

Regular Ketchikan City Council meeting was called to order by Mayor Williams at 7:02 p.m., October 15, 2009, with the following members present: Dick Coose, Jason Harris, Kj Harris, Matthew Olsen, Jack Shay and Robert Sivertsen. Councilmember Marty West was absent.

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

Staff present were Assistant Manager Martin, Finance Director Newell, City Attorney Bradford, Police Chief Talik, Electric Division Manager Kline, Acting Public Works Director Allen, Telecommunications Division Manager Abbott and City Clerk Suiter.

COMMUNICATIONS

Mayor Williams noted several items laid on the table including: material from George Lybrand; a resolution for Howard Townsend for his years of service in the Police Department; a change order for the UV Disinfection Facility; and an update regarding the Swan Lake – Lake Tyee Intertie.

He asked if there were any objections to adding the resolution and the change order to the agenda, and none were heard.

PERSONS TO BE HEARD

Mayor Williams read a proclamation for Red Ribbon Week.

Gertrude Zellmer, representing the Family Social Services office of the Salvation Army, read a letter concerning people who have need of their services. She outlined the need for a temporary overflow shelter, stating the Salvation Army is working in conjunction with the Wellness Coalition to secure funding. She requested the Council provided funding for this project, noting they would like to work with PATH to assure there is no duplication of services.

Police Chief Ed Talik discussed the resolution for Howard Townsend. He provided a brief history of Mr. Townsend's 24-year employment with the Police Department, speaking to his professionalism and dedication. He stated Lieutenant Townsend will be sorely missed.

George Lybrand said his dealings with the Council and City staff are completely without honor. He said they are liars and have put him out of business. He pointed to selected councilmembers and staff, stating he was told it would get straightened out, which it isn't. He felt he had been threatened with illegal termination, and it was never rescinded. He gave an example of lying and cheating, referring to the change order that was added to the agenda. He related he sat down with staff, who agreed he had 37 days coming, and there was a substantial sum of money, and they didn't do any of it.

Mr. Lybrand continued the Council has him in a bad position. He said Blasco (referring to an attorney hired by the City) told his attorney today there was no interest in getting Mr. Lybrand off the hook; we've got him out of business and that's what we want to do. He said the attorney couldn't do that without the full support and cooperation of the City Council. He began to address the Millar Street project, at which point Mayor Williams informed him the discussion would take place in open session as opposed to executive session. Mr. Lybrand had no further comment on the subject.

Mr. Lybrand discussed the Jackson Street Project, stating he received six calls about the driveways at which time he pointed out it is not his responsibility. He stated when they called the City, they were told it was Mr. Lybrand's headache, which he said is not true. He also spoke regarding the UV Plant, saying the City has gone a little too far. He felt if the City had any integrity, a letter would be put out stating there was never an intent to terminate the contract or to consider it. He related Blasco as saying he wouldn't write a letter because we've got the guy where we want him: out of business. He questioned whether Blasco was the municipal attorney.

Mayor Williams said he talked with management and the City has given instruction to Mr. Blasco to let Mr. Lybrand's bonding company know the City is not desiring to default, which the original letter affirmed. Regarding Jackson Street, he noted he and Assistant Manager Martin visited the area and agree that D-1 needs to be put in to level the driveways with the road.

CONSENT AGENDA

Approval of Minutes

Moved by Jason Harris, seconded by Shay approval of the minutes of the regular meeting of October 1, 2009.

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

Applications for Ketchikan Gateway Borough Commercial Passenger Vessel (CPV) Tax Funding

Moved by Jason Harris, seconded by Shay the City Council authorize the city manager to submit applications for Ketchikan Gateway Borough Commercial Passenger Vessel (CPV) Tax funding as detailed in the Port & Harbors director's memorandum dated October 7, 2009.

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

Budget Transfer – Revision to the 2009 Ketchikan Public Utilities Annual Budget for the Establishment of the Sales, Marketing and Customer Service Division

Moved by Jason Harris, seconded by Shay the City Council approve the 2009 Budget for the KPU Sales, Marketing and Customer Service Division as detailed in the finance director's memorandum of October 7, 2009 and authorize the KPU general manager to transfer \$51,227 from Appropriated Reserves of the KPU Enterprise Fund to fully finance the division for the remainder of 2009.

In response to Councilmember Sivertsen, Assistant Manager Martin outlined the items that have been purchased relating to the move of the division.

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

Resolution No. 09-2293 – Authorizing an Application for Denali Commission Grant Funding for Replacement of Finger Floats in Thomas Basin

Moved by Jason Harris, seconded by Shay the City Council approve Resolution No. 09-2293 authorizing an application for Denali Commission grant funding for replacement of finger floats in Thomas Basin; and establishing an effective date.

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

Resolution No. 09-2294 – Authorizing an Application for Denali Commission Grant Funding for Replacement of Knudson Cove Harbor Launch Ramp

Moved by Jason Harris, seconded by Shay the City Council approve Resolution No. 09-2294 authorizing an application for Denali Commission grant funding for replacement of the Knudson Cove Harbor launch ramp; and establishing an effective date.

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

Resolution No. 09-2296 – Authorizing an Application for Denali Commission Grant Funding for the Alaska Avenue Street Reconstruction Project

Moved by Jason Harris, seconded by Shay the City Council approve Resolution No. 09-2296 authorizing an application for Denali Commission grant funding for the Alaska Avenue Street Reconstruction Project; and establishing an effective date.

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

Resolution No. 09-2297 – Authorizing an Application for Denali Commission Grant Funding for the 4th and 7th Avenues and Jackson & Monroe Streets Reconstruction Project

Moved by Jason Harris, seconded by Shay the City Council approve Resolution No. 09-2297 authorizing an application for Denali Commission grant funding for the 4th & 7th and Jackson & Monroe Streets Reconstruction Project; and establishing an effective date.

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

UNFINISHED BUSINESS – None

NEW BUSINESS

Resolution No. 09-2298 – Recognizing Howard Townsend for 24 Years of Service in the Ketchikan Police Department

Moved by Sivertsen, seconded by Olsen the City Council approve Resolution No. 09-2298 recognizing Howard Townsend for 24 years of service in the Ketchikan Police Department and establishing an effective date

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

Lieutenant Townsend thanked the Council for the resolution, stating it has been an honor and privilege to serve the citizens of Ketchikan.

Offer of Employment – Central Office Network Technician

Moved by Jason Harris, seconded by Coose the City Council authorize the general manager to offer the position of Telecommunications Division Central Office Network Technician to Jeremy Brown of Edgewood, Texas including moving expenses not to exceed \$7,000.

Councilmember Jason Harris reminded he had previously asked staff look into the moving expenses policy, and Assistant Manager Martin said it has been looked at but it is

not completed. Councilmember Harris requested it be moved up higher on the priority list. Mayor Williams reminded staff to look at the federal policy as well.

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

Change Order No. 1 to Contract No. 09-04, Fiber Optic Cable Placement – Northern Powerline Constructors, Inc.

Moved by Shay, seconded by Jason Harris the City Council approve Change Order No. 1 in the amount of \$43,575.60 to Contract No. 09-04, Fiber Optic Cable Placement, between Ketchikan Public Utilities and Northern Powerline Constructors, Inc. and direct the general manager to execute the change order on behalf of the City Council.

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

Discussion of Possible Rescheduling of the November 19, 2009 Council Meeting – Mayor Williams

Mayor Williams proposed changing the date of the regular meeting of November 19, 2009 to November 23, 2009 due to no quorum available on the 19th. He noted several councilmembers would be at the AML Conference in Anchorage. No objections were heard.

Change Order No. 1 (Final) to Contract No. 09-37, Sayles-Gorge Bridge and Water Street Trestle No. 2 Deck Repairs – Bicknell, Inc.

Moved by Jason Harris, seconded by Sivertsen pursuant to the motion adopted by the City Council at its meeting of November 6, 2008 declaring the interim repair of municipal bridges and trestles as a public emergency, the City Council approve Change Order No. 1 (Final) in the amount of \$127,162 to Contract No. 09-37, Sayles-Gorge Bridge and Water Street Trestle No. 2 Deck Repairs, between the City and Bicknell, Inc.; authorize additional funding in the amount of \$118,062 from the Streets Division's 2009 grant-funded Bridges and Trestles Repair/Replacement Capital Account; and direct the city manager to execute the change order on behalf of the City Council.

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

Change Order No. 7 to Contract No. 07-38, UV Disinfection and Chloramination Facility – Southeast Engineering, Inc.

Moved by Coose, seconded by Olsen the City Council approve Change Order No. 7 to Contract No. 07-38, UV Disinfection and Chloramination Facility, between Ketchikan Public Utilities and Southeast Engineering, Inc. and authorize the general manager to execute the change order on behalf of the City Council.

Assistant Manager Martin answered questions from the Council.

Motion passed with Jason Harris, Sivertsen, Olsen, Shay and Coose voting yea; KJ Harris voting nay; West absent.

VOUCHERS

Moved by Shay, seconded by Jason Harris for approval of vouchers to Ketchikan Daily News in the amount of \$2,503.10.

Motion passed with KJ Harris, Coose, Sivertsen, Olsen and Jason Harris voting yea; Shay voting nay; West absent.

CITY MANAGER'S REPORT

Schedule of General Government and KPU Appropriated Reserves Through the October 1, 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 October 1, 2009.

2009 Sales Tax Update

Manager Amylon provided a memorandum from Finance Director Newell updating sales tax collections through September 25, 2009. Finance Director Newell noted that sales tax receipts are currently down 11.25% for the second quarter and 6.96% for the year.

Public Works Department Project Status Report – September 2009

Manager Amylon included the project status report of the Public Works Department for the month of September 2009.

K.P.U. MANAGER'S REPORT

Utility Operating Divisions' Project Status Reports – September 2009

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Manager Amylon copied the Council with the project status reports of the Utility's division managers for the month of September 2009.

Report of September 28 and 29, 2009 Telecommunications Outages and October 5, 2009 IPTV Outage

Manager Amylon provided a memorandum from Telecommunications Division Manager Abbott concerning the September 28 and 29, 2009 telecommunications outages and the October 5, 2009 IPTV outage.

Swan Lake – Lake Tye Intertie

Assistant Manager Martin provided a memorandum from Electric Division Manager Kline reporting that the new transformer at the Tye end of the Intertie was energized for the first time today. Mr. Kline said the plan is to energize the transmission line on Friday afternoon, October 16th. He related associated testing events, noting that coordination of people at multiple locations makes it a long, slow process during which problems will be identified that may affect the intended schedule.

CITY CLERK'S FILE – None

CITY ATTORNEY'S FILE

City Attorney Bradford said he has provided the Council with a current update of the activities of the office, as well as considerations relating to the duty free store.

FUTURE AGENDA ITEMS – None

MAYOR AND COUNCIL COMMENTS

Councilmember Coose said last year after the budget was over and he was doing some digging, he discovered some year-end spending on accounts in mid- and late-December. He hoped management would monitor this type of spending to determine there is truly a need.

Councilmember Kj Harris said he was looking at the calendar, and the Council will be getting a copy of the budget on November 5. He said all through November different councilmembers would be gone, and it looks like November is kaput for doing anything on the budget. He said the budget was awful important and he felt there needed to be some extra meetings.

Councilmember Shay said he was pleased management has pursued different funding sources, which he encouraged. He shared the idea of the importance of the budget. He pointed out there has been a communiqué he received concerning the International Building Code, noting there is a possibility of adopting the International Existing

Building Code. He said the IEBC means existing buildings, and if adopted it would be a tremendous boost for many renovation projects and others for improving existing buildings at a lower cost. He asked the Council to look at the possibility of adopting the IEBC, about which he would transmit information.

Councilmember Jason Harris said he has had opportunity to work with Lieutenant Townsend and it has been a privilege. He felt he has brought a few laughs along the way and wished him well in his retirement. He pointed out material laid on the table by Mr. Lybrand regarding his award for Citizen of the Year. He wanted Mr. Lybrand to know he didn't feel Mr. Lybrand was the scumbag indicated on the picture. He commented he walked some of the projects that were discussed tonight, and he encouraged other councilmembers to do the same. He said it would be worth their while when the issues are being discussed.

Councilmember Sivertsen commented on the Water Division report about the Baranof Reservoir Site Preparation. He said he talked to the Engineering Department today because he didn't have a clear understanding of how they would pay for the trucking on the project, and he felt more clarification was needed before the bids are sent out.

Mayor Williams said there is a list for committees the Council may be interested in, and he asked members to turn them in to the clerk. He submitted proposed special budget meeting dates of November 30, December 1, and 8-10. He said that would leave a few days the next week to work on it if needed. He related he scheduled the community agencies for the 10th after the budget has been gone through and the Council has a better handle on things.

Councilmember Kj Harris felt the entire month of November is being wasted, stating he has heard rumors it is worse than originally thought. Councilmember Olsen said the 9th is no good for him, and Mayor Williams felt at this point they would still plan on that date but may move it over to the 14th.

Councilmember Jason Harris commented the last couple of years the budget has been considered the latter part of November and first part of December. He felt this allowed the Council a couple of weeks to look at it.

OTHER NEW BUSINESS – None

EXECUTIVE SESSIONS

No executive session was held at the advice of City Attorney Bradford.

Assistant Manager Martin said when the Council previously met on this issue, there were some items brought forth that needed to be addressed. He said Mr. Lybrand has provided a schedule of completion for the UV Disinfection Facility and has provided a clear written chain of command indicating he is in charge of the projects. He said on a day-to-

day basis, he is not sure how accurate this is, but that is what staff is working with. He explained the issues that remain on the UV Plant are construction-related issues, and he had no doubt they would be addressed. Regarding the concern with the bonding company, Mr. Martin stated there was no intent and no expressed intent on the part of the City to terminate the contract. He said this was never the City's position.

Assistant Manager Martin continued that from the information staff has received from Southeast Engineering, he believed the project is relatively on track and ultimately will wind up and get completed. In addressing the road projects, he said there are issues remaining as with any road projects. He said they will get completed and those projects ultimately will close out. He didn't feel there was any possibility the paving on North Yorktown will get completed by wintertime. He said this would put staff in the position of negotiating some kind of a winter maintenance agreement to maintain the unpaved portion of the road throughout the winter.

Mr. Martin explained even though the projects will eventually be completed, he pointed out the Millar Street Bridge Contract still needs to be dealt with. He reminded the Council awarded the contract to Southeast Engineering and they have executed those documents, but the City has not. He said there are two motions before the Council that he proceeded to outline. He said it is a no-win situation for the City. He stated ultimately the contracts will get completed and what staff is trying to do is avoid any further delay in the Millar Street Bridge Project. He continued staff believes if the Council moves to direct staff to rescind the award it will result in additional delays, which will place an undue burden on area residents and in all likelihood drive the cost of the project up. He said if the Council directs, staff is prepared to execute the contract documents to Southeast Engineering and get the project underway, work a change order and adjust days appropriately for the extension of time needed to complete it. He pointed out with the projects being worked by Southeast Engineering currently underway and outstanding – North Yorktown/Jackson Heights and the UV Plant – it is staff's recommendation that until such time as these contracts are completed and closed out, including all claims that may come forward, there be no additional contracts awarded to Southeast Engineering. In response to Mayor Williams, he said staff is recommending the Council reaffirm the Millar Street Bridge Contract with Southeast Engineering.

Award of Contract No. 09-38, Millar Street Bridge Replacement, to Southeast Engineering, Inc.

Moved by Coose, seconded by KJ Harris the City Council reaffirm the award of Contract No. 09-38, Millar Street Bridge Replacement, to Southeast Engineering, Inc. and direct the city manager to execute the contract documents on behalf of the City Council.

In response to Councilmember Jason Harris, George Lybrand said he felt they have the staff and equipment to handle all the projects at the same time.

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

Mayor Williams said he received a letter from the Southern Southeast Regional Aquaculture Association regarding nomination of a person to serve on their board. He said he heard from Chuck Freeman, who has been a representative on the board, that he would like to continue in that capacity. No objections were heard.

ADJOURNMENT

As there was no further business, the Council adjourned at 8:05 p.m.

Lew Williams III, Mayor

ATTEST:

Katherine M. Suiter
City Clerk

FYI ITEMS INCLUDED

Unapproved Minutes of the August 11 and September 8, 2009 Port & Harbors Advisory Board Meetings
First City Players' Quarterly Activity Report – April Through June 2009
Lake Levels and System Generation Report for the Month of September 2009
Water Utilization Study Report – September 2009
2008 Fiscal Year Financial Statements – Ketchikan Visitors Bureau, Inc.
Ketchikan Visitors Bureau's Executive Director Reports – June Through August 2009