

Regular Ketchikan City Council meeting was called to order by Mayor Williams at 7:01 p.m., October 1, 2009, with the following members present: Dick Coose, Charles Freeman, Jason Harris, Kj Harris, Robert Sivertsen and Marty West. Councilmember Matthew Olsen was absent.

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

Staff present were Manager Amylon, Assistant Manager Martin, City Attorney Bradford, Finance Director Newell, Acting Gateway Center for Human Services Executive Director Medford, Port and Harbors Director Corporon, Acting Public Works Director Allen, Electric Division Manager Kline, Assistant Telecommunications Division Manager Lindgren, Water Division Manager Kleinegger, Electric Division Operations Manager Adams, Senior Project Engineer Brakke, Senior Project Engineer Holstrom and City Clerk Suiter.

COMMUNICATIONS

Mayor Williams said there were several items laid on the table, including two memorandums from the Electric Division concerning the status of the Intertie and a reservoir storage/diesel update; and a letter from Eichner and Eichner thanking the City for the paving upgrades on Eichner Avenue.

PERSONS TO BE HEARD

Mayor Williams read a proclamation naming October 21, 2009 as Disability Mentoring Day and presented it to Kevin Gadsey of Southeast Alaskans For Independent Living. Mr. Gadsey thanked the Council for the proclamation, noting that SAIL and Community Connections will be assisting 20-25 individuals with disabilities in partnering with local businesses in jobs throughout the community. He said last year one or two individuals with disabilities ended up with full time jobs because of the effort.

George Lybrand spoke regarding the executive session, stating he had no intention to sue anyone. He pointed out the City doesn't do well with its lawsuits. He said he provided everything requested in a letter from the City regarding the Millar Street Bridge Project, and he has heard nothing since. He felt if the Council went into executive session under the pretense of possibly being sued, they are being seriously misled. Mr. Lybrand answered questions from the Council, saying he felt the current projects he was working on were going fine.

Bobbie McCreary introduced the two newest Vista workers. Ford Wheaton said he would be working with Ketchikan Youth Initiatives on the Water Warehouse Project to help turn it into the new youth center. Zack Frazier said he would be working with out-of-school youth, mainly dropouts, and suicide prevention and drug awareness training as well as other things.

CONSENT AGENDA

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Councilmember Jason Harris said he would like to move several items to the Consent Agenda, including: the Financial and Compliance Audit, the City Clerk's Office Budget Transfer, Change Order No. 3 to Contract No. 08-56 and the sole source procurement for the City Hall HVAC Control Upgrade. Mayor Williams asked if there were any objections; none were heard.

Approval of Minutes

Moved by Jason Harris, seconded by West approval of the minutes of the regular meeting of September 17 and special meeting of September 24, 2009.

Motion passed with Kj Harris, Coose, Sivertsen, West, Freeman and Jason Harris voting yea; Olsen absent.

Alaska Energy Authority Grant Agreement No. 2195441 – Whitman Lake Hydro Construction (Reconnaissance)

Moved by Jason Harris, seconded by West the City Council approve Alaska Energy Authority Grant Agreement No. 2195441 in the amount of \$1,300,000 for Whitman Lake Hydro Construction (Reconnaissance) and authorize the general manager to execute the grant agreement on behalf of the City Council.

Motion passed with Kj Harris, Coose, Sivertsen, West, Freeman and Jason Harris voting yea; Olsen absent.

Financial and Compliance Audit for the Year Ending December 31, 2009

Moved by Jason Harris, seconded by West the City Council approve a single-year contract with Mecham, Richardson and Company in the amount of \$62,000 for a financial and compliance audit for the year ending December 31, 2009; establish a contingency in the amount of \$3,500; and authorize the city manager to execute the contract documents on behalf of the City Council.

Motion passed with Kj Harris, Coose, Sivertsen, West, Freeman and Jason Harris voting yea; Olsen absent.

Budget Transfer – Travel and Training – City Clerk's Office

Moved by Jason Harris, seconded by West the City Council approve a budget transfer in the amount of \$2,200 from the city clerk's Salaries and Wages Account No. 11 to the city clerk's Travel and Training Account No. 27.

Motion passed with Kj Harris, Coose, Sivertsen, West, Freeman and Jason Harris voting yea; Olsen absent.

Change Order No. 3 to Contract No. 08-56, Line Extension to USCG LORAN Station Shoal Cove – Commonwealth Associates

Moved by Jason Harris, seconded by West the City Council approve Change Order No. 3 to Contract No. 08-56, Line Extension to USCG LORAN Station Shoal Cove, between Ketchikan Public Utilities and Commonwealth Associates, Inc. and direct the general manager to execute the change order on behalf of the City Council.

Motion passed with Kj Harris, Coose, Sivertsen, West, Freeman and Jason Harris voting yea; Olsen absent.

Sole Source Procurement – Contract No. 09-23, City Hall HVAC Control Upgrade – Control Contractors, Inc. - \$78,321

Moved by Jason Harris, seconded by Coose pursuant to Section 3.12.050(6) of the Ketchikan Municipal Code, the City Council award Contract No. 09-23, City Hall HVAC Control Upgrade, to Control Contractors, Inc. of Anchorage, Alaska in the amount of \$78,321; authorize funding from the 2009 Building Maintenance Division's City Hall HVAC Control Upgrade Capital Account; and direct the city manager to execute the contract documents on behalf of the City Council.

Motion passed with Kj Harris, Coose, Sivertsen, West, Freeman and Jason Harris voting yea; Olsen absent.

UNFINISHED BUSINESS – None

NEW BUSINESS

Projects Proposed for CPV Grant Funding

Moved by Coose, seconded by Jason Harris the City Council direct staff to prepare applications for Commercial Passenger Vessel Grant funding as deemed appropriate by the City Council.

Recommendations for projects by the Port and Harbors Advisory Board in priority order included:

1. Rebuild and expand Bar Harbor Launch Ramp to two lanes;
2. Berth I and II - replace Bollard 15;
3. Extend Berth IV tender float;
4. Berth III upland corrosion repairs; and
5. Wayfinding art.

Motion passed with West, Freeman, Jason Harris, Kj Harris, Sivertsen and Coose voting yea; Olsen absent.

**Sole Source Procurement of Siemens Myrio IPTV
Middleware Upgrade**

Moved by Freeman, seconded by Jason Harris pursuant to Section 3.12.050(6) of the Ketchikan Municipal Code, the City Council approve the sole source acquisition of a 2009 IPTV middleware enhanced feature set from Siemens Myrio of Boca Raton, Florida in an amount not to exceed \$25,848; authorize funding from the Telecommunications Division's 2009 Video Head End Expansion Capital Account; and direct the city manager to execute the contract documents on behalf of the City Council.

Motion passed with Sivertsen, Jason Harris, Coose, Kj Harris, West and Freeman voting yea; Olsen absent.

**Fifth and Sixth Avenue Right-of-Way Tree Trimming –
Mayor Williams**

Mayor Williams handed out a picture of the trees being cut and trimmed, noting there is no cooperation between the neighbors. He pointed out the trees that one neighbor wants to trim and that the neighbor below is against. He asked the Council if anyone had objections to the proposed trimming, which is in City right-of-way. No objections were heard. He said City staff is preparing a report on the drainage issue in the area.

**Request for Proposals No. 09-50, Gateway Center for
Human Services Privatization, and Designation of
Transition Plan Committee**

Moved by West, seconded by Sivertsen the City Council authorize the city manager to advertise and release Request for Proposals No. 09-50, Gateway Center for Human Services Privatization, and approve the designation of a Transition Plan Committee as detailed in the city manager's report dated September 25, 2009.

The RFP noted the Transition Plan Committee was comprised of the Acting Executive Director, the Acting Deputy Director, representatives of the GCHS Advisory Board, the Chief of Police, the Fire Chief, staff representing the State Division of Public Health, the City Manager's Office and the Finance Department.

Motion passed with Coose, Jason Harris, West, Kj Harris, Sivertsen and Freeman voting yea; Olsen absent.

VOUCHERS

Moved by West, seconded by Jason Harris for approval of vouchers to Ketchikan Daily News in the amount of \$6,103.75.

Motion passed with Freeman, Kj Harris, West, Jason Harris, Sivertsen and Coose voting yea; Olsen absent.

CITY MANAGER'S REPORT

Schedule of General Government and KPU Appropriated Reserves Through the September 17, 2009 City Council Meeting

Manager Amylon provided the Council a schedule of the current balance of Appropriated Reserves of the various funds of General Government and KPU through the City Council meeting of September 17, 2009.

General Government Financial Statements for the Period Ending August 31, 2009

Manager Amylon provided copies of the General Government financial statements for the seven months of the year ending August 31, 2009 for Council review.

2009 Cruise Ship Passenger Traffic Update

Manager Amylon supplied the Council with memorandums from Finance Director Newell updating cruise ship passenger counts through the week ending September 13, 2009. He noted the counts are currently down 1.5% from last year.

Loose Planks on Wooden Dock

In response to Councilmember Coose, Manager Amylon said he would request Port and Harbors Director Corporon have his staff look at the loose planks on the wooden dock.

Storm Drains

In response to Councilmember Jason Harris, Manager Amylon said staff had previously provided the Council with information regarding storm drains and requested a special meeting, which was never scheduled. He continued the issue will come before the Council as part of the proposed 2010 budget. He expressed he felt until the Council got the first look at the budget it may be prudent to refrain from having a meeting about the issue.

K.P.U. MANAGER'S REPORT

Report of September 15, 2009 Telecommunications Outage

Manager Amylon included a report from Telecommunications Division Manager Abbott regarding the September 15, 2009 telecommunications outage.

Report of September 23, 2009 Power Outage

Manager Amylon copied the Council on the report from Electric Division Chief Powerhouse Operator Graham regarding the September 23, 2009 power outage.

Continuation of Diesel Surcharge

Manager Amylon reported staff's intent to assess the diesel surcharge of \$0.0012 per kWh commencing with the October 5, 2009 billing. He advised the surcharge would remain in effect through the March 26, 2010 billing.

Swan Lake – Lake Tyee Intertie Dedication

Councilmember Coose said he had heard of a dedication for the Swan Lake-Lake Tyee Intertie scheduled sometime in November, and Manager Amylon said he heard the same rumor but he has not verified it.

In response to Mayor Williams, Manager Amylon said staff is doing their best to bring various issues to the attention of SEAPA, and there has been success in some areas and not in others. He said he intended to have a meeting with Mayor Williams and Councilmember Freeman prior to the next SEAPA meeting relative to some outstanding issues they need to be aware of.

Diesel Usage

In response to Councilmember Kj Harris, Manager Amylon said there was a report laid on the table tonight about diesel operation. He reported precipitation had been much better and if things don't change dramatically we should be OK.

CITY CLERK'S FILE – None

CITY ATTORNEY'S FILE – None

FUTURE AGENDA ITEMS

Councilmember Kj Harris said he would like to have a discussion on the status of the duty-free stores in town before a new contract is issued.

Councilmember Kj Harris also said he would like to have a discussion regarding the hiring freeze at the Police Department, and Manager Amylon said he had directed the Police Chief not to fill a vacant position pending the proposed budget. Mayor Williams said it would be discussed at budget time.

MAYOR AND COUNCIL COMMENTS

Councilmember Coose said the vacant Police Department position needed to be discussed prior to budget time.

Councilmember Kj Harris reminded everyone to vote next Tuesday, and think real hard on it.

Councilmember Freeman said now that the paper has gone up in the windows and the cruise ship industry has left town, it would be beneficial for the Council to discuss ways to recoup money from the summertime residents.

Councilmember West noted that Clerk Suiter will become the President of the Alaska Association of Municipal Clerks in November, which was one of the reasons for the budget transfer. She said the Ketchikan Public Utilities Advisory Board will meet next Wednesday, October 7 at 5:30 p.m. in the Ted Ferry Civic Center Conference room.

Councilmember Jason Harris complimented the hard work the Streets Division does in keeping storm drains clean. He said his experience has been more than positive and he really appreciates the work they do.

OTHER NEW BUSINESS – None

The Council took a short break at 7:45 p.m. and reconvened at 7:55 p.m.

EXECUTIVE SESSIONS

Request for Executive Session – Consideration of Potential Litigation Regarding a Possible Staff Recommendation to Rescind the Award of Contract No. 09-38, Millar Street Bridge Replacement, to Southeast Engineering

Moved by West, seconded by Jason Harris the City Council declare that consistent with the city manager's memorandum dated September 25, 2009, it is in the best interest of the City Council to discuss potential legal claims resulting from a possible determination to rescind the award of Contract No. 09-38 to Southeast Engineering, Inc.; in accordance with KMC 2.04.025(a)(1) and (b)(2) and AS 44.62.310(c)(1) and (3) to discuss such potential litigation and the auxiliary items described in the city manager's memorandum dated September 25, 2009, which matters include the need to discuss subjects the knowledge of which could have an adverse impact upon the finances of the City and upon the City's ability to defend itself in such litigation.

Councilmember Sivertsen said he was a current employee of Southeast Engineering, and Mayor Williams said if he wished to speak on the issue he could do so from the podium, and he could not participate in the executive session.

Manager Amylon explained the issue of moving forward with the project under a contract with Southeast Engineering is very much tied to the two other projects the City currently has under contract with the company. He stated the outcome of either one of those projects is an issue that at this moment is very much up in the air. He said he wouldn't be surprised if litigation, either initiated by the City or by Southeast Engineering, may eventually occur. He said there have been issues under discussion with Southeast Engineering, including a voluntary withdrawal of their bid for the contract. Contrary to what the Council was told earlier this evening, staff has been told by legal counsel to Southeast Engineering that if the City did not move forward with signing the contracts and giving the bid to the firm, there would be a lawsuit filed against the City.

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He said if the Council elects not to go into executive session tonight, he is prepared to sign the contracts on the Millar Street Bridge Project, and staff will use every effort on their part to move the project forward in as efficient and effective manner as possible.

In response to Councilmember Freeman, Manager Amylon explained the decision making structure of Southeast Engineering Inc. is an issue that has significant concerns for staff, and one that needs to be discussed in executive session.

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

The Council recessed into executive session at 8:04 p.m. and reconvened at 8:37 p.m.

Mayor Williams said the Council has completed an executive session to discuss potential legal claims resulting from a possible determination to rescind the award of Contract No. 09-38 to Southeast Engineering, Inc. He said no action on either of the motions proposed by the manager would be taken at this time.

ADJOURNMENT

As there was no further business, the Council adjourned at 8:37 p.m.

Lew Williams III, Mayor

ATTEST:

Katherine M. Suiter
City Clerk

FYI ITEMS INCLUDED

None