

**KENAI CITY COUNCIL – REGULAR MEETING
JUNE 5, 2019 – 6:00 P.M.
KENAI CITY COUNCIL CHAMBERS
210 FIDALGO AVE., KENAI, AK 99611
MAYOR BRIAN GABRIEL, PRESIDING**

MINUTES

A. CALL TO ORDER

A Regular Meeting of the Kenai City Council was held on June 5, 2019, in City Hall Council Chambers, Kenai, AK. Mayor Gabriel called the meeting to order at approximately 6:00 p.m.

1. Pledge of Allegiance

Mayor Gabriel led those assembled in the Pledge of Allegiance.

2. Roll Call

There were present:

Brian Gabriel, Mayor	Robert Molloy
Henry Knackstedt	Tim Navarre
Jim Glendening	Robert Peterkin
Glenese Pettey	

A quorum was present.

Also in attendance were:

Paul Ostrander, City Manager
Scott Bloom, City Attorney
Jamie Heinz, City Clerk

3. Agenda Approval

Mayor Gabriel noted the following revisions to the packet:

Add to item D.3.	Ordinance No. 3068-2019
	• Public Comments

MOTION:

Council Member Molloy **MOVED** to approve the agenda with the requested revisions to the packet and to move item D.6. to be considered first under public hearings and requested **UNANIMOUS CONSENT**. Council Member Knackstedt **SECONDED** the motion.

VOTE: There being no objections, **SO ORDERED**.

4. Consent Agenda

MOTION:

Council Member Knackstedt **MOVED** to approve the consent agenda and Council Member Molloy **SECONDED** the motion. **UNANIMOUS CONSENT** was requested.

Mayor Gabriel opened the floor for public comment; there being no one wishing to be heard, the public comment period was closed.

VOTE: There being no objections, **SO ORDERED.**

All items listed with an asterisk () are considered to be routine and non-controversial by the council and will be approved by one motion. There will be no separate discussion of these items unless a council member so requests, in which case the item will be removed from the consent agenda and considered in its normal sequence on the agenda as part of the General Orders.

B. SCHEDULED PUBLIC COMMENTS

1. **LTJG Scott Peters** – U.S. Coast Guard Involvement in the Kenai River Dip Net Fishery.

Lieutenant Peters spoke about the U.S. Coast Guard being present in July for Dockside Vessel Safety Examinations by the auxiliary members July 12 & 13 and July 26 & 27 and recreational boating safety enforcement on the water July 20 & 21 and 26-28, working with Alaska State Parks. He noted the agencies would be enforcing state laws and federal laws for boating safety as they have for the past few years. He also noted the conflict between federal and state laws regarding marijuana and advised marijuana be left at home and not taken on the water.

C. UNSCHEDULED PUBLIC COMMENTS – None.

D. PUBLIC HEARINGS

[Clerk's Note: This item was moved to be considered first under public hearings at approval of the agenda.]

6. **Resolution No. 2019-36** – Accepting a Donation from Kenai Senior Connections, Inc. for \$50,000 to the FY2019 Budget. (Administration)

MOTION:

Council Member Molloy **MOVED** to adopt Resolution No. 2019-36 and requested **UNANIMOUS CONSENT**. Council Member Knackstedt **SECONDED** the motion.

Mayor Gabriel opened for public hearing; there being no one wishing to be heard, the public hearing was closed.

Gratitude was expressed to Kenai Senior Connections for their fundraising work to help deliver the needed funds to the seniors of the City.

VOTE: There being no objection, **SO ORDERED.**

1. **Ordinance No. 3066-2019** – Accepting and Appropriating a Grant from the Federal Aviation Administration for the 2019 Airfield Marking, Crack Sealing, and Minor Pavement Repair Project and Awarding a Construction Contract to Complete the Work. (Administration)
 - **Substitute Ordinance No. 3066-2019** – Increasing Estimated Revenues and Appropriations in the Airport Special Revenue and Airport Improvements Capital Project Funds, Accepting and Appropriating a Grant from the Federal Aviation Administration, and Awarding a Construction Contract for Completion of the 2019 Airfield Marking, Crack Sealing, and Minor Pavement Repair Project. (Administration)

MOTION:

Council Member Knackstedt **MOVED** to enact Ordinance No. 3066-2019 and Vice Mayor Navarre **SECONDED** the motion.

Mayor Gabriel opened for public hearing; there being no one wishing to be heard, the public hearing was closed.

MOTION TO AMEND:

Council Member Knackstedt **MOVED** to amend by substitute Ordinance No. 3066-2019. Vice Mayor Navarre **SECONDED** the motion and requested **UNANIMOUS CONSENT**.

VOTE ON THE AMENDMENT: There being no objections, **SO ORDERED**.

VOTE ON THE MAIN MOTION AS AMENDED:

YEA: Knackstedt, Glendening, Pettey, Navarre, Molloy, Peterkin, Gabriel

NAY:

MOTION PASSED UNANIMOUSLY.

2. **Ordinance No. 3067-2019** – Accepting and Appropriating \$26,605.40 in Asset Forfeiture Sharing Funds and Appropriating Those Funds Into the Police Small Tools Account for the Purpose of Purchasing Law Enforcement Equipment. (Administration)

MOTION:

Council Member Molloy **MOVED** to enact Ordinance No. 3067-2019 and Council Member Knackstedt **SECONDED** the motion.

Mayor Gabriel opened for public hearing; there being no one wishing to be heard, the public hearing was closed.

VOTE:

YEA: Knackstedt, Glendening, Pettey, Navarre, Molloy, Peterkin, Gabriel

NAY:

MOTION PASSED UNANIMOUSLY.

3. **Ordinance No. 3068-2019** – Amending Kenai Municipal Code 14.20.320- Definitions and 14.20.330- Standards for Commercial Marijuana Establishments to Prohibit Onsite Consumption of Marijuana at Retail Marijuana Stores Requiring an Onsite Consumption Endorsement. (Council Members Pettey and Glendening)

MOTION:

Council Member Glendening **MOVED** to enact Ordinance No. 3068-2019 and Council Member Pettey **SECONDED** the motion.

Mayor Gabriel opened for public hearing.

Sherry Innes spoke in favor of the ordinance citing the number of highway deaths of people who had marijuana in their systems, which continued to grow, and pointed out that the Colorado Department of Transportation considered the studies to be the most reliable indicator of impaired drivers. She added that the ability to test for marijuana impairment is lacking and suggested that prohibiting it was not about freedom, it was about safety.

Patricia Patterson spoke against the ordinance noting she understood the concern due to the bad situation with Green Rush Events in the beginning. She noted visitors don't have a place to do it, suggested it's a tasting bar given the amount that someone could legally consume on site, and that a retail store welcoming tourism in this way could be done quite nicely. She also noted that people living in a place where they can't smoke or live somewhere they want to keep their consumption separate was another need. Patricia added that her average retail store customer was over 45.

Lisa Coates, owner of a manufacturing facility, spoke against the ordinance by reason of elimination of the stigma of cannabis, noting cigarettes and alcohol were allowed in certain areas and by excluding public consumption of cannabis, a double standard was created. She added that public education regarding THC, terpenes, etc., and how the chemicals can help people with certain ailments should be provided along with public consumption to also help remove the stigma.

Al Weeks spoke in favor of the ordinance noting that he works with Love, Inc. and actively walks in the woods to find homeless. He added that when matters such as this come up, it was easy to think we were doing a good thing but noted that unintended consequences arise. Finally, he suggested the City didn't need another intoxicant around during an already busy month of July.

Buddy Crowder spoke against the ordinance noting everyone has rights to make good or bad choices and pointing out we all make both. He suggested there was so much involved in opening one up, they should be given a chance to do it in a way that worked for the community.

There being no one else wishing to be heard, the public hearing was closed.

It was suggested that the ordinance was not against marijuana but against the state's imposition of onsite consumption. It was noted that previous action declined to accept regulations allowing it, none of the operators in the community indicated they wanted to do it, and it had been concluded the current needs of the community were being met.

Clarification was provided that if this ordinance failed, the Council needed to bring back something providing regulations.

Vice Mayor Navarre declared a potential conflict of interest noting his limited liability corporation leased space to a marijuana retail store in the city, and a cultivation facility outside the city. Municipal Code was reviewed and Vice Mayor Navarre clarified there was no direct financial tie in. It was noted there were still regulations, through another agency, to be complied with in obtaining an onsite consumption endorsement and the facility in question in the city was not freestanding so didn't comply with the state's licensing requirements. It was noted that there were ten shareholders, profits were diluted, the rent for that specific space was not substantial and, if vacant, the space could be leased out quickly. The Mayor ruled that Vice Mayor Navarre was allowed to vote and there was no objection from the body.

It was suggested a moratorium was a better vehicle; that prohibition sends the wrong message as a moratorium would clarify that Council was not opposed and willing to listen if someone came forward with a need and opportunity to do it safely and adequately. It was noted a moratorium protected the City and, if an operator chose to come forward, rules and regulations could then be set.

A brief history of the actions taken regarding onsite consumption was provided.

Clarification was provided regarding testing for impairment noting officers had drug recognition training and, if it was suspected someone was illegally impaired, certain impairment tests could be conducted and an arrest made. It was also noted that state regulations required video surveillance which could be obtained from the retailer.

It was pointed out that the ordinance could be repealed in the future and regulations put into place at that time if it was determined there was a need.

It was suggested that, despite knowing it wasn't difficult to change the law, the public often didn't know how to and the sponsors were asked to be open to postponement and consideration of a moratorium ordinance.

MOTION TO AMEND:

Vice Mayor Navarre **MOVED** to amend by entering the word, "enact" in the blank in the seventh whereas clause and requested **UNANIMOUS CONSENT**. Council Member Knackstedt **SECONDED** the motion and

VOTE ON THE AMENDMENT: There being no objections, **SO ORDERED**.

MOTION TO POSTPONE:

Vice Mayor Navarre **MOVED** to postpone Ordinance No. 3068-2019 to the June 19 meeting and Council Member Molloy **SECONDED** the motion.

It was noted the postponement would allow the comparison between a prohibition versus a moratorium.

VOTE ON POSTPONEMENT:

YEA: Knackstedt, Glendening, Pettey, Molloy, Peterkin, Navarre, Gabriel
NAY:

MOTION PASSED UNANIMOUSLY.

4. **Resolution No. 2019-34** – Amending its Comprehensive Schedule of Rates, Charges, and Fees to Incorporate Changes included in the FY2020 Budget to include Adjusting the Kenai Municipal Airport Apron Rental Rates, Airport Reserve Land Annual Lease Rates, Animal Control Fees, Adjusting the Monthly Rental Rates at Vintage Pointe, Increasing Water/Sewer Rates, and Ambulance Fees, and Implementing a New Library Fee, and Increasing Senior Center Rental Fees. (Administration)

MOTION:

Council Member Knackstedt **MOVED** to adopt Resolution No. 2019-34. Vice Mayor Navarre **SECONDED** the motion and requested **UNANIMOUS CONSENT**.

Mayor Gabriel opened for public hearing; there being no one wishing to be heard, the public hearing was closed.

Clarification was provided that some rates were calculated by comparative charges and some were calculated by an increase in the Consumer Price Index. It was further clarified that, in some cases, the fees didn't necessarily cover the costs.

Additional clarification was provided regarding the airport rates being adjusted pursuant to a study that had been completed in the past and there was discussion regarding senior center rental rates, ambulance rates, and the City's policy on charity care with regard to ambulance services.

Unanimous Consent was objected to.

MOTION TO AMEND:

Council Member Knackstedt **MOVED** to amend item 9.a. under the Library fees to remove "on items" and replace with "per item" and Council Member Molloy **SECONDED** the motion. **UNANIMOUS CONSENT** was requested.

VOTE ON THE AMENDMENT: There being no objections, **SO ORDERED**.

MOTION TO AMEND:

Council Member Knackstedt **MOVED** to amend the fee for item 9.a. under the Library fees to \$2.00 instead of \$1.00 and Council Member Molloy **SECONDED** the motion. **UNANIMOUS CONSENT** was requested.

VOTE ON THE AMENDMENT: There being no objections, **SO ORDERED**.

VOTE ON THE MAIN MOTION AS AMENDED:

YEA: Knackstedt, Glendening, Pettey, Molloy, Peterkin, Navarre, Gabriel
NAY:

MOTION PASSED UNANIMOUSLY.

MOTION:

Vice Mayor Navarre **MOVED** to suspend the rules and take up the Executive Session item at this point in the meeting and requested **UNANIMOUS CONSENT**. Council Member Molloy **SECONDED** the motion.

VOTE: There being no objections, **SO ORDERED**.

1. Discussion of Kenai Visitor Center Management and Potential Staffing Changes, a Matter of Which the Immediate Knowledge may have an Adverse Effect upon the Finances of the City [AS44.62.310(c)(1)] and a Subject that Tends to Prejudice the Reputation and Character of a Person or Persons Currently Employed by the City [AS44.62.310 (c)(2)]

MOTION:

Council Member Molloy **MOVED** to enter into executive session to discuss the Visitor Center Management and Potential Staffing Changes, a matter of which the immediate knowledge may have an adverse effect upon the Finances of the City [AS44.62.310(c)(1)] and which may be a subject that tends to prejudice the reputation and character of a Person or Persons Currently Employed by the City [AS44.62.310(C)(2)]; requested the attendance of City Manager, City Attorney, Finance Director, and Human Resource Director, as needed. Council Member Peterkin **SECONDED** the motion.

VOTE:

YEA: Knackstedt, Glendening, Pettey, Molloy, Peterkin, Navarre, Gabriel

NAY:

MOTION PASSED UNANIMOUSLY.

Council reconvened in open session, noted for the record that they had discussed the Kenai Visitor Center management and potential staff changes, and gave direction to City Administration for the negotiation with the Kenai Visitor Bureau organization.

5. **Resolution No. 2019-35** – Authorizing Budget Adjustments in the Airport Fund for Costs in Excess of Budgeted Amounts. (Administration)

MOTION:

Council Member Knackstedt **MOVED** to adopt Resolution No. 2019-35. Vice Mayor Navarre **SECONDED** the motion and requested **UNANIMOUS CONSENT**.

Mayor Gabriel opened for public hearing; there being no one wishing to be heard, the public hearing was closed.

VOTE: There being no objection, **SO ORDERED**.

[Clerk's Note: This item was moved to be considered first under public hearings at approval of the agenda.]

6. **Resolution No. 2019-36** – Accepting a Donation from Kenai Senior Connections, Inc. for \$50,000 to the FY2019 Budget. (Administration)

E. **MINUTES** – None.

F. **UNFINISHED BUSINESS** – None.

G. **NEW BUSINESS**

1. ***Action/Approval** – Bills to be Ratified. (Administration)

Approved by the consent agenda.

2. ***Action/Approval** – Purchase Orders Over \$15,000. (Administration)

Approved by the consent agenda.

3. ***Ordinance No. 3069-2019** – Appropriating FY2019 Budgeted Funds for Municipal Roadway Improvements in the Municipal Roadway Improvements Capital Project Fund for Future Roadway Projects. (Administration)

Introduced by the consent agenda and public hearing set for June 19.

4. ***Ordinance No. 3070-2019** – Authorizing a Budget Transfer in the General Fund, Decreasing Estimated Revenues and Appropriations in the Senior Citizen Special Revenue Fund and Appropriating FY2019 Budgeted Amounts in the Senior Center Improvement Capital Project Fund for Carpet Replacement. (Administration)

Introduced by the consent agenda and public hearing set for June 19.

5. **Action/Approval** – Second Amendment to Agreement for Janitorial Services for the City of Kenai City Hall, Airport, Community Library, and Police Department. (Administration)

MOTION:

Council Member Molloy **MOVED** to approve the second amendment to agreement for janitorial services for the City of Kenai City Hall, Airport, Community Library, and Police Department, and requested **UNANIMOUS CONSENT**. Vice Mayor Navarre **SECONDED** the motion.

VOTE: There being no objection, **SO ORDERED**.

6. **Action/Approval** – City Sponsorship of \$1,000 to Alaska Municipal League for the 2019 Summer Legislative Conference Being Held in Soldotna. (Vice Mayor Tim Navarre)

MOTION:

Vice Mayor Navarre **MOVED** to authorize a sponsorship in the amount of \$1,000 to Alaska Municipal League for the 2019 Summer Legislative Conference being held in Soldotna. Council Member Molloy **SECONDED** the motion. **UNANIMOUS CONSENT** was requested.

VOTE: There being no objection, **SO ORDERED**.

7. **Action/Approval** – City Donation of a Memorial Plaque Honoring Ron Malston to be Placed at Leif Hanson Memorial Park. (Vice Mayor Tim Navarre)

MOTION:

Vice Mayor Navarre **MOVED** to approve the donation of a memorial plaque and tree honoring Ron Malston to be placed at Leif Hanson Memorial Park, and requested **UNANIMOUS CONSENT**. Council Member Pettey **SECONDED** the motion.

VOTE: There being no objection, **SO ORDERED**.

H. COMMISSION/COMMITTEE REPORTS

1. Council on Aging – No report; next meeting June 13.
2. Airport Commission – No report; next meeting June 13.
3. Harbor Commission – No report; next meeting June 10.
4. Parks and Recreation Commission – No report; next meeting August 1.
5. Planning and Zoning Commission – It was reported that at their May 22 meeting the Commission recommended onsite consumption ordinance; next meeting June 12.
6. Beautification Committee – No report; next meeting September 10.
7. Mini-Grant Steering Committee – No report.

I. REPORT OF THE MAYOR

Mayor Gabriel reported on the following:

- Attended James Dye’s retirement party at the Kenai Fire Department;
- Attended Kenai Central High School graduation and the alternative high school graduation;
- Attended the Memorial Day Service;
- Asked that D-Day, and the sacrifices made that day were remembered as a significant event in our past;
- Attended Ron Malston’s Celebration of Life Service;
- Provided a reminder of the upcoming Kenai Peninsula Air Fair.

J. ADMINISTRATION REPORTS

1. Acting City Manager – T. Eubank reported on the following:
 - Noted he and the City Attorney were travelling to Anchorage to discuss and negotiate definitions for online sales tax hosted by Alaska Municipal League.
2. City Attorney – No Report.
3. City Clerk – J. Heinz reported upcoming training she would be attending and asked that those wishing to attend the Alaska Municipal League Summer Conference to contact her.

K. ADDITIONAL PUBLIC COMMENT

1. Citizens Comments (*Public comment limited to five (5) minutes per speaker*)

David Chessick spoke about the first day of fishing in the Cook Inlet noting he brought the fish up by hand; cranes nearby but not available for use. He added that Kenai was a fishing town and that fishing was part of its heritage and the City needed to work with those needing the dock and cranes. He also suggested a festival for the first fish of the season, similar to the festival in Cordova.

2. Council Comments

Vice Mayor Navarre spoke about a the need for a Capital Improvement Project fund to replace the capital funding that the state used to assist with, noted he attended the joint work session regarding taxing options the Kenai Peninsula Borough was considering, noted he attended Ron Malston's service, and noted that Pat Bird had passed away.

Council Member Pettey thanked the U.S. Coast Guard and the Harbor Commission for working on safety during the Dipnet Fishery; thanked the Senior Center for hosting the Anchorage Bowl Concert Group; provided reminders for upcoming events; thanked the Senior Connection for their generous donation; attended Ron Malston's service.

Council Member Glendening also noted he had attended Ron Malston's service and was heartened by all that Ron Malston had given to the City; also noted his grandson graduated high school, he had recently attended a family reunion and celebrated an aunt's 100th birthday.

Council Member Peterkin noted Skipper from the Friendship Mission passed away leaving the Friendship Mission in limbo as a special person was needed to take care of it; suggested a committee to change streetlights, to provide unique options for different neighborhoods; noted his daughter had recently graduated high school at Kenai Central High School.

Council Member Molloy noted the Celebration of Birds project that took place instead of the birding festival noting a series of events that brought people to the central peninsula and City of Kenai.

[Clerk's Note: This item was considered after G.4. after a motion to suspend the rules passed.]

L. EXECUTIVE SESSION


1. Discussion of Kenai Visitor Center Management and Potential Staffing Changes, a Matter of Which the Immediate Knowledge may have an Adverse Effect upon the Finances of the City [AS44.62.310(c)(1)] and a Subject that Tends to Prejudice the Reputation and Character of a Person or Persons Currently Employed by the City [AS44.62.310 (c)(2)]

M. PENDING ITEMS – None.

N. ADJOURNMENT

There being no further business before the Council, the meeting was adjourned at 10:14 p.m.

I certify the above represents accurate minutes of the Kenai City Council meeting of June 5, 2019.



Jamie Heinz, CMC
City Clerk

