

City of Valdez

212 Chenega Ave.
Valdez, AK 99686



Meeting Minutes - Draft

Tuesday, April 2, 2019

7:00 PM

Regular Meeting

Council Chambers

City Council

REGULAR AGENDA - 7:00 PM**I. CALL TO ORDER**

Mayor O'Neil called the meeting to order at 7:00 p.m. in Valdez City Council Chambers.

II. PLEDGE OF ALLEGIANCE

The City Council led in the Pledge of Allegiance to the American flag.

III. ROLL CALL

Present: 6 - Mayor Jeremy O'Neil
Council Member Christopher Moulton
Council Member Lon Needles
Council Member Jim Shirrell
Council Member Dennis Fleming
Council Member Darren Reese

Excused: 1 - Council Member Ron Ruff

Also Present: 4 - Assistant City Manager Roxanne Murphy
Deputy City Clerk Allie Ferko
Records Manager Shelley McMillen
City Attorney Jake Staser

IV. APPROVAL OF MINUTES**1. City Council Regular Meeting Minutes of March 19, 2019**

The City Council regular meeting minutes of March 19, 2019 were approved as presented.

V. PUBLIC BUSINESS FROM THE FLOOR

Ms. Lanette Oliver from the Valdez Adventure Alliance provided an update and marketing materials on the organization's upcoming Valdez Bike Bash.

Ms. Lee Hart provided an update on the outcome of the tour of Valdez Adventure Alliance's film, *Blue*, created during the 2018 Bike Bash. She outlined the locations and film festivals throughout the world where the film was screened.

VI. CONSENT AGENDA

- 1. Appointment to Prince William Sound Regional Citizens' Advisory Council Board of Directors - Amanda Bauer**
- 2. Approval to Go Into Executive Session Regarding Ongoing Litigation Strategy**
- 3. Proclamation - Child Abuse Prevention Month**

4. Proclamation - Sexual Assault Awareness Month

MOTION: Council Member Moulton moved, seconded by Council Member Reese to approve the Consent Agenda. The motion carried by the following vote.

VOTE ON THE MOTION:

Yays: 6 - Mayor O'Neil, Council Member Moulton, Council Member Needles, Council Member Shirrell, Council Member Fleming and Council Member Reese

Excused: 1 - Council Member Ruff

Mayor O'Neil read both proclamations and presented them to members of Advocates for Victims of Violence. Ms. Rowena Palomar, AVV Executive Director, provided comments and invited the community to attend several upcoming events, including Go Blue Day, Children's March, and Walk a Mile in Her Shoes.

VII. UNFINISHED BUSINESS

1. Approval of Contract with TB Inc., dba TBI Construction Co. for the Animal Shelter Kennel Renovation Project in the Amount of \$505,000 (Postponed from March 19, 2019 Regular Meeting)

MOTION ALREADY ON THE FLOOR. Motion failed after the following discussion occurred.

Council briefly discussed their support for just the renovation project without the accessory building. Ms. Ferko explained if the Council would like to approve the kennel renovation project without the accessory building, they would need to vote this item down. An agenda item would then be brought before the Council at the next regular meeting for a contract award to the lowest bidder for just the renovation project scope.

Mr. Rich Long, Valdez animal control officer, gave a brief overview of the reasons he believed the accessory structure is needed from an operational perspective, an emergency management perspective, and to house animals, including exotic animals which are hard to foster, during the project. Council debated the pros and cons of funding the accessory structure. Several Council members expressed concerns that alternate solutions were not explored before bringing the accessory structure forward for approval.

VOTE ON THE MOTION (FAILED):

Nays: 6 - Mayor O'Neil, Council Member Moulton, Council Member Needles, Council Member Shirrell, Council Member Fleming and Council Member Reese

Excused: 1 - Council Member Ruff

Council provided consensus and direction to staff to bring back the contract for just the renovation project at the next regular meeting. They requested an outline

of how the animals would be cared for during the project and associated costs. Ms. Murphy explained she would ensure alternate solutions were explored and outlined in the agenda statement.

2. #19-15 - Amending the 2019 City Budget by Transferring \$570,000 from Unencumbered Capital Projects Contingency to Animal Shelter Kennel, Curbs, and Drains Replacement Project (Postponed from March 19, 2019 Regular Meeting)

MOTION ALREADY ON THE FLOOR.

Ms. Ferko explained, because this is the companion resolution to the contract approval for the kennel renovation project, it would need to be postponed until the next regular meeting when the new contract would be discussed. Any changes to the amount of the budget transfer due to elimination of the accessory building could be amended at that time.

MOTION TO POSTPONE: Council Member Moulton moved, seconded by Council Member Fleming to postpone Resolution #19-15 until the next regular City Council meeting of April 16, 2019. The motion to postpone carried by the following vote after the following discussion occurred.

VOTE ON THE MOTION TO POSTPONE:

Yays: 6 - Mayor O'Neil, Council Member Moulton, Council Member Needles, Council Member Shirrell, Council Member Fleming and Council Member Reese

Excused: 1 - Council Member Ruff

3. Approval of Contract Award with Prosser-Dagg Construction Company, LLC for VHS Concrete Replacement in the Amount of \$343,275. (Postponed from March 19, 2019 Regular Meeting)

MOTION ALREADY ON THE FLOOR. The motion carried by the following vote.

VOTE ON THE MOTION:

Yays: 6 - Mayor O'Neil, Council Member Moulton, Council Member Needles, Council Member Shirrell, Council Member Fleming and Council Member Reese

Excused: 1 - Council Member Ruff

4. #19-16 - Amending the 2019 City Budget by Transferring \$400,000 from Unencumbered Capital Projects Contingency to Major Maintenance, High School Concrete Replacement Project (Postponed from March 19, 2019 Regular Meeting)

MOTION ALREADY ON THE FLOOR. The motion carried by the following vote.

VOTE ON THE MOTION:

Yays: 6 - Mayor O'Neil, Council Member Moulton, Council Member Needles, Council Member Shirrell, Council Member Fleming and Council Member Reese

Excused: 1 - Council Member Ruff

VIII. NEW BUSINESS

1. Approval to Allocate 2019 Portion of Community Service Organization (CSO) Funds for Valdez Fisheries into the Reserve Account to Accommodate Project Timeline Revision

MOTION: Council Member Reese moved, seconded by Council Member Shirrell to approve allocation of 2019 portion of community service organization (CSO) funds for Valdez Fisheries into the reserve account to accommodate project timeline revision. The motion carried by the following vote after the following discussion occurred.

Council asked for clarification on why funds for this grant needed to be placed into a reserve account instead of the Valdez Fisheries Development Association (VFDA) just reapplying for a 2020 CSO grant. Mr. Brian Carlson, city finance director, explained available city grant funding for 2020 could not be guaranteed. Other federal, state, and private stakeholders involved in the project needed to commit resources and funding now to get the process started. Stakeholders thus needed confirmation the project would receive city funding.

Ms. Lori Plaster from VFDA provided a brief history overview of the project and its stakeholders. Federal funding is available for habitat rehabilitation projects, which includes a match from the Army Corps of Engineers. VFDA submitted an application for this funding in May 2018. VFDA then applied for the city CSO grant in August 2018, which was approved through the 2019 budget process. VFDA will not know if they will receive the federal funding through the Army Corps of Engineers until late spring or late summer, at which time they will then need to secure contracts to complete the work.

Mr. Duval added the Army Corps of Engineers looks favorably on projects during the selection process which already have partial funding allocated.

VOTE ON THE MOTION:

Yays: 6 - Mayor O'Neil, Council Member Moulton, Council Member Needles, Council Member Shirrell, Council Member Fleming and Council Member Reese

Excused: 1 - Council Member Ruff

2. Approval of Contract with NPC Energy Services, LLC for the VCT Electrical Upgrades - Re-bid Project in the Amount of \$3,296,070

MOTION: Council Member Moulton moved, seconded by Council Member Needles to approve contract with NPC Energy Services, LLC for the VCT electrical upgrades - rebid project in the amount of \$3,296,070. The motion carried by the following vote after the following discussion occurred.

Council Member Fleming asked staff to include start and end dates in the legislative text agenda statement for future projects of this magnitude. Mr. Nate Duval, city capital facilities director, provided a brief overview of the anticipated timeline for the project.

Council Member Moulton asked for an overview of the bid process for this contract. Mr. Nate Duval stated the project was advertised the first time to solicit prequalification packages. He outlined the specialty needs of the scope and breadth of the project. The contract was advertised a second time to solicit a broader range of bidders. He explained the process by which NPC Energy Services, LLC was selected. They were not the lowest bidder, however they were the most qualified for the scope of the contract. He outlined the basic differences between NPC and the lowest bidder. He stated all the bidders were aware of how the contract proposals would be scored, as the criteria and process were outlined in the request for proposals. The Kelsey Dock project was bid in a similar manner.

Mr. Duval explained he recused himself from the scoring process for this project due to his interaction with bidders during his prior employment.

VOTE ON THE MOTION:

Yays: 6 - Mayor O'Neil, Council Member Moulton, Council Member Needles, Council Member Shirrell, Council Member Fleming and Council Member Reese

Excused: 1 - Council Member Ruff

3. Approval of Interim City Manager Contract

MOTION: Council Member Shirrell motioned, seconded by Council Member Moulton to approve the interim city manager contract with Roxanne Murphy. The motion carried by the following vote.

VOTE ON THE MOTION:

Yays: 6 - Mayor O'Neil, Council Member Moulton, Council Member Needles, Council Member Shirrell, Council Member Fleming and Council Member Reese

Excused: 1 - Council Member Ruff

4. Discussion Item: City Manager Recruitment Process

Mayor O'Neil stated Incident Command System training and competence at an executive leadership level should be included in the minimum requirements for city manager candidates.

Council debated the pros and cons of using a recruitment firm to help search for and identify qualified candidates. They discussed potential alternatives for recruitment, such as advertising online through ICMA, AML, and other professional organizations. Several Council members discussed the need for someone to manage the recruitment and candidate vetting process. This could be accomplished through a limited scope with a recruitment firm. The interview process once final candidates were selected could then be coordinated in house. Mayor O'Neil expressed his support that the full recruitment process be conducted by city staff. Council Member Moulton discussed the need for a larger pool of candidates than what was done in the past.

Council scheduled a work session in late April to discuss the city manager recruitment process. The primary topic for the work session would be discussion about the necessity of hiring a recruitment firm. If consensus was to hire a recruitment firm, scope of the contract could then be discussed.

Council provided consensus to wait until after the municipal election to interview or hire a new city manager process.

IX. ORDINANCES

1. #19-02 - Amending Chapter 8.20 of the Valdez Municipal Code Related to Nuisances. First Reading. Public Hearing.

MOTION: Council Member Shirrell moved, seconded by Council Member Fleming to approve Ordinance #19-02. First reading. Public hearing. The motion carried by the following vote after the following discussion occurred.

Mr. Staser provided a brief overview of the changes included in the ordinance.

Council briefly discussed implementation and enforcement processes for this section of code. Council Member Shirrell stated the city should be prepared to

invest funds and assistance in helping citizens gain compliance with code at the start of the process, such as assisting with disposal of junk vehicles.

Mr. Dan Plaster, city enforcement officer, explained the main goal at the start of the enforcement program would be education efforts to gain voluntary compliance.

Council Member Moulton reiterated the need to review municipal code and ensure what is reflected is what is needed and makes sense in Valdez.

Mr. Brandon Reese, city Planning & Zoning Commissioner, requested written materials be advertised prior to enforcement efforts. Ms. Ferko offered to send a copy of the implementation and education plan written by Mr. Plaster to the commission.

VOTE ON THE MOTION:

Yays: 6 - Mayor O'Neil, Council Member Moulton, Council Member Needles, Council Member Shirrell, Council Member Fleming and Council Member Reese

Excused: 1 - Council Member Ruff

X. RESOLUTIONS

1. #19-19 - Approval to Sell by Negotiation a 100 Acre Parcel of City Owned Land Within ASLS 79-116 to Rydor Enterprises, LLC.

MAIN MOTION: Council Member Moulton moved, seconded by Council Member Fleming to approve Resolution #19-19.

At the request of Council, Mr. Nate Smith from Rydor Enterprises, LLC provided a presentation regarding his company's project. He outlined the history of the project, vision for development of the land, and progress made thus far.

Council Member Moulton stated now that the property in this area of town is being sold, other individuals may begin to express interest in purchasing adjacent city land, most especially if zoning is changed.

Council Member Moulton asked if the sale of this property restricted movement on adjacent city property or access to the river or lake. Mr. Paul Nylund, city senior planner, explained state of Alaska land abuts one side of the land being sold. There are public easements which provide city access on all sides.

Mayor O'Neil and several Council Members expressed their reasons for supporting both the project and sale of the land.

Ms. Ferko explained a clerical revision would be administratively made to the resolution in the fourth whereas paragraph, as the Valdez Municipal Code reference listed was incorrect. The correct reference is Chapter 4.04.070.

MOTION TO AMEND (1): Council Member Fleming moved, seconded by Council Member Shirrell to add the following sentences to the end of Section 1 of the

Resolution: "Purchaser may arrange a secondary independent appraisal at their own expense. The results of the secondary appraisal may be submitted to the city for consideration in determination of fair market value of the property. If the secondary appraisal returns a value less than the original appraisal, the average of the two appraisals may be used to determine fair market value and sale price of the land." The motion to amend carried by the following vote after the following discussion occurred.

Council Member Shirrell asked if the purchasers were in agreement with the proposed amendment. Mr. Smith explained the language reflects similar language included in the resolution from the 2007 land sale. Council Member Fleming explained he had met with Mr. Smith and they discussed the need for series of amendments. Council Member Moulton asked why Mr. Smith felt he needed to obtain a second appraisal. Mr. Smith explained the second appraisal would be at no cost to the city. Council Member Moulton stated the sale would need to come back to Council for approval if it was under fair market value. Council Member Shirrell explained it was not uncommon in real estate sales to have multiple appraisals for negotiation purposes. Council Member Shirrell clarified the amendment stated the secondary appraisal "may be used" not "shall be used" to determine the sale price.

VOTE ON MOTION TO AMEND (1):

Yays: 5 - Mayor O'Neil, Council Member Needles, Council Member Shirrell, Council Member Fleming and Council Member Reese

Nays: 1 - Council Member Moulton

Excused: 1 - Council Member Ruff

MOTION TO AMEND (2): Council Member Moulton moved, seconded by Council Member Reese to strike Section 2 and replace it with the following: In conformance with the Property Management and Procedures, upon approval of the land sale by City Council, purchaser is required to submit a prorated deposit in the amount of \$1,500 as down payment for the cost of the appraisal. Any unused funds remaining may be applied toward the purchase price. Payment of the deposit must be made within 15 days of approval by the City Council. No deposit is required for the cost of the survey, as it has already been conducted, provided to the city, and paid for at the purchaser's expense. No deposit is required for the cost of the Phase 1 environmental assessment as it is currently in progress at the purchaser's expense." The motion to amend carried by the following vote after the following discussion occurred.

Mayor O'Neil clarified this amendment provided for a prorated deposit, giving credit for work already completed. Mr. Staser added the deposit for the survey, phase I environmental analysis, and appraisal is outlined in code, with an amount set by resolution. He stated the amendment complies with municipal code language.

Mayor O'Neil asked if the city normal contracts for completion of the survey, phase 1 environmental analysis, and appraisal. Ms. Rochelle Rollenhagen, city planning department director, confirmed this as correct. She explained the former city manager gave Rydor Enterprises permission to access the land to complete the survey and phase 1 environmental analysis. Mr. Smith added they completed those two items in advance to be efficient and better prepared for the land sale discussion. Then the land sale resolution could be brought to Council for

consideration at an appropriate time of year to allow work on the property if approved.

VOTE ON THE MOTION TO AMEND (2):

Yays: 6 - Mayor O'Neil, Council Member Moulton, Council Member Needles, Council Member Shirrell, Council Member Fleming and Council Member Reese

Excused: 1 - Council Member Ruff

MOTION TO AMEND (3): Council Member Moulton moved, seconded by Council Member Needles to add the following sentences to the end of Section 7. If the intended use of the land is shown not to be viable, purchaser may develop the land for use in conformance with existing zoning requirements in place at the time. The land may also be subdivided in conformance with processes outlined in Valdez Municipal Code." The motion to amend carried by the following vote.

VOTE ON THE MOTION TO AMEND (3):

Yays: 5 - Mayor O'Neil, Council Member Needles, Council Member Shirrell, Council Member Fleming and Council Member Reese

Nays: 1 - Council Member Moulton

Excused: 1 - Council Member Ruff

MOTION TO AMEND (4): Council Member Fleming moved to strike the word "survey" and the phrase "Phase 1 environmental assessment" from Section 5. Ms. Ferko stated those words could actually be administratively struck based on the content of amendment (2) as approved by Council. Motion to amend (4) failed due to lack of second.

MOTION TO AMEND (5): Council Member Fleming moved, seconded by Council Member Needles to strike the phrase "or purchase" from Section 7. The motion to amend carried by the following vote after the following discussion occurred.

VOTE ON THE MOTION TO AMEND (5):

Yays: 5 - Mayor O'Neil, Council Member Needles, Council Member Shirrell, Council Member Fleming and Council Member Reese

Nays: 1 - Council Member Moulton

Excused: 1 - Council Member Ruff

Ms. Murphy stated she would bring the purchase and sale agreement for this parcel back to the Council for final approval.

VOTE ON THE MAIN MOTION AS AMENDED.

Yays: 6 - Mayor O'Neil, Council Member Moulton, Council Member Needles, Council Member Shirrell, Council Member Fleming and Council Member Reese

Excused: 1 - Council Member Ruff

2. #19-20 - Providing for Adoption of a Written Deferred Compensation Plan

MOTION: Council Member Moulton moved, seconded by Council Member Reese to approve Resolution #19-20. The motion carried by the following vote.

VOTE ON THE MOTION:

Yays: 6 - Mayor O'Neil, Council Member Moulton, Council Member Needles, Council Member Shirrell, Council Member Fleming and Council Member Reese

Excused: 1 - Council Member Ruff

XI. REPORTS

1. **Financial Statements for Quarter Ending 12/31/2018**
2. **Economic Development Department Staff Report – First Quarter 2019**
3. **Ports & Harbors 1st Quarter Report 2019**

XII. CITY MANAGER / CITY CLERK / CITY ATTORNEY / MAYOR REPORTS**1. City Manager Report**

Ms. Murphy outlined her recent activities as interim city manager, including meeting with each department director, scheduling meetings with local community stakeholders, and the latest meeting of the Health Planning Task Force.

She explained she will be working with the Employee Relations Team and department directors to review the results of the employee salary survey before scheduling a work session with Council.

Ms. Murphy stated she will be working with the city clerk to review Council agenda items. She would be certain to implement Council direction regarding information needed from departments.

2. City Clerk Report

Ms. Ferko provided information regarding the May 7th municipal election, including absentee voting processes. She outlined upcoming Council work sessions. Mayor O'Neil briefly discussed the reasoning for the work session regarding garbage collection options during bear season.

3. City Attorney Report

Mr. Staser outlined projects and provided updates on cases his firm is working on behalf of the city, including the Meals Hill acquisition, Barton case, Boulder Bay incident, revisions to city forms and agreements, legal strategy to address proposed state legislation and budget, C-Plan adjudication, RCAC metaocean buoys agreement, escaped property, municipal contract and code review, and other general municipal services.

4. City Mayor Report

Mayor O'Neil stated the city and the Valdez community needs to remain actively engaged in what is occurring during the legislative session in Juneau.

XIII. COUNCIL BUSINESS FROM THE FLOOR

Council discussed transition to good weather and associated safety risks for those recreating in the area. Council Member Moulton thanked community stakeholders working together to respond to emergencies in town, in the mountains, and Port Valdez.

Council Member Fleming asked to schedule a projects prioritization process work session after the May election.

XIV. EXECUTIVE SESSION

The City Council transitioned into Executive Session at 9:49 p.m.

XV. RETURN FROM EXECUTIVE SESSION

The City Council transitioned out of Executive Session at 11:04 p.m.

XVI. ADJOURNMENT

There being no further business, Mayor O'Neil adjourned the meeting at 11:05 p.m.