

**KENAI CITY COUNCIL – REGULAR MEETING
SEPTEMBER 1, 2021 – 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 September 1, 2021, 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
Henry Knackstedt
Jim Glendening
Victoria Askin

Robert Molloy
Teea Winger
Glenese Pettey (via Telephonic Participation)

A quorum was present.

Also in attendance were:

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

3. Agenda Approval

MOTION:

Mayor Gabriel noted the following additions to the packet:

Add to item D.4. **Ordinance No. 3237-2021**

- Amendment Memo
- Public Comments

Add to item D.5. **Ordinance No. 3244-2021**

- Amendment Memo

Add to item D.6. **Resolution No. 2021-56**

- Exhibit "A"

Add to item G.11.

Process for Hiring a City Clerk

- Memo

Vice Mayor Molloy **MOVED** to approve the agenda with the requested revisions and requested **UNANIMOUS CONSENT**. Council Member Askin **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**. Vice Mayor Molloy **SECONDED** the motion.

The items on the Consent Agenda were read into the record.

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 – None.

C. UNSCHEDULED PUBLIC COMMENTS

Susanne Lagasse spoke in favor of Jason Foster as both a personal friend and as the owner of Foster's Alaskan Cabins. She disputed the complaints the City had received against him, stating that they were bullying from a neighbor. She stated that she hopes the City would do due diligence in investigating complaints and that she does not believe code enforcement or staff had set foot on property before a violation letter had been issued. She noted Foster's many positive online reviews and asked Council to consider whether they wanted Kenai to have a bad reputation in the business community.

Jason Foster explained the history of his property, noting that it has been permitted in the City since the late 1990's. He noted that past violations with the City had been resolved and accommodations had been made to address complaints and ensure compatibility with the neighborhood. He explained what has been done to address a Department of Environmental Conservation violation and that the other violation regarding additional people on the property for food and entertainment is disputable. He noted that the culture of Angler Drive is same as has been for last 30 years and explained how his business contributes to the economy of Kenai. He stated that there should be an investigation done and if it is not then the allegations should be withdrawn. He noted that he has shown that he will help in any way he can and expressed skepticism about neighbors who had filed complaints.

Bryan Lowe explained that he had been told by the Kenai Police Department that there is no City ordinance on noise and that a noise complaint would be responded to with an officer warning. He spoke in support of Jason Foster's business, noting that it is an enjoyable place and well-run business that he visits frequently and not a party house. He disputed the violation filed by the City's Planning department and the neighbor's complaints, explained how he is affected as a neighboring property. He expressed strong disagreement with the complaint and frustration with the City for its dealings with local businesses including his own. He stated that the City needs to change the zoning of Angler Drive to Limited Commercial.

Jeff Bressler, owner of Alaska Slammin Salmon Charters, noted that the owners of Foster's Alaskan Cabins are good friends and stated that it is outrageous that he can't go to their property for dinner. He expressed his support for their business and noted that there needs to be some kind of investigation before a violation is issued.

Kristie Hudson spoke in support of Foster's Alaskan Cabins, noting that she sometimes works at the business and the owners are close friends. She described how guests fall in love with Kenai and Alaska through this business and as a neighbor herself she does not hear their noise and does not agree with the complaints.

Steve Voth, owner of Captain Bligh's Beaver Creek Lodge, noted he is a resident of Angler Drive and also has people over to his business for barbeques. He expressed disbelief that the City can tell Jason Foster not to have neighbors over and echoed the comments of support from previous speakers.

Jack Foster spoke in support of Jason Foster, explaining how he purchased this and other properties in Kenai. He stated that the complaints are mainly coming from one neighbor and expressed hope that the City will realize this is just one burr under the saddle. He explained that Jason manages his property well in order to stay in compliance with his business restrictions.

Cindy Hannah echoed previous comments, noting that they are running a great business and explained that it is not a party place. She explained the great community atmosphere, noting that she loves Kenai but not the one squeaky wheel.

Rachel Lowe noted that she is a lifetime Kenai resident and a good friend of Jason Foster. He explained how his business provides substantial economic value to the community and expressed support for them as a thriving business. As a previous resident of Angler Drive, she noted that it has been primarily businesses there for many years and it is common for neighbors there to have community gatherings with food and good music and there are no speakers.

Abbie Hannah noted that she is not a Kenai resident but has enjoyed the community of Angler Drive. She explained the music at Foster's Alaskan Cabins is always finished at 10:00 PM and it is quiet enough to speak over.

D. PUBLIC HEARINGS

- 1. Ordinance No. 3234-2021** - Increasing Estimated Revenues and Appropriations in the Airport Improvements Capital Project Fund, Amending the City's Professional Services Agreement with HDL Engineering Consultants, Accepting Grant Funding from the Federal Aviation Administration and Issuing a Purchase Order for Construction of the 2021 Airfield Drainage Rehabilitation Project at the Kenai Municipal Airport. (Administration)

- **SUBSTITUTE Ordinance No. 3234-2021**

MOTION:

Council Member Knackstedt **MOVED** to enact Ordinance No. 3234-2021 and Council Member Askin **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.

MOTION TO AMEND:

Council Member Knackstedt **MOVED** to amend by Substitute Ordinance No. 3234-2021 and Vice Mayor Molloy **SECONDED** the motion.

VOTE TO AMEND BY SUBSTITUTE:

YEA: Gabriel, Winger, Glendening, Molloy, Pettey, Askin, Knackstedt
NAY:

MOTION PASSED UNANIMOUSLY.

VOTE ON THE MAIN MOTION AS AMENDED:

YEA: Winger, Glendening, Molloy, Pettey, Askin, Knackstedt, Gabriel
NAY:

MOTION PASSED UNANIMOUSLY.

2. **Ordinance No. 3235-2021** - Accepting and Appropriating a Grant from the State of Alaska for the Purchase of Library Books. (Administration)

MOTION:

Council Member Askin **MOVED** to enact Ordinance No. 3235-2021 and Vice Mayor 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.

The library staff was commended for the work that they do.

VOTE:

YEA: Glendening, Molloy, Pettey, Askin, Knackstedt, Gabriel, Winger
NAY:

MOTION PASSED UNANIMOUSLY.

3. **Ordinance No. 3236-2021** - Amending the Official Zoning Map by Rezoning T 5N R 11W Sec 6 Seward Meridian KN North 150 Ft of Govt Lot 34 from Suburban Residential to General Commercial. (Administration)

MOTION:

Vice Mayor Molloy **MOVED** to enact Ordinance No. 3236-2021 and Council Member Winger **SECONDED** the motion.

Mayor Gabriel opened the floor for public comment.

Don Ohler, Construction Director for Kenaitze Indian Tribe, noted that in response to the request of the neighboring church they will be repairing and maintaining the fence at the border of their property. He noted that the area currently zoned as Suburban Residential has no access and nothing on it and explained the Kenaitze Indian Tribes commercial plans for it. He clarified that they own two adjoining properties.

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

It was noted that this rezoning was recommended by the Planning & Zoning Commission.

VOTE:

YEA: Molloy, Pettey, Askin, Knackstedt, Gabriel, Winger, Glendening

NAY:

MOTION PASSED UNANIMOUSLY.

4. **Ordinance No. 3237-2021** - Increasing Estimated Revenues and Appropriations in the General Fund – Land Administration Department to Provide Funding for a Kenai Waterfront Revitalization Feasibility Study. (Administration)

MOTION:

Vice Mayor Molloy **MOVED** to enact Ordinance No. 3237-2021 and Council Member Pettey **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.

It was noted that the land identified for Waterfront Revitalization included 24 properties of which 10 were City-owned and 14 were privately owned. Clarification was provided that the majority of the City-owned properties were under active lease and that the intent of the feasibility study is to determine what the City can do to incentivize development that the community wants in the area, which could include zoning, regulations, and public/private partnerships. It was explained that the Comprehensive Plan specifically identified these properties as an area the City should look at for development and that a competitive RFP would be advertised to seek a consultant.

Concern was expressed that property owners in this area may not appreciate the City telling them what its vision was of their property and that could impact future investments and development in the City because it could be interpreted as government overreach.

MOTION TO AMEND:

Vice Mayor Molloy **MOVED** to amend Ordinance No. 3237-2021 by replacing the blank in the sixth WHEREAS with the words "enactment by unanimous consent," the blank in the seventh WHEREAS with the words "enactment by unanimous vote," and the blank in the eighth WHEREAS with the words "enactment by unanimous vote." Council Member Knackstedt **SECONDED** the motion and requested **UNANIMOUS CONSENT**.

VOTE TO AMEND: There being no objection; **SO ORDERED**.

Support was expressed for the feasibility study as an inclusive process which would involve private property owners and that some of the land owners had attended the Council work session and expressed their ideas for the area. It was noted that the study would allow them to participate in the vision of waterfront redevelopment rather than being told what they have to do with their land and that none of them would be forced to do anything they did not want to do. The funding for this study was seed money to allow a consultant to take a macro and micro look at changes that could be done to accomplish the community vision.

It was noted that conducting a feasibility study prior to development was common practice in government and the draft RFP, included in the packet, included engagement with the Kenai community to develop the vision.

Further discussion included, including areas within the Bluff Erosion Project into the vision, for the consultant to work with the City's commissions, the possibilities of the feasibility study being done in-house, practical measures for making the area a more year-round tourist environment, working with Kenai Peninsula Economic Development District, and the difference between this special project and capital projects.

The point was made that often grants will require a feasibility study to be done and without that first step the funding may not be available to us.

The rules were suspended and a public comment was taken.

Troy Smith noted that he is looking at purchasing and developing the Kenai dock and spoke in support of the ordinance. He stated that he is interested in seeing the feasibility study produce a master plan for the area's design, in particular one that would incorporate a coastal trail to tie everything together.

VOTE:

YEA: Pettey, Askin, Knackstedt, Gabriel, Glendening, Molloy
NAY: Winger

MOTION PASSED.

5. **Ordinance No. 3244-2021** - Increasing Estimated Revenues and Appropriations in the General and Municipal Roadway Improvement Capital Project Funds, awarding a Construction Contract and Authorizing the Issuance of a Purchase Order for the 2021 Bryson Avenue Bluff Erosion Repair Project. (Administration)
 1. Motion for Introduction
 2. Motion for Second Reading (Requires a Unanimous Vote)

3. Motion for Adoption (Requires Five Affirmative Votes)

MOTION FOR INTRODUCTION:

Council Member Knackstedt **MOVED** to introduce Ordinance No. 3244-2021 and Council Member Pettey **SECONDED** the motion. **UNANIMOUS CONSENT** was requested.

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

MOTION FOR SECOND READING:

Council Member Knackstedt **MOVED** to hold a second reading of Ordinance No. 3244-2021 and Council Member Askin **SECONDED** the motion. **UNANIMOUS CONSENT** was requested.

VOTE ON SECOND READING:

YEA: Askin, Knackstedt, Gabriel, Winger, Glendening, Molloy, Pettey
NAY:

MOTION PASSED UNANIMOUSLY.

MOTION FOR ENACTMENT:

Council Member Knackstedt **MOVED** to enact Ordinance No. 3244-2021 and Council Member Askin **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.

MOTION TO AMEND:

Council Member Knackstedt **MOVED** to amend Ordinance No. 3244-2021 by making the following changes: within the 3rd WHEREAS, replace "\$15,000 in contingency" with "\$45,000 in contingency"; within the 6th WHEREAS, replace totals "\$347,275" with "\$377,275"; within Section 1, replace all text with "The City Manager is authorized to execute a construction contract in the amount of \$309,775 with Foster's Construction, the lowest qualified bidder and issue a purchase order in the amount of \$354,775 for construction including contingency of \$45,000"; within Section 2, replace all dollar amounts indicated from "\$47,275" to "\$77,275" as indicated in the laydown. Council Member Askin **SECONDED** the motion. **UNANIMOUS CONSENT** was requested.

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

Clarification was provided that, for construction projects, the contract is awarded according to lowest cost as long as the bidder is qualified and responsible, although some types of RFP's may use other measurements. It was clarified that our procurement code did not provide for looking at other contracts to determine if contractors consistently come in over bid amount through change orders.

Support was expressed for Peninsula Construction.

VOTE ON ENACTMENT:

YEA: Knackstedt, Gabriel, Winger, Glendening, Molloy, Pettey, Askin
NAY:

MOTION PASSED UNANIMOUSLY.

- 6. Resolution No. 2021-56** - Approving the Vacation of 10' Utility Easements Along the Side Lot Lines of Lots, 19, 20, 21, Block 13, Carl F. Ahlstrom Subdivision (Plat KN-216) and Lot 22a, Block 13, Carl F. Ahlstrom Subdivision RPM's Replat (Plat KN-2017-66) Excluding the 15 Feet Adjoining Kenai Spur Highway and the 10 Feet Adjoining the Northeast Boundary and as Set Forth on the Attached Exhibit "A" is Not Needed for a Public Purpose and Consenting to its Vacation. (Administration)

MOTION:

Council Member Knackstedt **MOVED** to adopt Resolution No. 2021-56 and Vice Mayor Molloy **SECONDED** the motion.

It was noted this was one of the oldest areas in the City and Council will likely see more of these coming forth as the area is redeveloped.

VOTE:

YEA: Gabriel, Winger, Glendening, Molloy, Pettey, Askin, Knackstedt
NAY:

MOTION PASSED UNANIMOUSLY.

E. MINUTES

1. *Regular Meeting of August 18, 2021. (City Clerk)

Approved by the consent agenda.

F. UNFINISHED BUSINESS – None.

G. NEW BUSINESS

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

Approved by the consent agenda.

2. * **Action/Approval** - Non-Objection to Marijuana License Renewals for Kenai River Cannabis, Herban Extracts, LLC and Peninsula Botanicals. (City Clerk)

Approved by the consent agenda.

3. ***Ordinance No. 3238-2021** - Accepting and Appropriating an Interlibrary Cooperation Grant from the Alaska State Library for the Kenai Community Library Storywalk® Project. (Administration)

Introduced by the consent agenda and Public Hearing set for September 15, 2021.

4. ***Ordinance No. 3239-2021** - Increasing Estimated Revenues and Appropriations in the General Fund – Police Department and Accepting a Grant From the Department of Justice Passed Through the Alaska Internet Crimes Against Children Task Force for the Purchase of Forensic Software. (Administration)

Introduced by the consent agenda and Public Hearing set for September 15, 2021.

5. ***Ordinance No. 3240-2021** - Amending Kenai Municipal Code Section 23.55.030 – Qualification Pay, to Amend the Salary Ranges to Accurately Reflect Recognition Pay and Entitlements. (Administration)

Introduced by the consent agenda and Public Hearing set for September 15, 2021.

6. ***Ordinance No. 3241-2021** - Declaring that, T 5N R 11W Sec 6 Seward Meridian KN 0002970 Original Townsite of Kenai Lot 3 Blk 8, Also Known as 604 Inlet Street, Kenai, Alaska, Whose Last Record Owner Under Borough Assessment Records was Peter F. Mysing, Whose Address is, PO Box 8134, Nikiski, Alaska, 99635-8134 and Estate of Peter F. Mysing CO/ Dale Dolifka, PO Box 498, Soldotna, AK, 99669-0498, Shall be Retained by the City of Kenai for a Public Purpose. (Administration)

Introduced by the consent agenda and Public Hearing set for September 15, 2021.

7. ***Ordinance No. 3242-2021** - Declaring that, T 5N R 11W Sec 5 Seward Meridian KN 0002970 Original Townsite of Kenai Lot 3 Blk 20, Also Known as 905 Mission Avenue, Kenai, Alaska, Whose Last Record Owner Under Borough Assessment Records Was Keith K. Knight, General Delivery, Kenai, Alaska, Shall be Retained by the City of Kenai for a Public Purpose. (Administration)

Introduced by the consent agenda and Public Hearing set for September 15, 2021.

8. **Ordinance No. 3243-2021** - Amending Kenai Municipal Code 14.20.150-Conditional Use Permits, to Clarify Roles and Responsibilities of Applicants, the Planning Director and the Planning Commission in the Conditional Use Process and Make Housekeeping Changes. (Vice Mayor Molloy)

MOTION FOR INTRODUCTION:

Vice Mayor Molloy **MOVED** to introduce Ordinance No. 3243-2021 and Council Member Knackstedt **SECONDED** the motion. **UNANIMOUS CONSENT** was requested.

It was noted that the Vice Mayor Molloy collaborated with Administration in response to comments from the public, the Planning & Zoning Commission, and Council sitting as Board of Adjustment in regards to code procedures for Conditional Use Permits. The intent is to refer the ordinance to the Planning & Zoning Commission for their recommendation at their September 8, 2021 meeting.

MOTION FOR POSTPONEMENT:

Vice Mayor Molloy **MOVED** to postpone Ordinance No. 3243-2021 for public hearing until September 15, 2021 and refer to the Planning & Zoning Commission to make recommendation. Council Member Knackstedt **SECONDED** the motion.

VOTE ON POSTPONEMENT:

YEA: Winger, Glendening, Molloy, Pettey, Askin, Knackstedt, Gabriel
NAY:

MOTION PASSED UNANIMOUSLY.

9. ***Ordinance No. 3245-2021** - Authorizing a Budget Transfer in and Increasing Estimated Revenues and Appropriations in the Congregate Housing Fund for the Purchase and Installation of Equipment to Provide Residents Basic Television and Wireless Internet Service. (Administration)

Introduced by the consent agenda and Public Hearing set for September 15, 2021.

10. **Action/Approval** - Revise the Council on Aging Meeting Time, Pursuant to Policy, from 4:30 p.m. to 3:00 p.m. (City Clerk)

MOTION:

Council Member Winger **MOVED** to revise the Council on Aging meeting time, pursuant to policy, from 4:30 p.m. to 3:00 p.m. Council Member Askin **SECONDED** the motion and requested **UNANIMOUS CONSENT**.

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

11. **Discussion** - Set the Process for the Hiring a City Clerk. (Mayor Gabriel)

Clarification was provided that the memo in the packet would set the roadmap for how Council will move forward with recruiting and hiring a new City Clerk. The position closes on September 13, 2021 and prior to the Council meeting of September 15, 2021 the City Clerk will work with Human Resources to finalize interview questions. Suggestions included a score sheet for the interview process and participation of City Council candidates. A special meeting will be set to review the applicants on the Council meeting of September 15, 2021.

H. COMMISSION / COMMITTEE REPORTS

1. Council on Aging – Council Member Pettey thanked the Council for approval of meeting time change. Next meeting October 14, 2021.
2. Airport Commission – Council Member Knackstedt reported on the Special Meeting of August 26, 2021. Next regular meeting September 9, 2021.
3. Harbor Commission – Vice Mayor Molloy reported on the Special Meeting of August 23, 2021. Next regular meeting September 13, 2021.

4. Parks and Recreation Commission – Council Member Winger noted the upcoming Kenai River Marathon and encouraged volunteer involvement. Next meeting October 7, 2021.
5. Planning and Zoning Commission – Council Member Glendening reported on the meeting of August 25, 2021. Next meeting September 8, 2021.
6. Beautification Committee – No report. Next meeting September 14, 2021.
7. Mini-Grant Steering Committee – No report.

I. REPORT OF THE MAYOR

Mayor Gabriel did not have anything to report.

J. ADMINISTRATION REPORTS

1. City Manager – City Manager Ostrander reported on the following:
 - Administration has begun analyzing costs for shared dispatch services with Kenai Police Department and Soldotna Police Department;
 - Attended the ground breaking for the new SOAR International Ministries facility;
 - Kenai Silver Salmon Derby was September 14-19, thanked sponsors for their prize donations;
 - Four employees were out on COVID-19 protocols;
 - Administration is continuing to look at all options to meet match requirements for the Bluff Erosion Project and HDR has entered the data collection phase of the design efforts.
2. City Attorney – City Attorney Bloom reported on the following:
 - Reported on the Water and Sewer balances following the passing of Ordinance 3199-2021;
 - Provided a Remote Sellers sales tax update noting that it doesn't match up with brick and mortar because it is still under development;
 - There is a bill in the Alaska legislature to provide for state sales tax and has the State as the collector of all sales tax.
3. City Clerk – City Clerk Heinz reported on the following:
 - Absentee voting begins September 20th.

K. ADDITIONAL PUBLIC COMMENT

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

Council Member Pettey thanked everyone for the good work and noted that she looks forward to the Silver Salmon Derby.

Council Member Winger recognized the 13 fallen US soldiers in Afghanistan. She stated that she looks forward having a student representative on the Council in the future and noted that Kenai Central High School's homecoming is on September 11, 2021 and are looking for wood donations for their bonfire. Thanked the Kenai Police Department for mutual aid and noted that they are very busy. Reported that she had met with Borough Mayor Charlie Pierce and Chief of Staff Aaron Rhoades and they will be scheduling a work session for a walkthrough of 9-1-1 facilities with Kenai Administration. She encouraged voters to meet the Council candidates and get out and vote.

Council Member Askin thanked everyone for a productive meeting.

Council Member Glendening reported that he attended the SOAR International Ministries ribbon cutting. He noted that he is heartened by the discussion regarding harbor development. Expressed confidence in future progress for the bluff erosion project and looks forward to the federal funds coming forth.

Vice Mayor Molloy noted the spike in COVID-19 numbers and expressed his support of the Kenai Fire Department and their vaccination clinics and mobile unit. He noted the potential amendments discussed during the prior work session on Ordinance 3224-2021.

Council Member Knackstedt requested a memo highlighting the potential amendments to Ordinance 3224-2021. Mentioned the Kenai Historical Society newsletter in packet and that they have a meeting on September 12th. He also noted the airport was closed at night during the first half of August due to boring to determine runway condition and encouraged the City Manager to ask that the work product to be given to the Airport Commission.

L. **EXECUTIVE SESSION** – None.

M. **PENDING ITEMS**

1. **Ordinance No. 3224-2021** - Repealing and Reenacting Kenai Municipal Code Title 6 - Elections, to Provide Clarity, Housekeeping and Process Improvements. (Vice Mayor Molloy and City Clerk)
[Clerk's Note: At the August 4 Council Meeting, this item was postponed to the September 15 Council Meeting for a second public hearing. A motion to enact is on the floor.]

N. **ADJOURNMENT**

O. **INFORMATION ITEMS**

1. Purchase Orders Between \$2,500 and \$15,000
2. Kenai Historical Society Newsletter - August 2021

There being no further business before the Council, the meeting was adjourned at 9:15 p.m.

I certify the above represents accurate minutes of the Kenai City Council meeting of September 1, 2021.

Jamie Heinz

Jamie Heinz, MMC
City Clerk

