of ice that takes the 420 backhoe to rip up the ice and dig it out.

Gary has been running the new Cat Excavator for the Port digging out the mouth of Brown Slough when they need him and plowing the roads when not working in Brown Slough. As of now it looks like the port is on hold for the dredging of the Slough.

Vehicles and Equipment:

Pretty much the same as last month, we have been going through the water and sewer trucks to *make* sure everything is in top working order such as the air system, breaks, and *electrical* system. We are short one mechanic and staying late for hauled utilities and going thru a lot of over time.

Transit System:

Transit System
For February, 2013, The Bethel Transit System transported a total of 893 passengers, 161 of those riders had a disability and 100 were elders
The cash fares totaled $ 922.00 while the passes used totaled $971.00.00 and monthly passes were $273.00, there are three drivers
Brenda George who is a full time driver /Acting Manger
Jang Kim who is the Part time
Christina David who is on–call driver
These figures are from February 1 thru the 28th 2013

Staffing Issues/Concerns/Training:

Sonny Venes will retire at the end of March, he is the Landfill Manager. Vince has two open positions in the Hauled Utilities Department.

Budget/Financial:

Will put in financial numbers next month.

MEMORANDUM

DATE: March 5, 2013

TO: Lee Foley, City Manager

FROM: John Sargent, Grant Manager

SUBJECT: Grant Manager's Report – March 12, 2013 Bethel City Council Meeting

Bethel Transit System
I helped conduct four interviews to hire a transit manager for the Bethel Transit System. The City received seven applications. The Public Works Director will make an offer to one of the candidates during the week of March 4, 2013.

The Alaska State Department of Transportation and Public Facilities, Transit Division, adopted an electronic grant-preparation and reporting system called *e-grants*. This new software will be used by the City to apply for the FTA Section 5311 Community Transportation Grants that supports the operation of the transit system. The City will likely need another commitment letter from transit system funding partner, ONC, for the cash match required for the grant. Next year's grant will be effective July 1, 2013 and be expended by June 30, 2014.

I completed the Bethel Transit System Maintenance Plan as required by the Alaska Department of Transportation and Public Facilities, Transit Division, after their monitoring visit to Bethel. The 3-page document lists service expectations based on vehicle miles driven.

RFP for Fire Engine
I worked with Bill Howell and Patty Burley to finalize the 72-page Request for Proposals to purchase one pumper/tender fire engine. The City has $350,000 for this purchase from an FY 2013 Designated Legislative Grant from the State of Alaska.

Road Repairs and Upgrades Grant Extension Requested
The City of Bethel requested an extension of its Road Repairs and Upgrades Designated Legislative Grant until June 30, 2014. The City plans to spend the remaining $452,184.93 on one road sander, one road sander box, and gravel. A Request for Proposals to purchase the sander and box is being developed.

City of Bethel
Grant Summary
Calendar Year 2013

Preparing

Sponsor	Name	Products/Services	City Depts. (Partners)	Date	$ Grant $ City Match
AK Dept. of Transportation and Public Facilities	FY 2014 Community Transportation Grant	Transit System operating costs	Public Works, Transit System	4/11/13	Est. $240,000 $105,000 ONC

Submitted in Calendar Year 2012

Most recent first

Sponsor	Name	Products/Services	City Depts. (Partners)	Date	$ Grant $ City Match
Alaska Dept. of Natural Resources, Division of Parks and Outdoor Rec.	Considering Land & Water Conservation Fund grant	Pinky's Park Upgrades: new multiuse sports field, boardwalk, decks, garden high tunnel.	Parks and Rec.	2/1/13	$125,000 Other grants + in-kind match
Federal Emergency Management Agency	Assistance to Firefighters Grant	One water tender and two radiation detectors	Fire	7/6/12	$304,350 0

Approved in Calendar Year 2013

Most recent first

Sponsor	Name	Products/Services	City Depts. (Partners)	Date	$ Grant $ Match
None					

Not Approved in Calendar Year 2013

Sponsor	Name	Products/Services	City Depts. (Partners)	Date	$ Grant $ Match
W.F. Kellog	First Nations Agriculture Initiative Grant	High tunnel on sand pad as part of community garden	YKHC & Parks and Rec.	2/20/12	$37,500 0

Memorandum

DATE: March 6, 2013

TO: Lee Foley, City Manager

FROM: Bobby Sutton, Finance Director

SUBJECT: Manager's Report – February 2013

Finance Committee

The Finance Committee met on Monday, February 18, 2013 but did not achieve a quorum. Its next regularly scheduled meeting is set for Monday, March 18th at 6:30 pm.

Staffing Issues/Concerns/Training

The Finance Department currently has one vacancy at the Accounting Clerk position due to a staff member's relocation out of state. The position has been posted and recruitment is underway.

Budget/Financial

As of January 31 2012, the Finance Department had expended $402,693 (53.5%) of its annual budget of $752,617 with 59% of the year elapsed. The Utility Billing Department, which is also managed by the Finance, had expended $88,012 (47.7%) of its annual budget of $184,514.

Project Updates

- PERS Audit
  No follow-up information has been received from the PERS auditor to date.

- FY 2014 Annual Budget Preparation
  We are busy preparing the upcoming FY 2014 Proposed Annual Budget. The budget will be submitted to City Council by no later than April 1, 2013.

- Online Bill Pay and Processing
  Xpress Bill Pay will be conducting implementation of the new online bill payment system for water, sewer, and garbage billings on March 20th. We plan to send announcements along with the April utility bills as well as advertise it in the Delta Discovery.

Clerk's Report

City of Bethel, Alaska

City Clerk's Office

To: City Council
From: Lori Strickler
Subject: Clerk's Report

Upcoming Council Events:
February 26, 2013 Ground Breaking Ceremony For YK Regional Health and Safety Aquatic Center
March 4, 2013 Joint Task Force Meeting with ONC at ONC Council Chambers
March 12, 2013 Regular City Council Meeting

Projects
Conflicts of Interest Ordinance presented to Council for consideration.

Records Retention modifications are being submitted to the Clerk's Office from various departments. We are in the process of reviewing the changes from each department and making changes to the Retention Schedule which will be presented to Council at a future meeting.

Attended an APOC training on February 25. Although the City has opted out of the Alaska Statutes requirement, this training provided good feedback on what should be included when the council considered the new Conflict of Interest Ordinance, specifically the Financial Disclosure Statements.

City Attorney Burley provided modifications to Chapter 1 of the Bethel Municipal Code. I am reviewing the modifications and providing feedback prior to the document being provided to Council.

The following is an outline of the upcoming trainings for committees and commissions:

Parks and Recreation – February 4, 2013 (Done)
Planning Commission – February 16, 2013 (Done)
Public Works Committee- February 27, 2013 (Done)
Energy Committee – March 4, 2013 (Done)
Public Safety and Transportation Commission –March 5, 2013 (Done)

Port Commission – March 25, 2013
Finance Committee –March 28, 2013

As a reminder, this is the year I will provide training to each committee/commission. Next year I will provide a general training to all committees and commissions.

Establishing an electronic filing system for all of the cemetery records.

Received three more books of ordinances from the document preservation company, ordinances from 1958 through 2001 are restored and bound for permanent retention.

Establishing a Quasi Judicial Proceeding procedure for Council and Commissions which will be provided to the Attorney for final review.

City of Bethel, Alaska

City Clerk's Office

MEMORANDUM

TO: Committee and Commission Members and Staff

FROM: Lori Strickler

DATE: March 4, 2013

SUBJECT: Violation of BMC 2.52.070 Vacancies

It was brought to my attention there are many committee/commission volunteers who have exceeded the number of absences in the 2012 calendar year allowed, per BMC 2.52.070 Vacancies. I am providing this memo as a reminder to the body and the ex-officio members. The body should review the attendance records throughout the year and provide notices to the members who are getting close to not meeting the minimum requirement for attendance. Additionally, if a meeting is not held due to an expected lack of a quorum, the members who are available for the meeting should still make themselves accessible for roll call. If members are not available for roll call, the absence will still count against the minimum 65% attendance requirement. As volunteers, the City of Bethel is grateful for your service a hope for your continued support. If you should have any questions, please let me know.

Bethel Municipal Code 2.52.070 (a) states:

2.52.070 Vacancies.

A. The head of the department clearly associated with the body or the department head's delegate shall keep attendance records and notify the city clerk when a vacancy has been declared. Attendance shall be taken and recorded even in the absence of a quorum. A vacancy shall be declared by the body when a member:

1. Is absent from the city for more than ninety (90) days without first (1st) being excused by the body;
2. Fails to attend three (3) regularly scheduled meetings within any calendar year without being excused by the body;
3. Fails to attend three (3) special meetings within any calendar year without being excused by the body;

4. Fails to attend a minimum of sixty-five (65) percent of regular meetings held within any calendar year whether excused or unexcused;
5. Fails to attend a minimum of sixty-five (65) percent of special meetings held within any calendar year whether excused or unexcused;
6. Submits a written resignation which is accepted by the body or the mayor;
7. Dies;
8. Fails to qualify and give the oath of office within thirty (30) days after city council confirmation of the appointment;
9. Ceases to be a resident of the city;
10. Is convicted of a felony or an offense involving a violation of the oath of office for the body; or
11. Becomes disqualified from holding the seat under other provisions of this code.

B. A member may be removed by the council at any time with or without a stated reason; provided, before or promptly after the removal the person shall first (1st) be given an opportunity to address the council in a public meeting.

C. A member that is appointed or nominated by a private or governmental organization or officer as a representative of that organization on the body may be removed at any time as provided for removal of members appointed by the mayor.

D. An ex officio member may not be removed by the council if the person's membership is based solely upon an office or position occupied by that person within a different organization and is not based in part or in whole upon a nomination or recommendation by the person's organization.

Executive Session

ANNUAL PERFORMANCE EVALUATION
NAME: LORI STRICKLER
DATE: MARCH 12, 2013
EMPLOYMENT CONTRACT EXPIRES MARCH 3, 2014

PART 1 — Evaluate the ability to accomplish the duties set forth by State statutes, the Municipal Code, and other duties as assigned by Council.

Attend City Council meetings as required, act as parliamentary advisor to Council, record and keep official journal of Council meetings	5	4	3	2	1
Assure notice and other requirements for public meetings are complied with	5	4	3	2	1
Assure public records are available for public inspection as required by law	5	4	3	2	1
Manage City records and develop retention schedules and procedures for inventory, storage, and destruction of records	5	4	3	2	1
Maintain an indexed file of all permanent municipal records, provide for codification of ordinances	5	4	3	2	1
Authenticate or certify City records as necessary	5	4	3	2	1
Prepare Council agendas and Council meeting packets as required by City Council	5	4	3	2	1
Conduct research and prepare information for Council as requested	5	4	3	2	1
Administer all municipal elections and assure that the municipality complies with the Voting Rights Act of 1965, as amended	5	4	3	2	1
Develop, prepare and defend the City Clerk's office annual budget and budget modifications	5	4	3	2	1
Take oaths and affirmations as necessary	5	4	3	2	1
Provide support and training to City boards, committees and commissions	5	4	3	2	1
Manage cemetery procedures and records	5	4	3	2	1
Ability to interface harmoniously and effectively with the public and all levels of management and government	5	4	3	2	1
Other duties as assigned by City Council	5	4	3	2	1

Total	

PART 2 — Evaluate the work ethics and work habits.

Work ethic	5	4	3	2	1
Dependability; can be depended upon without	5	4	3	2	1

Rating Scale:
5=Outstanding; 4=Very Good; 3=Good; 2=Satisfactory; 1=Needs Improvement

supervision					
Self-motivated; self-reliant; displays energy	5	4	3	2	1
Displays good judgment	5	4	3	2	1
Able to handle difficult or stressful situations	5	4	3	2	1
Adaptability; adjusts to various circumstances, new processes or changes	5	4	3	2	1
Manages time efficiently	5	4	3	2	1
Attitude and enthusiasm	5	4	3	2	1
Willingness and capability to carry out new assignments or projects	5	4	3	2	1
Availability to Council and public	5	4	3	2	1
Follows through with requests	5	4	3	2	1
Attendance record	5	4	3	2	1
		Total			

PART 3 — Evaluate the quality of work produced and the degree of knowledge of work procedures and operations.

Accuracy, Completeness and Conformity	5	4	3	2	1
Knowledge of job	5	4	3	2	1
Ability to research and understand City ordinances	5	4	3	2	1
Ability to prepare resolutions, ordinances and reports to City Council	5	4	3	2	1
Quality of work	5	4	3	2	1
Takes pride in work	5	4	3	2	1
Ability and desire to research ways to improve operations	5	4	3	2	1
Exceeds expectation	5	4	3	2	1
Productive with time	5	4	3	2	1
Ability and desire to learn basic job functions	5	4	3	2	1
Ability and desire to learn beyond basic job functions	5	4	3	2	1
Presents completed work in an orderly fashion	5	4	3	2	1
Attention to details	5	4	3	2	1
		Total			

Rating Scale:
5=Outstanding; 4=Very Good; 3=Good; 2=Satisfactory; 1=Needs Improvement

PART 4 — Evaluate personal relations/interactions with City Council members, City staff members and the public

Friendly, courteous and flexible	5	4	3	2	1
Maintains a helpful attitude; willing to help	5	4	3	2	1
Steps outside of job duties to help other city staff when needed (team player)	5	4	3	2	1
Working relationship with City Manager and City Department Heads	5	4	3	2	1
Effectively communicates with City staff, Council and the public	5	4	3	2	1
Writes clearly and concisely	5	4	3	2	1
Expresses ideas and opinions in a forthright, logical manner	5	4	3	2	1
Ability to work in stressful situations	5	4	3	2	1
Provides answers when not readily available; Follows through with requests for information	5	4	3	2	1
Acts as a liaison between the City Council and the general public	5	4	3	2	1

Total	

Part 1:	
Part 2:	
Part 3:	
Part 4:	
Overall Evaluation Total:	

Overall Evaluation

Outstanding	Very Good	Good	Satisfactory	Needs Improvement
250	**204**	**153**	**102**	**51**

Suggested Development/Training Goals:

Rating Scale:
5=Outstanding; 4=Very Good; 3=Good; 2=Satisfactory; 1=Needs Improvement

ANNUAL PERFORMANCE EVALUATION
NAME: LORI STRICKLER
DATE: MARCH 12, 2013
EMPLOYMENT CONTRACT EXPIRES MARCH 3, 2014

Council Member Comments:

City Clerk Comments:

Council Member's Signature _____ Date: _____

City Clerk's Signature: _____ Date: _____

Rating Scale:
5=Outstanding; 4=Very Good; 3=Good; 2=Satisfactory; 1=Needs Improvement

NEGOTIATED AGREEMENT
Between
CITY OF BETHEL
and
LORI STRICKLER

THIS AGREEMENT, by and between the City of Bethel, Alaska ("City"), a municipal corporation, hereinafter called "Employer," and Lori Strickler, hereinafter called "Employee," both of whom understand as follows:

WITNESSETH

WHEREAS, Employer desires to employ the services of said Employee as City Clerk of the City, as provided by section AS 29.20.380 of the Alaska Statutes and BMC 2.12.010; and

WHEREAS, it is the desire of the City Council ("Council") to provide certain benefits, establish certain conditions of employment and to set working conditions of said employee; and

WHEREAS, it is the desire of the Council to secure and retain the services of Employee by and through the terms of this Agreement; and

WHEREAS, Employee desires to accept employment as City Clerk pursuant to the terms of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants herein contained, the Employer and Employee agree as follows:

Section 1. POWERS AND DUTIES

Employer hereby agrees to employ Lori Strickler as City Clerk of the City of Bethel, Alaska to perform the function, powers and duties specified in AS 29.20.380, Bethel ordinances, and other legal and proper duties and functions as the Council shall from time to time assign.

Section 2. Term

A. Employee shall serve at the pleasure of the Council and is an at-will employee of the City.

B. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Council to terminate the services of the Employee at any time with or without cause, subject only to the provisions set forth in Section 5, paragraph A of this Agreement. The City shall comply with the City's insurance policy endorsement regarding any termination.

C. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Employee to resign at any time from the position of City Clerk, subject only to those provisions set forth in Section 5, paragraph B, of this Agreement.

Section 3. Duration

A This Agreement which expressly supersedes the provisions of any other previous agreement, is the sole and complete agreement between the Employer and Employee. This agreement shall become effective when signed by employer and employee and shall continue in full force and effect for a period of thirty-six (36) months.

B. In the event the parties agree in writing, this Agreement may be extended on the same terms and conditions as herein provided, for additional periods of one (1) year.

Section 4. Salary

Employee shall be paid an annual salary at a gross rate of $79,061.40 payable in installments at the same time as other employees of the Employer. Employee's base salary shall be increased between zero and 3% at the discretion of the council upon a satisfactory performance evaluation annually on March 3.

Section 5. Termination and Severance Pay

In the event Employee voluntarily resigns the position with Employer before the duration of this Agreement has expired, the Employee shall give Employer ninety (90) days notice in advance, unless both parties agree in writing to a lesser time span.

Section 6. Employee Evaluation.

A. Evaluation of the performance of the Employee shall be directed toward improving the performance of the Employee. However, evaluations shall also serve as a method for gathering information relevant to employee's performance and continued employment.

B. Employee shall be evaluated in writing by Council annually on or about March 3. Council shall determine the content of the document used to evaluate Employee, and shall make the document available to Employee for review.

Section 7. Hours/Days of Work

Employee's position requires the exercise of independent judgment on the part of the Employee and requiring periods of extended work to exceed the normal office hours, work day and work week established by the Employer. The Employee will be available during regular business hours. Employee will be expected to work whatever hours are needed based upon the demands of the job. Employee acknowledges she is an exempt employee and not entitled to overtime compensation or compensatory time compensation based on hours worked by Employee in excess of eight (8) hours per day or forty (40) hours per week. Any time in excess of the normal hours in a day or week is not compensated or credited in any manner by the Employer.

Section 8. Transportation

Within available City resources, employee may have access to a City vehicle to complete tasks required of employee.

Section 9. Outside Employment

Outside employment and business pursuits are prohibited unless first authorized by Council. Any outside employment or business pursuits must occur while Employee is on leave or must occur outside the regular business hours of the City. Notwithstanding the foregoing or any authorization by Council, the Employee is required to perform the duties of the City Clerk when the interests of the City require, without regard to regular work hours or days or the competing needs of the Employee's authorized outside employment or business pursuits.

Section 10. Compensated Leaves

A. Personal Time Off (PTO)

PTO shall accrue at the rate of 20 hours per month of service. PTO can be accumulated up to a maximum accrual of 400 hours. Sick leave shall be utilized only for the illness of the Employee, or illness in the Employee's immediate family, or vacation purposes Should the employee be absent for more than five consecutive working days, she shall be required to provide a physicians certificate to the Mayor. The Employer agrees to compensate the Employee for all remaining PTO hours at the termination of this agreement, payable at the same value as cashed in annual leave

B. Emergency Leave

The Employer agrees to grant the Employee a maximum of forty (40) hours emergency leave for death or serious illness in the immediate family. For purposes of this type leave, one's immediate family includes the Employee's spouse, child, parent, father-in-law, mother-in-law, brother and sister.

C. Family Medical Leave

The Employer is required under federal law to grant the Employee up to 12 workweeks of unpaid Family Medical Leave within a 12 month period for any of the following reasons:

- Birth or adoption of a child, placement of a child for adoption, foster care for children under age 18, or adoption of a child 18 or older if the child is incapable of self care due to disability.
- Caring for a child, spouse or parent with a serious medical condition.
- The employees own serious health condition.

To be eligible for leave the Employee must have worked a total of at least 12 consecutive months for at least 1,250 hours. The Employee must use any accrued vacation and sick leave concurrently with FMLA leave.

D. Injury Leave

Should the Employee become injured on the job, she will be entitled to the compensation benefits as provided by the Worker's Compensation Act.

E. Court Leave

The Employee shall be granted administrative leave for jury duty. Appearances in court by the Employee on behalf of the City are part of the Employee's normal job responsibilities, and she will be paid accordingly.

F. Administrative Leave

The Employee may be granted administrative leave with pay by a majority vote of the Council for reasons specified, including attendance at a clerk's professional conference.

G. Holidays

Employee is entitled to all City recognized paid holidays, but it is understood that from time to time Employee's duties may require her to work on such holidays.

Section 11. Benefits

A. Employee shall be allowed to participate in the City employee's group coverage plan for full family Life, Accidental Death & Dismemberment, Long Term Disability, Dental, Vision and Health insurance program with no premium deductible charged to the employee; provided, however nothing set forth herein shall prevent Employer from modifying, or reducing, benefits currently offered to City employees.

B. Employee shall have the opportunity to participate in the City Utility Services Benefit for the same monthly fee as paid by other City employees.

C. The Employer shall offer the Employee the opportunity to join and participate in the Alaska Public Employees Retirement System (PERS) equal to that which is provided for all other employees of the Employer.

Section 12. Indemnification.

City shall defend and indemnify employee in accordance with BMC 2.48.010 – BMC 2.48.030.

Section 13 Bonding

Employer shall bear full costs of any fidelity or other bonds required for the Employee under any law or ordinance.

Section 14 Notices

(1) EMPLOYER: City of Bethel
c/o Mayor, Eric Middlebrook
P.O. Box 1388
Bethel, Alaska 99559

(2) Employee: Lori R. Strickler
c/o City of Bethel
P.O. Box 1388
Bethel, Alaska 99559

Section 15 General Provisions

A. This Agreement constitutes the entire agreement between both parties. Any modification or amendment shall be enforceable only if approved by a majority vote of the Council in a duly convened public Session, and if transcribed to a written document executed by both parties.

B. This agreement shall be binding upon and inure to the benefit of the heirs at law and executors of the Employee.

C. In any provisions or any portion thereof contained in this agreement is held unconstitutional, invalid, or unenforceable, the remainder of this agreement, or portion thereof, shall be deemed severable. The remainder of this agreement shall not be affected and shall remain in full force and effect.

D. Any civil action arising from this Agreement shall be brought in the superior court for the Fourth Judicial District of the State of Alaska at Bethel, Alaska. The laws of the State of Alaska and the City of Bethel shall govern the rights and obligations of the parties.

E. The failure of the City at any time to enforce a provision of this Agreement shall in no way constitute a waiver of the provisions, nor in any way affect the validity of this Agreement or any part thereof, or the right of the City thereafter to enforce each and every protection hereof.

F. This instrument and all appendices and amendments hereto embody the entire agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations or agreements, either oral or written, between the parties.

G. This Agreement is being executed by the parties following negotiations between them. It shall be construed according to the fair intent of the language as a whole, not for or against any party. The titles of sections in this Agreement are not to be construed as limitations or definitions but are for identification purposes only.

H. If any section or clause of this Agreement is held invalid by a court of competent jurisdiction, or is otherwise invalid under the law, the remainder of this Agreement shall remain in full force and effect.

I. The Consultant acknowledges that the Consultant has read and understands the terms of this Agreement, has had the opportunity to review the same with counsel of their choice, and is executing this Agreement of their own free will.

J. This Agreement may be executed by the parties hereto individually or in separate counterparts, each of which shall be an original and all of which taken together shall constitute one and the same document.

IN WITNESS WHEREOF, the City of Bethel has caused this agreement to be signed and executed in its behalf by its Mayor and the Employee has signed and executed this agreement both in duplicate.

Dated this 29 day of April, 2011.

Employer:

By: _____
Eric Middlebrook, Mayor
City of Bethel

Employee:

By: _____
Lori Strickler, City Clerk
City of Bethel

Additional Information