

Regular Ketchikan City Council meeting was called to order by Mayor Williams at 7:01 p.m., September 2, 2010, with the following members present: Dick Coose, Jason Harris, Kj Harris, Matthew Olsen, Jack Shay (via teleconference), Robert Sivertsen and Marty West.

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

Staff present were Manager Amylon, Assistant Manager Martin, Finance Director Newell, City Attorney Bradford, Fire Chief Hill, Human Resources Manager Miller, Library Director McQuerry, Museum Director Naab, Port and Harbors Director Corporon, Police Chief Talik, Public Works Director Allen, Electric Division Manager Kline, Water Division Manager Kleinegger and City Clerk Suiter.



PUBLIC HEARING ON RESOLUTION NO. 10-2355 –
AMENDING THE 2010 GENERAL GOVERNMENT ANNUAL
BUDGET – MUSEUM DEPARTMENT

Mayor Williams called the public hearing on Resolution No. 10-2355 to order at 7:02 p.m. and requested public testimony.

As there was no testimony, Mayor Williams declared the public hearing closed at 7:02 p.m.



COMMUNICATIONS

Mayor Williams said there were several items laid on the table, including: an appeal of award regarding the Totem Heritage Center Remediation Project to Dawson Construction by Croy Construction; a lake levels update; and a letter from Southeast Engineering, Inc. regarding the North Yorktown Drive/Jackson Heights Paving and Millar Street Bridge Replacement Projects.

Mayor Williams read a proclamation regarding National Alcohol and Drug Addiction Recovery Month, and presented it to Renee Schofield. Ms. Schofield thanked the Council for the proclamation, and she emphasized that recovery is a choice that is not easy.

PERSONS TO BE HEARD

Gary Croy protested the award of the bid to Dawson Construction for the Totem Heritage Center Remediation Project. He related his history of bidding with the City, and referred to communications he has received. He felt it was unfair for taxpayers to pay \$100,000 more than he bid on the project.

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George Lybrand spoke to the Council regarding the projects Southeast Engineering is working for the City. He explained his view of what has happened on them, and felt a “wait and see” approach would be best for the Jackson Street/North Yorktown project. He said it is not a life and death situation, and it could be negotiated with the City. He addressed the Millar Street Bridge Project, and felt the biggest reason it is late is the contract calls for a certified concrete plant. He said it would not help to contact the bonding company, and he thought they were well on the road to getting it done. He emphasized they have complied fully with the specs.

Justin Carro spoke in favor of extending the dock vendor program, and said everyone participating gets along great. He explained the loss of cruise ship passengers have caused a reverse-bidding war, creating less profit margin.

Calvin Bakk spoke regarding National Alcohol and Drug Addiction Recovery Month, noting it is a nation-wide recognition. He explained his experience working with men and women at the jail, noting a drug treatment program is needed there. He felt this would help lessen repeat offenders and help make productive citizens out of them. He urged the Council to support him in the effort toward a drug treatment program at the jail.

Steve McDonald spoke in favor of an extension of the dock vendor lease, citing some of the history. He felt the bids should become a permanent part of the port program, noting there is a lot of revenue and jobs created from it.

Robert Wickman III spoke in favor of allowing the dock vendor spaces go out for bid. He said it would allow his company to move onto the dock, and whoever gets it should be able to work within the dock project.

Marco Angrano said he wants an opportunity to bid on a dock vendor booth, noting he has employed local people as tour guides and vendors. He stated he is asking for a fair shot to participate in the bidding program, and if it were put up to bid the City would generate more revenue.

Rita Flagg felt the people in the dock contract should be above board and create a positive experience for visitors to Ketchikan. She said she wants the dock vendor program to be extended and it would be best if all vendors worked well together. She felt there were some from outside who were trying to make the dock vendors look bad. She hoped, if it went out for re-bid, the Council would take a close look at those who apply.

CONSENT AGENDA

Approval of Minutes

Moved by Jason Harris, seconded by West approval of the minutes of the regular meeting of August 19, 2010.

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

Contract for Recycling Services – PC Recycle

Moved by Jason Harris, seconded by West the City Council approve the agreement for recycling services between the City of Ketchikan and PC Recycle of Bellevue, Washington for the acceptance and recycling of electronic waste at a cost of \$0.20 per pound; authorize funding from the Solid Waste Disposal Division's 2010 Contractual Services Account No. 53; and direct the city manager to execute the agreement on behalf of the City Council.

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

Resolution No. 10-2355 – Amending the 2010 General Government Annual Budget to Provide a Supplemental Appropriation for the Museum Department in the Amount of \$7,008

Moved by Jason Harris, seconded by West the City Council approve Resolution No. 10-2355 amending the 2010 General Government Annual Budget to provide a supplemental appropriation to the Museum Department in the amount of \$7,008; and establishing an effective date.

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

Resolution No. 10-2354 – Requesting a Renewable Energy Fund Grant from the Alaska Energy Authority

Moved by Jason Harris, seconded by West the City Council approve Resolution No. 10-2354 requesting a Renewable Energy Fund Grant from the Alaska Energy Authority pursuant to Chapter 31 SLA 08 Alaska House Bill 152 for Ketchikan Public Utilities' Whitman Lake Project; agreeing to provide the local share of projects as required; authorizing the general manager to sign the application; establishing a point of contact; and establishing an effective date.

Manager Amylon alerted the Council that it appears AEA is changing the game again, and rather than allowing municipalities to apply for up to \$2 million, they are now treating the program as a cumulative program. He continued this means the \$1.3 million that was received a few years ago would be counted against the City, and the next time we apply it will be counted between the \$1.3 million already received and \$2 million. He emphasized staff doesn't have a firm handle on it yet, but he will keep the Council informed.

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

Exempting Purchase of Trojan Technologies, Inc. Spare Parts from the Competitive Bidding/Quotation Requirements of the Ketchikan Municipal Code

Moved by Jason Harris, seconded by West pursuant to Subparagraph 6 of Section 3.12.050(a) of the Ketchikan Municipal Code, the City Council exempt the purchase of Trojan Technologies, Inc. spare parts from the requirements of competitive bidding or obtaining written quotations; authorize the purchase of the spare parts from Wm. H. Reilly & Co. at a cost of \$30,526; approve funding from the Water Division's 2010 Materials and Services Account No. 89; and direct the general manager to execute the contract documents on behalf of the City Council.

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

Budget Transfer – Library Adult and Technical Services Division's Travel and Training Account

Moved by Jason Harris, seconded by West the City Council authorize the city manager to transfer from within the Library Department – Adult and Technical Services Division's 2010 Budget \$975 from the Insurance and Claims Account No. 55 to the Travel and Training Account No. 27 for the purpose of providing additional training funds for cataloging.

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

Resolution No. 10-2345 (Revised) Nominating the Dunton Street Viaduct Replacement as a City of Ketchikan Transportation Infrastructure Priority Project for Inclusion in the State of Alaska's Needs List

Moved by Jason Harris, seconded by West the City Council approve Resolution No. 10-2345 (Revised) nominating the Dunton Street Viaduct Replacement as a City of Ketchikan Transportation Infrastructure Priority Project for inclusion in the State of Alaska's Needs List; and establishing an effective date.

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

UNFINISHED BUSINESS

Ordinance No. 10-1661 – Amending Noise Restrictions for Construction and Excavation Activities; Providing for Approval of Special Variances by the Public Works Director – Second Reading

Copies of Ordinance No. 10-1661 were available for all persons present.

Moved by West, seconded by Sivertsen the City Council approve in second reading Ordinance No. 10-1661 amending noise restrictions for construction and excavation activities; providing for approval of special variances by the Public Works director; and establishing an effective date.

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

Appointments to Boards and Commissions

Mayor Williams submitted the names of Hugh Hall, Don Loughman and Andy Tagliaferri for re-appointment to the Board of Appeals. He asked if there were any objections and none were heard.

NEW BUSINESS

Councilmember Shay asked about a transfer of funds relative to Contract No. 10-01, which was supposed to be on this agenda. Manager Amylon said it would be forthcoming on the next agenda.

Ordinance No. 10-1662 – Amending the Sales Tax Exemption for the Elderly – First Reading

Copies of Ordinance No. 10-1662 were available for all persons present.

Moved by Shay, seconded by Coose the City Council approve in first reading Ordinance No. 10-1662 amending the sales tax exemption for the elderly; and establishing an effective date.

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

Award of Contract No. 10-26 – Totem Heritage Center Remediation Project – Dawson Construction - \$382,000

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Moved by Jason Harris, seconded by West the City Council reject the appeal of Croy Construction, Inc. for Contract No. 10-26, Totem Heritage Center Remediation Project.

Moved by Coose, seconded by Sivertsen to defer consideration of this item until the next regular meeting.

Motion to defer failed with West, Sivertsen and Coose voting yea; Shay, Kj Harris, Olsen and Jason Harris voting nay.

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

Moved by West, seconded by Shay the City Council accept the bid of Dawson Construction, Inc. in the amount of \$382,000 for Contract No. 10-26, Totem Heritage Center Remediation Project; establish a ten percent contingency in the amount of \$38,200, bringing the total project cost to \$420,200; authorize funding from the Museum Department's 2010 Totem Heritage Center and Grounds Rehabilitation Capital Account; and direct the city manager to execute the contract documents on behalf of the City Council.

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

Budget Transfers – Amendment No. 1 to Contract No. 10-02, Construction Project Management for Tongass Avenue Sewer and Water Main Replacement Phase II, R&M Consultants, Inc. of Anchorage, Alaska

Moved by West, seconded by Jason Harris the City Council authorize the city manager to execute Amendment No. 1 in an amount not to exceed \$70,000 to Contract No. 10-02 between the City of Ketchikan and R&M Consultants, Inc. of Anchorage for construction project management services associated with the Tongass Avenue Sewer and Water Main Replacement Project Phase II; authorize budget transfers of \$22,607 and \$22,607 respectively from Appropriated Reserves of the Wastewater Fund and the KPU Enterprise Fund to the 2010 Wastewater and Water Divisions' 2010 Tongass Avenue Sewer and Water Main Replacement Phase II Project Management Capital Accounts; and authorize funding from the 2010 Wastewater and Water Divisions' 2010 Tongass Avenue Sewer and Water Main Replacement Phase II Project Management Capital Accounts.

Public Works Director Allen answered questions from the Council.

Manager Amylon said he received an email over the weekend from ADEC stating some other communities in Alaska were not able to take advantage of ARRA Funding that had been programmed for them. He explained as a result there was \$1.3 million available in low-interest loan money that ADEC was asking if the City wanted to apply to this

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project. He stated unfortunately we don't have \$1.3 million of need that we can go after for the money. He said staff is talking with ADEC about bringing in about \$250,000, so he felt money would be there that won't necessitate drawing down the reserves from either the KPU Enterprise Fund or the Wastewater Fund.

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

**One-Year Extension of Contract No. 08-02 – 2008-09
Dock Vendor Program**

Moved by West, seconded by Kj Harris the City Council direct the city manager to competitively bid dock vendor leases for the 2011 cruise ship season, said award to be submitted to the City Council for formal consideration and approval.

Port and Harbors Director Corporon answered questions from the Council.

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

Moved by Coose, seconded by Shay pursuant to paragraph (1) of Section 13.09.025(b) of the Ketchikan Municipal Code, the City Council authorize the city manager to extend the six dock vendor leases awarded under Contract No. 08-02, 2008-09 Dock Vendor Program, for an additional twelve-month period for the 2011 cruise ship season providing for the same terms and conditions as awarded under the original contract.

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

The Council had discussion regarding language about the financial interest held by each dock vendor, and Manager Amylon requested he be allowed to work with Mr. Corporon and City Attorney Bradford on something to bring back to the Council. There were no objections.

VOUCHERS

Moved by West, seconded by Sivertsen for approval of vouchers to Ketchikan Daily News in the amount of \$2,775.85.

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

CITY MANAGER'S REPORT

Proposed Notice of Default – Contract No. 09-09, North Yorktown/Jackson Heights Paving Project, Southeast Engineering

In his report, Manager Amylon indicated a Recovery Plan has yet to be submitted by Southeast Engineering, Inc. He provided a draft Notice of Default that he intends to submit to the bonding company if such plan is found to be insufficient when submitted.

Manager Amylon commented staff had asked the plan be delivered so they would have some opportunity to review it prior to tonight's meeting. He stated seeing as how it wasn't submitted until this afternoon, neither his office nor the Engineering Division has had the opportunity to review it. He explained he gave it a cursory review, and he referred to Mr. George Lybrand's comments at the last meeting, where Mr. Lybrand said it could be resolved amicably rather than get into an open contest.

Manager Amylon said if the letter from Mr. Gary Lybrand that was submitted with the package today is reviewed, it appears he is attributing the majority of the problems with Millar Street Bridge to City staff and Shearer Design. He went on to say with the case of Jackson/North Yorktown, the majority of the problems, according to the letter, appear to be the responsibility of Southeast Engineering subcontractors. He felt regardless of whether either argument has merit, the fact remains that under the plan submitted Southeast Engineering this afternoon, neither project will be completed this year, and apparently Southeast Engineering is assuming no responsibility.

He continued it is interesting to note that within the document there is no reference to subcontractors or suppliers not having been paid for work or materials on the project, subcontractors ceasing work for non-payment, the diversion of Southeast Engineering employees from the project to the UV Disinfection Facility Project, the inability of Southeast Engineering to furnish construction schedules and respond to modification proposals in a timely manner, or the apparent disconnect between George Lybrand and Gary Lybrand in the approach that needs to be taken to address these issues and get the projects completed. Manager Amylon said it is his intent for his office and staff to comprehensively review the recovery plan that Southeast Engineering has submitted. He stated if necessary they will meet with the Lybrands to get any questions answered and issues clarified. He stated once that review is accomplished, his office will make a determination as how to proceed in accordance with the motion adopted by the City Council at its meeting of August 19th.

Proposed Notice of Default – Contract No. 09-38, Millar Street Bridge Replacement, Southeast Engineering, Inc.

In his report, Manager Amylon indicated a Recovery Plan has yet to be submitted by Southeast Engineering, Inc. He provided a draft Notice of Default that he intends to submit to the bonding company if such plan is found to be insufficient when submitted.

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**Greater Ketchikan Chamber of Commerce and
Community Connections Community Commitment
Certificate – Ketchikan Public Library**

Manager Amylon transmitted a copy of a certificate received by the Ketchikan Public Library for assisting residents in achieving valued roles in the workplace. He noted it was issued by the Greater Ketchikan Chamber of Commerce and Community Connections.

**Financial and Accounting System Replacement Project
Update No. 3**

Manager Amylon provided a memorandum from Finance Director Newell regarding the status of the Financial and Accounting System Replacement Project.

Presentation by Foraker Group

Manager Amylon said he received a call from Martha Schoenthal from the Foraker Group, who would like to make a presentation to the City Council relative to their final work product. Ms. Schoenthal suggested a date of September 23rd, and Mayor Williams asked if there were any objection. None were heard.

K.P.U. MANAGER'S REPORT

Report of August 19, 2010 Power Outage

Manager Amylon provided a memorandum from Chief Senior Electrical Systems Engineer Donato regarding the August 19, 2010 power outage.

**Whitman Lake Hydroelectric Project Update – Approval
of Request for Two-Year Extension to Commence
Construction**

Manager Amylon notified the Council that the Federal Energy Regulatory Commission has issued an order granting the two-year extension to begin construction of the Whitman Lake Hydroelectric Project. He noted if full funding of the project can be put into place, staff anticipates a 2011 construction start date for some portions of the project.

CITY CLERK'S FILE

Gaming Permit Application – Pioneers of Alaska Igloo #7

Clerk Suiter provided the gaming permit notification for Pioneers of Alaska Igloo #7. She noted if the Council wished to deny any application, a resolution could be prepared accordingly.

CITY ATTORNEY'S FILE – None

FUTURE AGENDA ITEMS

Councilmember Kj Harris requested that consideration of adding another parking enforcement officer be included on a future agenda.

MAYOR AND COUNCIL COMMENTS

Councilmember Jason Harris said he is interested at doing something with the vendor program so these folks don't have to come back again and again. He stated he has talked with Mayor Williams about the arrangement of items on the agenda. He would like to see the City items grouped together, and the KPU items grouped together. He said there were tough decisions tonight on the contracts, and it is his intent to work with the city manager and city attorney to do something with the contracts, to make them stronger so we have less issues down the road.

Councilmember Sivertsen said there was an Emergency Action Plan scenario with Ketchikan Lakes Dam this week, and it was a very well run program.

Councilmember Shay thanked the clerk and staff for the information forwarded to him regarding the items on the agenda. He said he was in Minneapolis, and the Vikings won their last exhibition game against the Denver Broncos. He stated his granddaughter is going to the hospital tomorrow for a transfusion and the day after they are going to the state fair. He thanked everyone for their wishes and prayers.

Councilmember Coose said there was a SEAPA Board meeting last week, where they went to Swan Lake and some flew the Intertie line to see what it looked like. He said every now and then there are rumors that SEAPA wants to take over KPU, and he emphasized this is not the case. He stated SEAPA is Ketchikan and the other two communities, and they are working for the betterment of the three communities. He said right now there are growing pains. He encouraged staff to work with Southeast Engineering to make the contracts work because the bonding company would not get it done any faster.

Councilmember Kj Harris said he appreciated all the hard work for the decisions that were made tonight.

Councilmember Olsen requested that staff bring forward an increase of two people in Public Works for the purpose of project management. He noted there was over \$400,000 spent this year for project management, and he anticipated if there were two staff members with benefits it would cost \$250,000 per year. He felt it would be a significant savings and the continuing need for infrastructure projects will provide a need for staff.

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Mayor Williams said they already gave direction on the budget, and he didn't want to incorporate this into the budget now. Manager Amylon reminded the Council of the direction that was given: no tax increase and continuation of services. He also noted given the recruitment process the projects may be starting before anyone is on board.

Councilmember West thanked Senator Murkowski for her hard work on behalf of Ketchikan and the citizens of Alaska. She expressed appreciation for the job she did and wished her the best.

OTHER NEW BUSINESS – None

EXECUTIVE SESSIONS

**Executive Session – Consider and Discuss the
Employment Contract with the City Attorney – Mayor
Williams**

Moved by Sivertsen, seconded by West the City Council go into executive session in accordance with KMC 2.04.025(a)(2) for the purpose of conducting an evaluation and contract review of the city manager, which may involve discussion of “subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion.”

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

Moved by West, seconded by Jason Harris to defer until after the city attorney executive session.

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

Moved by Sivertsen, seconded by West the City Council go into executive session in accordance with KMC 2.04.025(a)(2) for the purpose of conducting an evaluation and contract review of the city attorney, which may involve discussion of “subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion.”

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

The Council recessed into executive session at 8:30 p.m. and reconvened at 8:49 p.m.

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Mayor Williams said the Council has completed an executive session to conduct an evaluation and contract review of the city attorney, direction was given and no action would be taken tonight.

**Executive Session to Consider and Discuss Employment
Contract with the City Manager – Mayor Williams**

The Council recessed into executive session at 8:50 p.m. and reconvened at 9:15 p.m.

Mayor Williams said the Council has completed an executive session to conduct an evaluation and contract review of the city manager.

Moved by West, seconded by Kj Harris the City Council direct the mayor to execute an amendment to the employment contract between the City of Ketchikan and Karl R. Amylon that provides for the following:

Section 3) Termination and Severance Pay

- (d) In the event the Employee voluntarily resigns his position with the City, the Employee shall give the City ~~two months~~ four (4) weeks notice in advance, unless the parties otherwise agree. In said event, the City shall not be required to pay the described severance benefit, but shall pay accrued vacation.

Section 4) Salary

- (a) The City agrees to pay the Employee for his services rendered hereto an annual base salary of ~~One Hundred and Fifty Thousand and Two Hundred and Forty One Dollars (\$150,241)~~ \$170,000 with the funding to come from the appropriate KPU account, prorated from the date of assumption of utility dated duties but not later than April 7, 1999 this amendment. Salary shall be payable in installments at the same time as other employees of the City are paid. The City Council may increase the salary from time to time during the term of this agreement.
- ~~(d) Notwithstanding the above, the City Council and Employee agree that, if at any time, the utility related duties of the Employee are diminished, the Employee's salary will be subject to re-negotiation upon the request of the City Council. The intent of such re-negotiation will be to reduce the salary commensurate with the reduction in utility related duties.~~

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

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ADJOURNMENT

As there was no further business, the Council adjourned at 9:17 p.m.

Lew Williams III, Mayor

ATTEST:

Katherine M. Suiter
City Clerk

FYI ITEMS INCLUDED – None