

**KENAI CITY COUNCIL – REGULAR MEETING  
OCTOBER 2, 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 October 2, 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.1.	Ordinance No. 3083-2019 <ul style="list-style-type: none"><li>• Amendment Memo</li></ul>
Add to item D.5.	Ordinance No. 3088-2019 <ul style="list-style-type: none"><li>• Supplemental Information Provided by a Member of the Public</li></ul>
Add to item J.1.	City Manager's Report <ul style="list-style-type: none"><li>• Letter to the Board of Fish</li></ul>

**MOTION:**

Council Member Molloy **MOVED** to approve the agenda with the requested revisions to the packet 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 requested **UNANIMOUS CONSENT**. Council Member Molloy **SECONDED** the motion.

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 councilmember 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** – None.

**C. UNSCHEDULED PUBLIC COMMENTS** – None.

**D. PUBLIC HEARINGS**

1. **Ordinance No. 3083-2019 (Substitute)** - Amending Kenai Municipal Code 14.20.175 - Adult Businesses, To Increase The Buffer Distances Between Adult Businesses And Sensitive Uses From 500 Feet To 1000 Feet And Define Sensitive Uses. (Council Members Pettey and Knackstedt) *[Clerk's Note: At the September 4 Meeting, this item was Referred to the Planning & Zoning Commission for a Recommendation and to be Scheduled for a Second Public Hearing at the October 2 Meeting. A Motion to Enact as Amended is On the Floor.]*

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 the last whereas clause to enter "September 25, 2019," in the first blank and, "the City Council enact Ordinance No. 3083-2019 (substitute)," in the second blank. Council Member Molloy **SECONDED** the motion and requested **UNANIMOUS CONSENT**.

**VOTE ON THE AMENDMENT:** There being no objection; **SO ORDERED**.

**VOTE ON THE MAIN MOTION AS AMENDED:**

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

**MOTION PASSED.**

2. **Ordinance No. 3085-2019** - Increasing Estimated Revenues and Appropriations in the Water and Sewer Fund for the Purchase of Well Radius Property Described as Tract A, Alaska State Land Survey No. 2013-49, Filed Under Plat 2017-8, for the City's Public Water System. (Administration)

**MOTION:**

Council Member Knackstedt **MOVED** to enact Ordinance No. 3085-2019 and Council Member Glendening **SECONDED** the motion.

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

Clarification was provided that easements for the race track and the gun range were accounted for.

A history of the transaction was provided and it was noted the City received no concerns regarding the acquisition.

**VOTE:**

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

**MOTION PASSED UNANIMOUSLY.**

3. **Ordinance No. 3086-2019** - Accepting and Appropriating a Grant from the Rasmuson Foundation and Accepting and Appropriating Private Donations in the Senior Center Capital Improvement Fund for the Purchase of New Flooring for the Dining Room and Administration Offices of the Kenai Senior Center. (Administration)

**MOTION:**

Council Member Molloy **MOVED** to enact Ordinance No. 3086-2019 and Council Member Glendening **SECONDED** the motion.

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

The Rasmuson foundation and public donator were thanked for the generous grant and donations.

**VOTE:**

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

NAY:

**MOTION PASSED UNANIMOUSLY.**

4. **Ordinance No. 3087-2019** - Authorizing a Budget Transfer in the Senior Center Capital Improvement Fund and Increasing Estimated Revenues and Appropriations in the Public Safety Improvement Capital Project Fund to Provide Supplemental Funding for the Fire Department Kitchen Remodel Project. (Administration)

**MOTION:**

Council Member Knackstedt **MOVED** to enact Ordinance No. 3087-2019 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.

An overview of the budget transfer was provided.

**VOTE:**

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

NAY:

**MOTION PASSED UNANIMOUSLY.**

5. **Ordinance No. 3088-2019** - Amending Kenai Municipal Code, Section 14.20.330 – Standards for Commercial Marijuana Establishments, to Incorporate Limitations on Hours of Operation for Retail Marijuana Establishments. (Administration)

**MOTION:**

Council Member Molloy **MOVED** to enact Ordinance No. 3088-2019 and Council Member Glendening **SECONDED** the motion.

Mayor Gabriel opened for a public hearing.

Garrett Austin spoke against the ordinance noting he served in the military, cared for the welfare of the community, and hadn't seen marijuana as a problem drug in the community. He explained he has had several surgeries in the past six years, which have allowed him to stand and walk again, that a doctor introduced him to cannabis, and it has been a blessing to him to be able to go when needed to get relief at the times he needed it.

Ron Isaacs noted the letters of opposition in the packet and suggested the bars be closed, not the marijuana establishments; also suggested Kenai businesses were already at a disadvantage due to less traffic on the Kenai Spur Highway. He discussed service calls from police noting the only reason the police have called on marijuana establishments was to look at camera footage and also discussed hours of operation for marijuana establishments in other towns.

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

Appreciation was expressed for those that testified and provided written comment and the reason the ordinance came about was reiterated.

There was discussion regarding hours of operation required by the state, hours of operation in other communities, and rationale for further restrictions. The work of the Borough's task force was noted, specifically hours of operation they settled on due to concerns with the cash business being a temptation.

Amending the code to include the hours of operation required by the state for enforcement purposes, Personal Use Fishery time constraints, no onsite consumption with marijuana, letting business regulate itself were additional topics discussed.

The point was made that all of the establishments that are now marijuana retail stores had been gas stations, convenience stores, social clubs, or bars in the past and were more impactful to residential areas than now; it was noted the Planning and Zoning Commission could require conditions in order to mitigate some impacts. The point was also made that even if the hours of operation were reduced for marijuana retail stores, it was dark more than half the time and headlights would still be an issue.

**MOTION:**

Council Member Molloy **MOVED** to amend 14.20.330 (j) to add, "except for the month of July," at the end of the sentence and Council Member Glendening **SECONDED** the motion.

It was suggested this amendment be a starting point and then asking the cannabis industry for ideas on approaching establishments in our community.

There was discussion regarding the limitation for all but one month in the year suggesting the Personal Use Fishery was something to be managed, that it was incongruent to reduce restrictions for only one month, and that there may be other activities that have people out earlier in the day.

The point was made that the current cannabis retailers had shown that they don't have issues with their clientele and law enforcement; it was suggested restrictions were solving a problem that didn't exist.

**VOTE:**

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

**MOTION FAILED.**

**MOTION TO AMEND:**

Vice Mayor Navarre **MOVED** to amend 14.20.330 (j) to change 2:00 a.m. to 5:00 a.m. and Council Member Glendening **SECONDED** the motion.

Clarification was provided that code enforcement would be enforcing the hours of operation, not the police department; it was also clarified that the City didn't enforce hours of operation on liquor establishments.

It was noted there should be code enforcement.

**VOTE ON THE AMENDMENT:**

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

NAY:

**MOTION PASSED UNANIMOUSLY.**

**VOTE ON THE MAIN MOTION AS AMENDED:**

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

NAY:

**MOTION PASSED UNANIMOUSLY.**

**E. MINUTES**

1. \*Regular Meeting of September 18, 2019

Approved by the consent agenda.

**F. UNFINISHED BUSINESS**

1. **Ordinance No. 3072-2019 Substitute** - Renaming, Repealing and Re-Enacting Kenai Municipal Code Title 22-General Fund Lands, Renaming Title 21-City Airport and Airport Lands, and Repealing Kenai Municipal Code Chapter 21.15-Lease and Sale of Airport Lands Outside of the Airport Reserve to Encourage Responsible Growth and Development to Support a Thriving Business, Residential, Recreational and Cultural Community through Responsible Land Policies and Practices. (Administration) [*Clerk's Note: At the September 4 Meeting this Item was Postponed to this Meeting. A Motion to Enact is On the Floor.*]

Administration was commended on the process and it was noted the ordinance was a good product.

**MOTION TO AMEND:**

Council Member Molloy **MOVED** to amend KMC 22.05.010 (c) to add, "and the retention or acquisition of land needed or that may be needed for a public purpose," at the end of the sentence and Council Member Knackstedt **SECONDED** the motion.

It was noted the amendment included in the intent, reference to Council's responsibility for determination of what City lands should be retained or acquired for a public purpose or are no longer needed for a public purpose.

It was suggested the amendment went into too much specificity.

**VOTE ON THE AMENDMENT:**

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

**MOTION FAILED.**

**MOTION TO AMEND:**

Council Member Molloy **MOVED** to amend KMC 22.05.040 (a) to read, "Applications shall be reviewed by City staff for application completeness and conformance with the intent of this chapter, City ordinances, and for substantial conformance with the City's Comprehensive Plan," and Council Member Peterkin **SECONDED** the motion.

It was noted the amendment provided that in addition to reviewing for completeness and conformance with City ordinances; they would review for conformance with the Comprehensive Plan, which would provide good recommendations and findings in the review.

It was noted that the Planning and Zoning Commission would review the application as related to the Comprehensive Plan.

**VOTE ON THE AMENDMENT:**

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

**MOTION FAILED.**

**VOTE ON THE MAIN MOTION:**

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

**MOTION PASSED UNANIMOUSLY.**

2. **Resolution No. 2019-58** - Amending its Comprehensive Schedule of Rates, Charges, and Fees to Incorporate Changes to Application Fees for Lands Outside the Airport Reserve. (Administration) [**Clerk's Note: At the September 4 Meeting this Item was Postponed to this Meeting. A Motion to Enact is On the Floor.**]

**UNANIMOUS CONSENT** was requested

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

**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. 3089-2019** - Amending Kenai Municipal Code Section 1.15.040, Agenda, to Revise Public Notice Requirements and Amend the Agenda/Package Preparation, Distribution, And Publication Administrative Policies and Procedures to make Standard Revisions and Housekeeping Changes. (Council Members Molloy and Knackstedt)

Introduced by the consent agenda and public hearing set for October 16.

4. **\*Ordinance No. 3090-2019** - Increasing Estimated Revenues and Appropriations in the General and Public Safety Capital Project Funds and Accepting an Assistance to Firefighter Grant from the Federal Emergency Management Agency for the Cooperative Purchase of Self-Contained Breathing Apparatus for the City of Kenai Fire Department, Nikiski Fire Department, and Central Emergency Services. (Administration)

Introduced by the consent agenda and public hearing set for October 16.

5. **\*Ordinance No. 3091-2019** - Amending Kenai Municipal Code Section 17.10.010 – Mandatory Connection and Abandonment of Old Well, and Section 17.20.010 - Mandatory Connections and Abandonment of Old On-Site Sewer Systems, to Clarify the Intent of Ordinance 3003-2018 and Make Housekeeping Changes. (Council Member Knackstedt)

Introduced by the consent agenda and public hearing set for October 16.

6. **Ordinance No. 3079-2019 Substitute** - Increasing Estimated Revenues and Appropriations in the Airport Special Revenue and Airport Improvements Capital Project Funds and Accepting a Grant from the Federal Aviation Administration for the Purchase of Two Aircraft Rescue and Firefighting (ARFF) Vehicles, Rehabilitation of the Fire Training Props, and Rehabilitation of the Training Facility for the Alaska Regional Fire Training Facility. (Administration) *[Clerk's Note: This ordinance was enacted at the 9/04/19 meeting. It has been discovered that a purchase order increase was inadvertently excluded from the amounts. A motion to amend something previously adopted is in order and as such, appearance on this agenda serves as notice.]*

**MOTION:**

Council Member Knackstedt **MOVED** to amend something previously adopted by inserting a new whereas clause before the final whereas clause that reads, "WHEREAS, pursuant to the Alaska Fire Training Center Facility Management Agreement, which was entered into in March 2008, a \$10.00 facility maintenance fee has been charged to each student for major maintenance on the facility and through June 30, 2019, total fees available in committed fund balance are \$136,328; and," deleting the final whereas clause and replacing it with a new whereas clause that reads, "WHEREAS, sufficient fund balance including, \$136,328 of committed fund balance and \$332,407 of assigned fund balance, are available in the Airport Special Revenue Fund to provide the additional \$168,735 of local match and \$300,000 of project contingency funding which may become eligible for grant reimbursement as change orders are processed," deleting "Appropriation of Fund Balance," and "\$468,735.00" in Section 2, inserting, "Appropriation of: Assigned Fund Balance, \$332,407.00, and Committed Fund Balance, \$136,328.00, totaling



\$468,735.00,” and, in Section 3, amend \$2,168,000.00, \$2,113,755.00 and \$5,866,755.00 to \$2,344,500, \$2,290,255 and \$6,239,755 respectively, and Council Member Molloy **SECONDED** the motion. **UNANIMOUS CONSENT** was requested.

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

7. **Action/Approval** - Supporting the Draft Environmental Impact Statement for the Alaska LNG Project and Approving Comments to be Submitted on Behalf of the City of Kenai to the Federal Environmental Regulatory Commission. (Administration)

**MOTION:**

Vice Mayor Navarre **MOVED** to unanimously support the Alaska LNG Project and Authorize Comments to be Submitted on Behalf of the City of Kenai to the Federal Environmental Regulatory Commission with all Council Members' signatures and Council Member Peterkin **SECONDED** the motion. **UNANIMOUS CONSENT** was requested.

The Mayor noted he testified in support of the project when Federal Energy Regulatory Commission staff was in Nikiski. Appreciation was expressed for the work developing the comments.

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

**H. COMMISSION/COMMITTEE REPORTS**

1. Council on Aging – No report; next meeting October 10.
2. Airport Commission – No report; next meeting October 10.
3. Harbor Commission – No report; next meeting November 12.
4. Parks and Recreation Commission – No report; next meeting October 3.
5. Planning and Zoning Commission – It was reported that at their September 25 meeting the Commission approved a CUP for a gunsmithing business in a RR1 zone, recommended adoption of Ordinance No. 3088-2019, and approved a Home Occupation Permit for a home daycare; next meeting October 30.
6. Beautification Committee – No report; next meeting October 8.
7. Mini-Grant Steering Committee – No report; next meeting October 4.

**I. REPORT OF THE MAYOR**

Mayor Gabriel reported on the following:

- Participated in a Dog Park work party;
- A grandson was born recently; and
- Congratulated Pettey and Glendening on their election; also thanked others for running at the borough level noting appreciation for those that put forth the effort.

**J. ADMINISTRATION REPORTS**

1. City Manager –City Manager P. Ostrander reported on the following:
  - Attended a recent chamber meeting ensuring collaboration in marketing efforts;
  - Presented local information to the Alaska Mental Health Board and Advisory Board on Alcohol and Drug Abuse Meetings with Vice Mayor Navarre;
  - Provided an update on the surplus auction and noted another upcoming surplus auction for other items;
  - Noted an RFP was being prepared for City property appraisals;
  - Would be hosting Policy with a Pint at Main Street Tap & Grill again for Startup Week;
  - Announced Mark Maddox was the winner of the Silver Salmon Derby;
  - Thanked Council for their for adoption of Ordinance No. 3072-2019 noting the Land Management Plan was the next step;
  - Congratulated the winners of the recent election;
  - Noted there was no update on the Bluff Erosion Project; and
  - Pointed out a letter from the cities of Soldotna and Kenai to the Board of Fisheries in the laydown, asking for approval.

**MOTION:**

Council Member Molloy **MOVED** to authorize the manager to sign and send the letter in the laydown to the Board of Fisheries and Council Member Glendening **SECONDED** the motion. **UNANIMOUS CONSENT** was requested.

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

It was noted the manager would also be attending the meeting of the Board of Fisheries.

2. City Attorney – No Report.
3. City Clerk – City Clerk J. Heinz reported on the unofficial outcomes of the election noting the Canvass Board would conduct its review on October 8 and the election would be certified by Council on October 16.

**K. ADDITIONAL PUBLIC COMMENT**

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

None.

2. Council Comments

Everyone congratulated Council Members Pettey and Glendening and Mayor Gabriel on their recent election.

Council Member Pettey noted it was an honor to serve on City Council; thanked the Rasmuson Foundation for the grant and the staff for their work in applying for the grant. She also noted an upcoming art show opening and thanked the City Managers for their letter to the Board of Fisheries.

Council Member Peterkin noted upcoming Brown Bears hockey games.

Council Member Glendening thanked the City Planner for her work on the Alaska LNG Draft EIS comments and noted the upcoming Pumpkin Festival.

Council Member Molloy congratulated the Mayor for his new grandson and the City Manager's daughter for her personal best in Doha, Qatar.

Vice Mayor Navarre noted Council Members and staff gave a lot of time and energy to their responsibility and should be given the opportunity to do things with their families as they were important, too. He gave a brief overview of his presentation to the Alaska Mental Health Board and Advisory Board on Alcohol and Drug Abuse. He also noted upcoming Alaska Municipal League workshops and their value for municipalities adding that the Sales Tax collection policy was being reviewed by city managers and city attorneys and could be in place by next year.

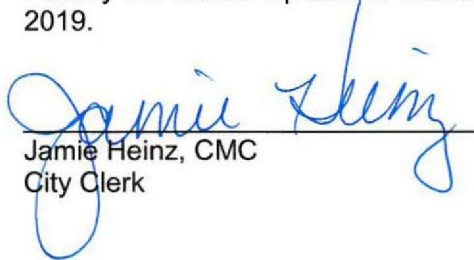
L. **EXECUTIVE SESSION** – None.

M. **PENDING ITEMS** – None.

N. **ADJOURNMENT**

There being no further business before the Council, the meeting was adjourned at 8:14 p.m.

I certify the above represents accurate minutes of the Kenai City Council meeting of October 2, 2019.

  
\_\_\_\_\_  
Jamie Heinz, CMC  
City Clerk

