

Regular Ketchikan City Council meeting was called to order by Mayor Weinstein at 7:03 p.m., April 16, 2009, with the following members present: Sam Bergeron (via teleconference), Dick Coose, Charles Freeman, Jason Harris, Kj Harris, Marty West and Lew Williams III.

The Pledge of Allegiance was given by all persons in the Chambers.

Staff present were Manager Amylon, Assistant Manager Martin, Finance Director Newell, Acting City Attorney Seaver, Port and Harbors Director Corporon, Police Chief Talik, Acting Electric Division Manager Adams, Telecommunications Division Manager Abbott, Senior Project Engineer Brakke, Assistant Public Works Director Allen and City Clerk Suiter.



**PUBLIC HEARING ON ORDINANCE NO. 09-1623 – AMENDING
KMC 11.12 – TELECOMMUNICATIONS SERVICE AND RATES**

Mayor Weinstein called the public hearing on Ordinance No. 09-1623 to order at 7:04 p.m. and requested public testimony.

As there was no testimony, Mayor Weinstein declared the public hearing closed at 7:04 p.m.



COMMUNICATIONS

Mayor Weinstein said there was an item on the table relative to appointments to the KPU Advisory Board. He asked if there were any objections to adding this to the agenda, and none were heard. He also noted a request from the manager to add a resolution to the agenda supporting bridge and trestle projects, replacement of berths and reconstruction of the Jackson Street corridor for federal funding. He advised the item on the agenda pertaining to the Talbot's lawsuit will be the subject of an executive session, and would be considered after the executive session.

PERSONS TO BE HEARD

Kevin Gadsey, 1075 Jackson Street, spoke to the use of low-speed vehicles. He shared his perspective as a person with disabilities. He handed out material for a vehicle he is considering, and he said if they are made legal, he will be signing up. He pointed out they are a very easy way for persons with disabilities to get around the community. He answered questions from the Council.

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Rita Carro, 7174 Forest Park, spoke in support of low-speed vehicles. She said she could use it around town running numerous errands, and she urged the Council to focus outside the box. She asked the Council not to put another restriction on the community.

Justin Carro, 7174 Forest Park, spoke in support of low-speed vehicles. He said limiting them to a route is not a good idea. He asked the Council to look at the issue from a broader perspective. He felt the City needed to accept the fact that things are changing, and he urged the Council to install little meters for people to plug the electric vehicles in to. He felt some reasonable restrictions should be imposed, such as operation just within the City. He answered questions from the Council.

Mayor Weinstein clarified the issue deals with low-speed vehicles, not electric vehicles.

CONSENT AGENDA

Approval of Minutes

Moved by Jason Harris, seconded by Williams approval of the minutes of the special meeting of April 1, 2009 and regular meeting of April 2, 2009.

Motion passed with Kj Harris, Coose, Williams, West, Freeman, Bergeron and Jason Harris voting yea.

UNFINISHED BUSINESS

Ordinance No. 09-1624 – Repealing Ordinance No. 09-1618 and Canceling the Special Election Authorized by the Ordinance – Second Reading

Copies of Ordinance No. 09-1624 were available for all persons present.

Moved by West, seconded by Coose the City Council approve in second reading Ordinance No. 09-1624 repealing Ordinance No. 09-1618 and canceling the special election authorized by that ordinance; and establishing an effective date.

Motion passed with West, Bergeron, Freeman, Jason Harris, Kj Harris, Williams and Coose voting yea.

Ordinance No. 09-1622 – Adding a New Subsection (b) to KMC Section 10.24.190 Entitled “Proof of Insurance to be Carried and Exhibited upon Demand” and Amending KMC Section 10.88.120 Entitled “Disposition of Certain Offenses Without Court Appearance – Schedule of Fines” to Establish a Minimum Fine of \$500.00 Consistent with

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State Law – First Reading – Deferred from March 24, 2009

Copies of Ordinance No. 09-1622 were available for all persons present.

The deferred motion before the Council was:

Moved by Freeman, seconded by Bergeron the City Council approve in first reading Ordinance No. 09-1622 adding a new subsection (b) to Ketchikan Municipal Code 10.24.190 entitled “Proof of insurance to be carried and exhibited upon demand” and amending Ketchikan Municipal Code 10.88.120 entitled “Disposition of certain offenses without court appearance – schedule of fines”; to establish a minimum fine of \$500.00 consistent with State law; and establishing an effective date.

Acting City Attorney Seaver and Police Chief Talik answered questions from the Council.

Motion passed with Williams, Jason Harris, Coose, Kj Harris, West and Freeman voting yea; Bergeron voting nay.

Ordinance No. 09-1623 – Amending Chapter 11.12 of the Ketchikan Municipal Code, Telecommunications Service and Rates – Second Reading

Moved by Jason Harris, seconded by Williams the City Council approve in second reading Ordinance No. 09-1623 amending Chapter 11.12 of the Ketchikan Municipal Code, Telecommunications Service and Rates; provide for a public hearing; and establish an effective date.

Motion passed with Coose, Jason Harris, West, Kj Harris, Williams, Bergeron and Freeman voting yea.

Appointments to Boards and Commissions – Mayor Weinstein

Mayor Weinstein submitted the following names as initial appointments to the KPU Advisory Board: Bob Kern (4 year term); David Nesje (3 year term); Rick Dale (3 year term); Tim Whiteley (4 year term); Renee Schofield (2 year term); Charles Edwardson (2 year term). He noted Councilmember Marty West had been previously appointed as the Council representative.

In addition, he appointed the following employees:

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Non-voting representatives from Utility divisions

David Johnston	Water Division
Robert “Shawn” Caskey	Electric Division
David Ledford	Telecommunications Division

He asked if there were any objections, and none were heard.

NEW BUSINESS

One-Year Renewal of Contract No. 08-25 – Janitorial Services for Berths III and IV Restrooms, HBAA Janitorial Services

Moved by West, seconded by Jason Harris the City Council approve a one-year renewal of Contract No. 08-25, Janitorial Services for Berths III and IV Restrooms, between the City of Ketchikan and HBAA Janitorial Services in the amount of \$11,196; authorize funding from the Port of Ketchikan’s 2009 Janitorial Services Account No. 57; and direct the city manager to execute the contract renewal documents on behalf of the City Council.

Motion passed with Kj Harris, Bergeron, West, Jason Harris, Williams and Coose voting yea; Freeman voting nay.

Settlement Agreement and Release of Claims – Talbot’s Inc. vs. State of Alaska, Department of Natural Resources, City of Ketchikan, and Ketchikan Gateway Borough, Case No. 1KE-07-168 CI

This item was considered after the executive session at the end of the meeting.

City Attorney Employment Contract – Stephen Bradford – Councilmember Jason Harris

Moved by Jason Harris, seconded by Coose the City Council approve the employment agreement between the City of Ketchikan and Stephen Bradford for the position of city attorney and direct the mayor to sign the agreement on behalf of the City Council.

Acting City Attorney Seaver answered questions from the Council.

Motion passed with Jason Harris, Bergeron, Williams, Freeman, Coose, Kj Harris and West voting yea.

Ordinance No. 09-1616 – Amending Section 10.24.220 of the Ketchikan Municipal Code Entitled “Unlawful Use of

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Low-Speed Vehicles;” Adding a New Section 10.24.230 to the Ketchikan Municipal Code Entitled “Low-Speed Vehicle Permits;” – First Reading

Copies of Ordinance No. 09-1616 were available for all persons present.

Moved by West, seconded by Jason Harris the City Council approve in first reading Ordinance No. 09-1616 amending Section 10.24.220 of the Ketchikan Municipal Code entitled “Unlawful Use of Low-Speed Vehicles”; adding a new Section 10.24.230 to the Ketchikan Municipal Code entitled “Low-Speed Vehicle Permits”; and establishing an effective date.

Mayor Weinstein suggested an amendment in Section 10.24.230(b)(4), that the “...vehicles may only be operated on streets designated in writing by the city manager...” He asked if there were any objections to this concept, and none were heard. He also expressed concern about a family having multiple businesses, and each of those businesses operating five vehicles. He requested a definition or something similar in second reading that prohibits a permittee or member of his/her immediate family to have no business interest in any other permit. No objections were heard.

Moved by Williams, seconded by Freeman to amend Section 10.24.230(d) to read, “All low-speed vehicle permits issued by the city manager shall expire on October 1, 2009 and shall not be renewed or extended beyond that date.”

Motion to amend passed with Kj Harris, Coose, Williams, West, Freeman, Bergeron and Jason Harris voting yea.

Motion as amended passed with West, Bergeron, Jason Harris and Coose voting yea; Freeman, Kj Harris and Williams voting nay.

Moved by Freeman, seconded by West to direct the manager not to enforce the current ordinance prohibiting low-speed vehicles pending second reading.

Motion failed with Williams, Bergeron and West voting yea; Jason Harris, Coose, Kj Harris and Freeman voting nay.

The Council took a short break at 8:10 p.m. and reconvened at 8:21 p.m.

Budget Transfer and Sole Source Procurement – Wartsila Gudgeon (Wrist) Pins

Moved by Williams, seconded by Jason Harris pursuant to Section 3.12.050(a)(6) of the Ketchikan Municipal Code, the City Council approve the purchase of Gudgeon (wrist) pins for Bailey Generator No. 4 from Wartsila North America, Inc. at a cost not to exceed \$52,355; authorize the transfer of \$52,355 from the Electric Division’s 2009 Bailey

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Facility Upgrades Capital Account to the Bailey Generator No. 4 Wrist Pins Replacement Capital Account; and direct the general manager to execute the contract documents on behalf of the City Council.

Motion passed with Coose, Jason Harris, West, Williams and Bergeron voting yea; Kj Harris and Freeman voting nay.

Change Order No. 1 to Contract No. 08-47 – Knudson Cove Harbor Replacement Project, Pool Engineering, Inc.

Moved by Kj Harris, seconded by Jason Harris the City Council approve Change Order No. 1 to Contract No. 08-47, Knudson Cove Harbor Replacement Project, between the City and Pool Engineering, Inc. providing a net credit of \$10,000 and direct the city manager to execute the change order on behalf of the City Council.

Motion passed with Freeman, Kj Harris, Bergeron, West, Jason Harris, Williams and Coose voting yea.

Budget Transfer – Change Order No. 1 to Contract No. 06-30, Ketchikan General Hospital HVAC Upgrade Project, Schmolck Mechanical Contractors, Inc.

Moved by Williams, seconded by Jason Harris the City Council approve Change Order No. 1 in the amount of \$47,100 to Contract No. 06-30, Ketchikan General Hospital HVAC Upgrade Project between the City and Schmolck Mechanical Contractors, Inc.; increase the contingency from \$46,469 to \$47,100, bringing the total project cost to \$511,794; authorize the transfer of \$631 from Appropriated Reserves of the Hospital Sales Tax Fund to Ketchikan General Hospital HVAC Upgrade Project Capital Account; and direct the city manager to execute the change order on behalf of the City Council.

Motion passed with Jason Harris, Bergeron, Williams, Freeman, Coose, Kj Harris and West voting yea.

Budget Transfer – Schoenbar Road and Woodland Avenue Asphalt Overlay Projects

Moved by Coose, seconded by Williams the City Council approve the transfer of \$370,000 from Appropriated Reserves of the Public Works Sales Tax Fund to the Streets Division's 2009 Asphalt Overlays Capital Account, in order to undertake additional street improvements as detailed in the assistant Public Works director's report dated April 9, 2009.

Moved by Williams, seconded by Freeman to defer until the first regular meeting after the governor has taken action on the state capital budget.

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Motion to defer passed with Kj Harris, Coose, Williams, West, Freeman, Bergeron and Jason Harris voting yea.

Resolution No. 09-2270 – Supporting Inclusion of Certain Bridge and Trestle Replacement Projects, the Replacement of Berths I and II and the Reconstruction of the Jackson Street Corridor for Inclusion in New Surface Transportation Authorization Legislation

Moved by West, seconded by Jason Harris the City Council approve Resolution No. 09-2270 supporting inclusion of certain bridge and trestle projects, the replacement of Berths I and II and the reconstruction of the Jackson Street corridor for inclusion in new surface transportation authorization legislation to replace the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU); and establishing an effective date.

Motion passed with West, Bergeron, Freeman, Jason Harris, Kj Harris, Williams and Coose voting yea.

VOUCHERS

Moved by West, seconded by Freeman approval of vouchers to Ketchikan Daily News in the amount of \$2,042.30.

Motion passed with Jason Harris, Coose, Kj Harris, Bergeron, West and Freeman voting yea; Williams abstaining.

Moved by West, seconded by Jason Harris approval of vouchers to Alaska Outboard Service in the amount of \$131.00.

Motion passed with Coose, Jason Harris, West, Kj Harris, Williams and Bergeron voting yea; Freeman abstaining.

CITY MANAGER’S REPORT

2008 Outstanding Recycling Community Award – Alaskans for Litter Prevention and Recycling

In his report, Manager Amylon transmitted a letter from Mary Fisher, Executive Director of Alaskans for Litter Prevention and Recycling, stating the City of Ketchikan has been selected by the Board of Directors to receive ALPAR’s 2008 Outstanding Recycling Community Award. Manager Amylon congratulated former Solid Waste Collections/ Disposal Supervisor Bob Sivertsen, as well as all of the Solid Waste Division staff, for the efforts that are reflected in Ketchikan having been chosen to receive the award. He noted Mr. Sivertsen will be representing the City on April 30, 2009 to receive the award.

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Award of Metropolitan Medical Response System Grant – Oxygen Generation System

Manager Amylon notified the Council the City has been awarded a \$68,975 Metropolitan Medical Response System grant for the purchase of an oxygen generation system for medical grade oxygen. Fire Chief Hill informed the unit will provide medical grade oxygen for ambulance crews and for disaster response, and enables the Fire Department to generate such oxygen at a significantly reduced price. Manager Amylon commended Fire Chief Hill for his efforts in pursuing the grant.

Public Works Department Project Status Report – March 2009

Manager Amylon provided a copy of the project status report of the Public Works Department for the month of March 2009.

Award of Department of Homeland Security Port Security Grant Program Grant – Transportation Worker Identification Credentials (TWIC) Processing Equipment

Manager Amylon transmitted a memorandum from Port and Harbors Director Corporon informing the City has been awarded funding for the purchase of TWIC processing equipment, with the City providing a 25% match. He noted when the processing arrangements have been formalized, the Council will be informed accordingly.

In response to Councilmember Freeman, Manager Amylon said TWIC cards will be issued locally, but will not be operated by the City.

K.P.U. MANAGER'S REPORT

Report of April 4, 6 and 7, 2009 Power Outages

Manager Amylon provided reports from Electric Division Chief Powerhouse Operator Graham regarding the April 4, 6 and 7, 2009 power outages.

Utility Operating Divisions' Project Status Reports – March 2009

Manager Amylon transmitted the project status reports of the Utility's division managers for the month of March 2009.

In response to Councilmember Jason Harris, Manager Amylon said the configuration of the fueling facility at Bailey Power Plant and the addition of floatplane traffic in that area is making the operator of the fuel barge leery. He noted new federal law, that he thought

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went into effect 2015, will mandate double-hull barges which will preclude the City from being able to barge fuel to that facility.

Manager Amylon informed discussions will be ongoing with AIDEA and they will be talking about it again.

In response to Councilmember Jason Harris, Telecommunications Division Manager Abbott said the issue of long distance service intra state has improved greatly, and they think it will be coming on board shortly.

Report of April 1, 2009 Telecommunications Division Telephone Outage

Manager Amylon provided a report from Telecommunications Division Manager Abbott regarding the April 1, 2009 telephone outage.

Dedicated Telephone Line for Credit Card Machine

In response to Councilmember Freeman, Manager Amylon provided a memorandum from Telecommunications Division Manager Abbott regarding concerns about the need for a separate dedicated line for credit cards at his place of business.

CITY CLERK'S FILE – None

CITY ATTORNEY'S FILE – None

FUTURE AGENDA ITEMS

Councilmember KJ Harris said he would like to revisit the teleconference ordinance.

MAYOR AND COUNCIL COMMENTS

Councilmember Jason Harris expressed some complaints he has received about building code enforcement, in some places the lack of. He said the biggest complaint he has had is an unwillingness to work with the public. He explained he has heard time and again the Borough has new staff and they are willing to bend over backwards to help people get to where they want to within the laws that are on the books. He noted the City is lacking in that area. He said he brought this up a year ago, inquiring how the permit process can be streamlined to get things done. He advised he doesn't hear the complaints coming from contractors as much as he does from people who want to do their own projects. He felt it needed to stop yesterday. He said he is at the place where he is getting a little angry about it because the problem seems to be with the same people doing the same things. He said he would like a report as to how it will be improved within 30 days.

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Councilmember Harris continued by pointing out we are six months into the telecommunications report, and still no special meeting has been held. He said he would like to see a special meeting scheduled within the next month. He also addressed telephone outages and asked if there was any plan in place to credit people when the outages occur. He thanked Fire Chief Hill for getting the grant to enable them to fill their own oxygen bottles. He noted for his company to do that in town, it is very expensive, and it will be a very good thing for the community.

Mayor Weinstein said the capital budget has passed out of the Senate and House Finance, and he is told there is little chance that what is in there for Ketchikan will change, which means it will go to the governor. He said history was made today, when the governor's nominee for a cabinet was defeated. He noted this will set the stage for a very interesting review of the capital budget and we'll see what the legislature does with vetoes should they occur. He advised obviously the relationship is continuing to sour between the governor's office and the legislature. He felt our representatives did very well in the terms of the capital budget, and it will be Ketchikan's job to make sure that, one way or the other, the money comes.

OTHER NEW BUSINESS – None

EXECUTIVE SESSIONS

Request for Executive Session – Talbot's Inc. vs. State of Alaska, Department of Natural Resources, City of Ketchikan, and Ketchikan Gateway Borough, Case No. 1KE-07-168 CI

Moved by Kj Harris, seconded by Williams the City Council declare that consistent with the city manager's memorandum dated April 3, 2009 it is in the best interest of the City to discuss Talbot's Inc. vs. State of Alaska, Department of Natural Resources, City of Ketchikan, and Ketchikan Gateway Borough, Case No. 1KE-07-168 CI in executive session; in accordance with that finding, the City Council go into executive session in accordance with KMC 2.04.025(a)(1) and (b)(2) and AS 44.62.310(c)(1) and (3) to discuss said litigation described in the city manager's memorandum dated April 3, 2009, which includes the need to discuss matters the knowledge of which could have an adverse impact upon the finances of the City and the City's ability to defend itself in such litigation.

Motion passed with Coose, Jason Harris, West, Kj Harris, Williams, Bergeron and Freeman voting yea.

The Council recessed into executive session at 8:46 p.m. and reconvened at 8:56 p.m.

Settlement Agreement and Release of Claims – Talbot's Inc. vs. State of Alaska, Department of Natural Resources,

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City of Ketchikan, and Ketchikan Gateway Borough,
Case No. 1KE-07-168 CI

Moved by Freeman, seconded by West the City Council approve the Settlement and Release of Claims arising out of the allegations set forth in the complaint filed in the Superior Court Case No. 1KE-07-168 CI; authorize funding in the amount of \$115,000 from the Self-Insurance Fund; and direct the city manager to execute the Settlement Agreement and Release of Claims on behalf of the City Council.

Motion passed with Freeman, Kj Harris, Bergeron, West, Jason Harris, Williams and Coose voting yea.

ADJOURNMENT

As there was no further business, the Council adjourned at 9:00 p.m.

Bob Weinstein, Mayor

ATTEST:

Katherine M. Suiter
City Clerk

FYI ITEMS INCLUDED

Ketchikan Visitors Bureau's Executive Director Reports – December 2008 and January-March 2009

April 3, 2009 Edition of the Legislative E-Bulletin

Ketchikan Area Arts & Humanities Council, Inc.'s Quarterly Activity and Financial Reports – January-March 2009

Lake Levels and System Generation Report for Month of March 2009

Water Utilization Study Report – March 2009