

City of Valdez

212 Chenega Ave.
Valdez, AK 99686



Meeting Minutes - Final

Tuesday, August 22, 2018

7:00 PM

Regular Meeting

Council Chambers

City Council

REGULAR AGENDA - 7:00 PM

I. CALL TO ORDER

Mayor Pro Tempore Dennis Fleming called the meeting to order at 7:00 p.m. in Valdez City Council Chambers.

II. PLEDGE OF ALLEGIANCE

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

III. ROLL CALL

Present: 6 - Mayor Pro Tempore Dennis Fleming
Council Member Ron Ruff
Council Member Christopher Moulton
Council Member Lon Needles
Council Member Jim Shirrell
Council Member Darren Reese

Excused: 1 - Mayor Jeremy O'Neil

Also Present: 3 - City Clerk Sheri Pierce
Deputy City Clerk Allie Ferko
City Attorney Jake Staser

IV. PUBLIC BUSINESS FROM THE FLOORMr. Aaron Lee, Valdez Resident

Mr. Lee requested an update on the status of the Aleutian Village Mobile Home Park. Council Member Fleming explained the land on which the mobile home park sits is owned by the state. However, the land is currently held in a long term lease by the Aleut Corporation. The City could not buy the land from the state and turn it into a subdivision as long as the lease is in place. Mr. Lee stated he believed the City should pursue purchase of the property. Council Member Moulton explained the property was not for sale.

Council Member Fleming suggested a work session to further discuss the topic of the Aleutian Village Mobile Home Park. Ms. Pierce stated City staff would provide public outreach.

Ms. Dina Lee, Valdez Resident

Ms. Lee expressed disappointment and felt the City was not focusing towards the long-term. She pointed out there is one senior center and one long-term care facility and there are not many other options of residence for those who want to retire in Valdez.

Council Member Shirrell outlined the City's involvement in protecting the tenants of Aleutian Village and why the Aleut Corporation's eviction notice had been rescinded.

Ms. Gail Johnson, Valdez Resident

Ms. Johnson expressed concern over the lack of clarity on the jurisdiction over the Aleutian Village Mobile Home Park. Council Member Reese explained the park was subject to city code and state statute. The state of Alaska owns the property as Department of Transportation land. Council Member Shirrell stated residents are protected by the landlord-tenant act, with or without a lease.

Ms. Lee Hart, Valdez Adventure Alliance

Ms. Hart updated Council on the 3rd Annual Confluence Summit on the Outdoors on September 12th and 13th including a review of those speaking at the conference.

Ms. Hart requested a work session with Council to discuss the master trails plan and outdoor recreation infrastructure. Ms. Pierce requested Ms. Hart please contact her office to discuss the work session.

Mr. Aaron Lee, Valdez Resident

Mr. Lee expressed concern on an item later on the agenda. He was advised to speak during the allotted time.

V. CONSENT AGENDA

1. **Appointment to City Library Board**
2. **Approval of 2018-2019 Renewal of Certificate of Public Conveyance and Necessity for Valdez Yellow Cab**

MOTION: Council Member Moulton moved, seconded by Council Member Shirrell to approve the Consent Agenda.

VOTE ON THE MOTION:

Yays: 6 - Council Member Ruff, Council Member Moulton, Council Member Needles, Council Member Shirrell, Council Member Fleming and Council Member Reese

Excused: 1 - Mayor O'Neil

MOTION CARRIED.

VI. NEW BUSINESS

1. **Approval of Contract Award to GCSIT Solutions for City of Valdez Network**

Refresh in the Amount of \$157,777.50

MOTION: Council Member Moulton moved, seconded by Council Member Shirrell to approve contract award to GCSIT Solutions for City of Valdez network refresh in the amount of \$157,777.50.

Council Member Shirrell requested clarification on whether this expense was reimbursable by the city's insurance plan. Finance Director Brian Carlson explained professional services and contract work directly related to the incident should be fully reimbursed, minus the City's deductible. He stated it was still unknown if other services, equipment, and software purchases for the system rebuild not directly related to the incident would be reimbursed by insurance. While it was not reimbursable under the City's cybercrime policy, he said it may possibly be reimbursable under the City's general property and liability policy.

VOTE ON THE MOTION:

Yays: 6 - Council Member Ruff, Council Member Moulton, Council Member Needles, Council Member Shirrell, Council Member Fleming and Council Member Reese

Excused: 1 - Mayor O'Neil

MOTION CARRIED

2. Approval of Contract Award to GCSIT Solutions for City of Valdez Veeam Install & Configuration in the Amount of \$14,805

MOTION: Council Member Moulton moved, seconded by Council Member Reese to approve contract award to GCSIT Solutions for City of Valdez Veeam install and configuration in the amount of \$14,805.

VOTE ON THE MOTION:

Yays: 6 - Council Member Ruff, Council Member Moulton, Council Member Needles, Council Member Shirrell, Council Member Fleming and Council Member Reese

Excused: 1 - Mayor O'Neil

MOTION CARRIED.

3. Approval of Contract with GCSIT Solutions for City of Valdez Infrastructure Refresh in the Amount of \$16,355

MOTION: Council Member Moulton moved, seconded by Council Member

Shirrell to approve contract with GCSIT Solutions for City of Valdez infrastructure refresh in the amount of \$16,355.

VOTE ON THE MOTION:

Yays: 6 - Council Member Ruff, Council Member Moulton, Council Member Needles, Council Member Shirrell, Council Member Fleming and Council Member Reese

Excused: 1 - Mayor O'Neil

MOTION CARRIED.

4. Approval of Contract Amendment #1 with Clark Contracting LLC, dba Servpro of Douglas County for School District Office Water Damage Abatement in the Amount of \$538,000

MOTION: Council Member Reese moved, seconded by Council Member Shirrell to approve contract amendment #1 with Clark Contracting LLC, dba Servpro of Douglas County for school district office water damage abatement in the amount of \$538,000.

Council Member Shirrell asked what portion of this expense was reimbursable by insurance. Mr. Carlson said, minus the \$100,000 deductible, it should be 100% recoverable with the City's insurance. Council Member Shirrell questioned why the City was using an Oregon company. Capital Facilities Director Nate Duval stated the City's insurance carrier indicated Servpro was their preferred contractor. Servpro's Douglas County office covers clients in Alaska.

VOTE ON THE MOTION:

Yays: 6 - Council Member Ruff, Council Member Moulton, Council Member Needles, Council Member Shirrell, Council Member Fleming and Council Member Reese

Excused: 1 - Mayor O'Neil

MOTION CARRIED.

5. Approval of Site Selection of New Fire Station Facility (West Pioneer Drive and Hazelet Avenue)

MAIN MOTION: Council Member Moulton moved, seconded by Council Member Ruff to select site B, at the corner of West Pioneer Drive and Hazelet Avenue, as the location for the new fire station facility.

Council Member Ron Ruff pointed out the Council needed soil sample information. Council Member Fleming stated the City also needs information on the other options available before committing to this particular site.

Mr. Duval said the site was like many other sites around Valdez, with gravelly soil and a mixture of silt and sand. He explained the water table was low, however it could potentially rise in the future. He pointed out there might be organic material like trees buried on this site as well. He said the loose gravelly soil would have to be pulled and replaced with compacted, engineered fill, but was reasonable soil for a parking lot, with good drainage.

Council Member Moulton said the property was owned by the city and wondered why Council could not just make a decision on site selection tonight and use the work session to discuss particulars moving forward. Council Member Fleming stated while the Council picked their top two sites to review, he felt there were three more options to explore, including one adjacent to the Alaska Department of Transportation facility. He stated other Council members wanted to use the work session to narrow down the options to one site and then bring it back to a Council meeting for discussion and a vote.

Council Member Moulton asked for clarification on what had been decided so far. Council Member Fleming commented they had narrowed the sites down to two in previous discussions. Council Member Shirrell said he was fine with the work session but Council needed to make a decision and pick a site. He said when making a decision, Council needed to consider the new fire station facility, what to do with the old fire station, and the city-wide need for storage space. Council Member Moulton wanted to focus first on site selection. Council Member Shirrell stated he did not want to see money dedicated to design until they had committed to the big picture, three-part project.

Ms. Pierce scheduled the work session and asked what Council needed from staff to prepare for the discussion. Council Member Fleming stated he would like information on all five possible sites laid out so Council can decide from there. Council Member Ruff asked if Mr. Duval had plans for what to do with the old fire station space. Mr. Duval stated he could offer ideas and agreed to develop a long-range plan.

Valdez citizen Matt Smelcer pointed out firefighters were protecting the city 24/7 and they were being exposed to carbon monoxide from the trucks while they waited for the new fire hall to be built due to inadequate ventilation. He expressed discontent over the amount of time it was taking to decide on a site for the new facility. He asked Council to review their previous discussions and decisions about this topic. He asked the Council to consider making a timely decision to protect the well-being of first responders.

Valdez citizen Allen Crume asked if analysis was done on all five sites. He said the city should not waste money building something which will not withstand its

environment. He requested the city ensure the land is appropriate for building. He agreed the work session was a good idea.

Valdez citizen Jennifer Weber asked if a soil sample was done on the hospital site. Council Member Fleming explained a preliminary assessment was done on that site. A full assessment was done on the West Pioneer site. Ms. Weber questioned why all five properties did not have a soil assessment done so the Council could compare and contrast all their options using the same data. She expressed concerns over the lack of progress in decision making on the topic. She stated she felt formulating plans for the old fire station shouldn't unduly delay the building of the new fire station.

Council Member Shirrell supported approving the West Pioneer site. However, he expressed concerns about using the site for a fire station instead of housing. He stated he also had concerns about home owners living near to the property. He explained he preferred the site off Egan Drive, but said a decision needed to be made.

Council Member Reese asked for clarification over whether the new fire station would straddle the two lots on Hazelet between West Pioneer and West Klutina or if it would just be situation on the south lot. Mr. Duval said the entire block was sampled, including the skate park, the DOT lot, the ice rink, and the city snow storage lots. He said the fire station would sit in the middle towards the south end with snow storage to north.

Council Member Needles said he would not support using one of the last few City parcels of land where residential housing could be built instead. He felt there were better places to place the fire station. Council Member Fleming said he supported this site and a decision needed to be made.

Valdez citizen Trish Raynor said she disagreed with the site being considered labeled as more valuable for residential homes instead of a fire station. She recounted a story from when she was a 911 dispatcher. Firefighters responded to a fire in under two minutes, but the children being rescued still died despite the fast response. She explained even seconds can count in a fire, and implored the Council to please consider response times from the site when choosing a location. She said the centralized location could help save lives.

MOTION TO POSTPONE: Council Member Reese moved, seconded by Council Member Needles to postpone site selection of the new fire station facility until the next regular Council meeting of September 4, 2018.

VOTE ON THE MOTION TO POSTPONE (FAIL):

Yays: 3 - Council Member Shirrell, Council Member Reese, and Council Member Needles

Nays: 3 - Council Member Ruff, Council Member Moulton, and Council Member Fleming

Excused: 1 - Mayor O'Neil

MOTION FAILED.

VOTE ON THE MAIN MOTION:

Yays: 5 - Council Member Ruff, Council Member Moulton, Council Member Fleming, Council Member Shirrell, and Council Member Reese

Nays: 1 - Council Member Needles

Excused: 1 - Mayor O'Neil

MOTION CARRIED.

VII. ORDINANCES

1. **#18-04 – Amending Title 5, Chapter 5.08 Alcoholic Beverages of the Valdez Municipal Code by Amending Section 5.08.050 Related to Licenses and 5.08.060 Related to Hours of Operation. Second Reading. Adoption.**

MOTION: Council Member Shirrell moved, seconded by Council Member Reese to approve Ordinance #18-04 amending Title 5, Chapter 5.08 Alcoholic Beverages of the Valdez Municipal Code by amending Section 5.08.050 related to licenses and 5.08.060 related to hours of operation. Second reading. Adoption.

Council Member Moulton stated he opposed both the 2:00 a.m. and 1:00 a.m. options. Council Member Shirrell explained the local bar owners and members of the public found 2:00 a.m. acceptable. He expressed concern an earlier time would have a commercial impact and business owners had a right to provide input in a code change that might impact their livelihoods. Council Member Ruff said he supported the ordinance as written. Council Member Reese said he supported the 1:00 a.m. time.

Mr. Dean Linder, bar trustee for the Eagles Lodge, said he was in favor of the 2:00 a.m. option. He stated a 2:00 a.m. time for ending consumption meant bartenders had to stop serving at 1:00 a.m. He said he did not agree with changing the time to 1:00 a.m. and pointed out accidents and incidents can happen at any time of night.

Ms. Lee said it was a bad thing which happened last spring and completely avoidable. She expressed concern that without state Alcohol & Marijuana Control officers in Valdez, the police department had to enforce regulations. She asked why there was not routine police presence at the bar where most of the recent issues occurred.

Ms. Lee expressed concerns about the Boardroom running on a duplicate license when she believed it was supposed to be closed. Ms. Pierce said Ms. Lee could come to her office to discuss specifics about liquor licenses. Council Member Fleming explained the current agenda item related the bar closure time change,

not establishment licensing. Ms. Lee questioned what police were doing to enforce alcohol related laws.

Valdez citizen Lindsay Haase stated she was disappointed with the discussion. She felt the ordinance change was a starting point, however other new measures were needed such as increased police presence inside and around the bars. She stated she believed changing bar closure hours would help. She hoped after the new hours were established, the community could work to get the Safe Ride program reestablished year round. She said this, combined with the new ordinance and greater police presence, could enact change to create a safer drinking environment. She stated she supported the 1:00 a.m. time.

Ms. Kathy Molinar, employee at the Eagles Lodge Bar, stated she disagreed with the City Council regulating what a business should do. She stated it was the responsibility of businesses to have qualified security and bartenders in place to appropriately deal with intoxicated individuals and prevent drunk driving. Council Member Needles agreed and stated any change to current municipal code must be meaningful. Ms. Molinar felt other bar owners in town were being held accountable for situations revolving around only one specific bar. She stated she would appreciate the option to stay open later for special events.

Council Member Shirrell stated he believed in personal responsibility and pointed out businesses could suffer financial losses and legal penalties for making mistakes. He explained this ordinance was a response to the public bringing the issue to the Council.

Mr. Lee stated he felt the change should be put before voters during an election.

Valdez citizen Audrey Christoffersen stated she supported the 2:00 a.m. time. She stated while the tragedy at the Boardroom took someone precious away from the community, the 2:00 a.m. time was sufficient.

Ms. Tina Patrick, former manager of Landsharks Bar, pointed out Landsharks had been open until 5:00 a.m. frequently in the past without incident. She said it was an issue of bartender education and bartenders cutting intoxicated people off, rather than any specific time factoring into the incident. She stated it was also an issue of individual responsibility. She stated she did not support changing the ordinance at all.

Ms. Haase asked for clarification on the ordinance. She understood it to mean alcohol would have to stop being served, bought, or consumed at the designated time, but businesses would not have to close their doors at that time. City Attorney Jake Staser stated her interpretation was correct. No serving, selling, or consumption of alcohol would be allowed after the stated time of 2:00 a.m. However, people could remain on the premises under state law until 5:00 a.m. He said it would be up to the discretion of the bar owner and bartenders when to stop serving to make the 2:00 a.m. cut-off time.

Mr. Clubb said he was getting negative reactions from the community about the proposed changes to the code. He had heard a variety of opinions on the topic. He explained the citizen work group wanted to pick a time and stick with it. He expressed concerns with the need for police officers to deal with dangerous situations involving intoxicated individuals.

Council Member Needles was concerned the regulation was trading liberty for security. Council Member Moulton thought it was not a timing issue and other methods should be used to combat the problem like bartender education, increased policing, and other tools. He believed there should be discussion with business owners on possible alternatives

Ms. Pierce discussed the specifics of Alaska statute. She explained the only action Council could make by ordinance was changing bar hours of operation. She stated all other liquor laws were through the State of Alaska and regulated by AMCO. Council Member Moulton asked what measures could be taken to discuss things with bar owners. Council Member Fleming clarified the hours in municipal code could be changed again in the future if needed.

Mr. Lee expressed discontent over the Council voting on the issue and expressed concerns with serving and consumption times being changed.

Valdez citizen Amber McGee stated the community voted for the Council to act as their representatives to make these types of decisions. She said there was a lot more which needed to be done. She stated she did not want anyone to think this single change would be the solution to a much larger problem.

Valdez citizen Matt Wadsworth supported the 2:00 am time. He said the Valdez community does have an alcohol problem. He explained this was a basic step which could be taken to help combat that problem and send a message there needed to be change.

Mr. Crume said he attended an earlier work session about the change, which was well attended with members of the public and several bar owners present. He believed the 2:00 a.m. time would be supported by the public.

Ms. Molinar stated she felt it should be the bar owner's choice and responsibility instead of the Council setting a specific time.

MOTION TO AMEND: Council Member Needles moved, seconded by Council Member Reese to amend Ordinance #18-04 by changing the bar closure time from 2:00 a.m. to 1:00 a.m.

VOTE ON THE MOTION TO AMEND (FAIL):

Yays: 2 - Council Member Reese and Council Member Needles

Nays: 4 - Council Member Ruff, Council Member Moulton, Council Member Shirrell, and Council Member Fleming

Excused: 1 - Mayor O'Neil

MOTION FAILED.

VOTE ON THE MAIN MOTION:

Yays: 5 - Council Member Ruff, Council Member Shirrell, Council Member Needles, and Council Member Reese

Nays: 1 - Council Member Moulton

Excused: 1 - Mayor O'Neil

MOTION CARRIED.

VIII. REPORTS

1. Report on Planning & Zoning Commission Approval of a Temporary Land Use Permit #18-02 for Christine O'Connor of the Roadside Potatohead Restaurant for Three Months on 325 Square Feet of Public Right-of-Way Immediately Adjacent to Lot 12, Block 40, Harbor Subdivision

Council Member Shirrell declared a potential conflict of interest as he owned the property and rented to the tenant.

Council Member Reese said the report talked about a fee for use of the right of way. He asked if Fat Mermaid was being charged a similar fee for their use of the right of way outside their restaurant. Mr. Staser confirmed Fat Mermaid was charged a similar fee.

Council Member Reese asked how the fee was calculated. Ms. Nicole LeRoy, city planning technician, explained fees are outlined in Council Resolution #12-36 at \$250 per month and \$9 per day prorated. Council Member Reese asked if it was a flat fee. Ms. LeRoy explained it was a flat fee as long as the space being used was under a specific acreage.

2. Update Report on Purchase of 120-acre Tract of Land from UAA as Authorized by Resolution #18-06

3. July 2018 New Boat Harbor Report

Project Manager Ron Rozak reviewed the New Boat Harbor Report included in the agenda packet.

4. Change Order Report: Contract with Harris Sand & Gravel, Inc. for Hermon Hutchens Elementary School Exterior Upgrades Phase 1 – Change Order #2

5. Change Order Report: Change Order #1 to Contract with F&W Construction, Inc. for Kelsey Dock Interpretive Center Phase 1

Council Member Needles requested further information on the purpose of the change order. Mr. Duval said the intent of the original plan was to preserve the existing concrete under the patio at the port office. However, after further consideration, it would be in the City's best interest to replace the concrete.

6. **Change Order Report: Change Order #2 to Contract with F&W Construction, Inc. for Hospital Oxygen Generator Project**
7. **Change Order Report: Change Order #12 to Contract with Pacific Pile & Marine, LP for Phase 2 New Harbor Development Upland Facilities and Inner Harbor Facilities**

Council Member Reese asked if the old cameras could be utilized elsewhere. Mr. Duval said the cameras would be changed from a wireless setup to a hardwired connection and reused.

8. **Change Order Report: Change Orders #1 and #2 to Contract with Harris Sand & Gravel, Inc. for West Klutina Repave, Gutter, & Sidewalk Replacement**

Council Member Shirrell expressed concern over the scope not being included in the report. He also expressed concerns with the light pedestals being placed too far into the yards of residential properties. Mr. Duval stated the light poles were within the city's right of way and the layout was per lighting design standards and adequately placed.

9. **Procurement Report: Professional Services Agreement with ECI/HYER, Inc. for Airport HVAC Upgrades (West Wing) in the Amount of \$65,407**

IX. CITY MANAGER REPORT

Ms. Pierce informed Council the City Manager was attending the summer Alaska Municipal League conference in Denali with Mayor O'Neil. She advised the IT department was moving forward with getting the City back up and running following the cyber-attack. Many City offices now had computers and City employee email would be available by the end of the week. Approval of the IT contracts on the agenda would allow the IT Department to move forward to reconstruct the City network by mid-September.

X. CITY CLERK REPORT

Ms. Pierce reported her staff were working the IT Department to get the City's Granicus legislative management system up and running again.

Ms. Pierce advised there was a notice of the comprehensive plan community workshop taking place September 11th in the Valdez Civic Center. She encouraged citizens interested in the city planning process to attend. Council Member Shirrell asked if the purpose of the workshop was to have the community offer input. Mr. Pierce explained during the work session, they would discuss the elements of a comprehensive plan and outline how citizens could get involved in the process. She explained the city would be soliciting residents to serve on a citizens' advisory steering committee facilitated by

Kimley-Horn. Candidates for the committee would be brought before Council for selection.

XI. MAYOR REPORT

The Mayor was absent and excused from the meeting.

XII. CITY ATTORNEY REPORT

Mr. Staser outlined projects and provided updates on cases his firm is working on behalf of the City, including the Federal Energy Regulatory Commission, updating municipal code, the Cummings litigation, the C-plan adjudication, the F/V Boulder Bay incident, and Barton v. City of Valdez.

XIII. COUNCIL BUSINESS FROM THE FLOOR

Council Member Shirrell praised city staff for their response to the cyber-attack.

Council Member Reese stated he would not be present for the first budget work session. Mr. Carlson provided a brief overview of the process for the 2019 budget work sessions.

Council Member Needles commended city staff's hard work through the cyberattack. Council Member Ruff echoed the same sentiment. He provided updates on the Flood Mitigation Task Force on Monday night and said it was informative. He stated Mr. Brad Milchek from DOWL Engineering put on an informative presentation. He explained they walked out with good focus on what to do to start resolving the situation for the residents of Alpine Woods.

Council Member Fleming reiterated thanks to city staff for working through the cyberattack.

XIV. ADJOURNMENT

There being no further business, Mayor Pro Tempore Dennis Fleming adjourned the meeting at 9:30 p.m.