

I. CALL TO ORDER

Mayor Cottle called the meeting to order at 7:00 pm in the City Council chambers.

II. PLEDGE OF ALLEGIANCE

The City Council led in the Pledge of Allegiance to the American Flag.

III. ROLL CALL

Present:

Mayor Bert L. Cottle  
Council member Dave Cobb  
Council member Mike Wells  
Council member Karen Ables

Council member Dorothy M. Moore  
Council member Gay Dunham  
Council member Joe Prax

Also Present:

Eric Phillips, Acting City Manager  
Sheri L. Pierce, MMC, City Clerk  
Bill Walker, City Attorney

Members of Staff and Approximately 15 people in the audience.

IV. APPROVAL OF MINUTES OF THE REGULAR MEETING OF April 5, 2010

The minutes of the meeting of April 5, 2010 were approved as presented.

V. PUBLIC APPEARANCES

There were no public appearances scheduled.

VI. PUBLIC BUSINESS FROM THE FLOOR

Mark Swanson – Executive Director Regional Citizens Advisory Board

Council member Moore introduced Mr. Mark Swanson as the new Executive Director for the Regional Citizens Advisory Council (RCAC). Mr. Swanson invited members of the City Council to attend the upcoming RCAC Board meeting in Valdez which will take place in May.

Mr. and Mrs. Ben Hopper

Mayor Cottle stated that Mr. and Mrs. Hopper had recently built a home located on Wood Way in Corbin Creek Subdivision. He stated that there was a current issue with the placement of their driveway.

Mrs. Hopper stated that she and her husband had moved to Valdez approximately one year ago and purchased a one acre lot in Corbin Creek Subdivision. Their son-in-law recently built their home and assisted with the design. Mrs. Hopper explained that the city engineer had approved their plans and the city building inspector had issued the proper permits throughout the construction period. Mrs. Hopper stated that after the house was completed and the driveway leading from their garage onto Wood Way was constructed as was illustrated in the house plans previously submitted to the City, they were told that the driveway was not permitted due to a restriction of egress onto Wood Way. Mrs. Hopper said that City administration was requiring them to relocate the driveway to enter and exit onto Fairweather Street. Mrs. Hopper said that the relocation of their driveway presents many problems related to snow removal and improper drainage. Mrs. Hopper requested that the City Council consider their current predicament and issue a waiver of the restriction requiring them to relocate their driveway. Mrs. Hopper stated that City administration has established a deadline of June 15<sup>th</sup> to remove the culvert and cease using their established driveway. Mr. Hopper said they had no idea there was a restriction in place that would prohibit a driveway onto Wood Way or he would have repositioned the location of his home to face Fairweather Street. Mr. Hopper said that only after the plans were approved and the garage and house finished was he informed that his driveway onto Wood Way was prohibited.

Mayor Cottle asked council members to look at this property and read the letter he distributed from the City Manager which was sent to Mr. and Mrs. Hopper regarding this issue. Council member Cobb asked the City Attorney if a formal appeal process would need to be followed. Mr. Walker asked if the Planning and Zoning Commission had addressed this issue. Ms. VonBargen, Community Development Director, responded that this was not a Planning and Zoning issue. Mr. Walker responded that there was no formal appeal process.

Laurie Hull-Engles, Valdez School Board President

Ms. Engles extended an invitation to the City Council and the public to attend a community forum on Friday, April 23<sup>rd</sup> from 6:00 to 8:00 pm at the School Administration Building, to meet the current candidates for Valdez School

Superintendent. Council member Moore asked how many applicants would be in attendance. Ms. Hull-Engles responded that there are three candidates.

Randy Ridderbush

Mr. Ridderbush stated that he was sent a letter from the Alaska Gasline Port Authority which informed him that he must pay \$150.00 for staff time and copy fees to receive records he had requested from the AGPA. Mr. Ridderbush asked why he must pay \$150.00 for public documents. Mr. Ridderbush asked why the AGPA records are not stored in the Valdez City Clerk's office.

Ms. Pierce, City Clerk, stated that the City of Valdez is not the repository for the Alaska Gasline Port Authority records. Ms. Pierce stated that it was not unreasonable and in fact allowable under State Statute to charge a fee for copying records and related staff time if the volume of records requested is of a significant amount which would incur an expense to the provider.

Mr. Ridderbush stated that the AGPA is required to submit an annual report to the Mayor and governing body of each participating municipality within 90 days following the fiscal year of the Port Authority. He asked why the AGPA did not provide a copy of all the records for public inspection at the City Clerk's office. Mayor Cottle stated that Mr. Ridderbush would still be required to pay a fee to the City Clerk's office for copies and staff research time. Mr. Ridderbush asked if there would be a charge for reading the records onsite. Ms. Pierce said there was no charge for reviewing public records onsite. Mr. Walker, AGPA Member, stated that Mr. Ridderbush had requested copies of all AGPA audits, annual reports, and all minutes of the AGPA meetings. Mr. Walker said that research and copy charges for minutes which are not in electronic form amount to \$150.00. Mr. Walker stated that he had no authority to waive these charges; however he would personally pay the charges and provide Mr. Ridderbush with the requested records at no cost. Mr. Ridderbush reiterated that if the records were on file at the City Clerk's office there would be no charge for him to review these records.

Mayor Cottle pointed out to Mr. Ridderbush that the port authority is a separate entity from the participating municipalities. Therefore, the port authority board of directors shall determine where their records repository will be located. Council member Cobb stated that the AGPA has determined that their records will be located at the office of their general counsel. Council member Cobb said that Mr. Ridderbush is required to go through the process of requesting public records related to the AGPA by submitting his request directly to that entity.

Mr. Ridderbush asked where the 2009 annual report to the participating municipalities was located. Mr. Ridderbush stated that the annual report was due as of January 31, 2010. He asked why the AGPA did not have an itemized list of expenses in their financial reports. Mayor Cottle responded that Mr. Ridderbush should address his questions to the AGPA at their next meeting. Mayor Cottle reiterated that the AGPA was a separate entity from the municipality. Mayor Cottle stated that the meeting dates and agenda for the AGPA are posted as required by the Alaska Open Meetings Act. Mayor Cottle stated that Mr. Ridderbush had requested and was provided by the AGPA a copy of all annual audits which have been conducted on a yearly basis since the creation of the AGPA. Mr. Ridderbush asked if the AGPA had adhered to the State Statute requirement that the participating municipality appoint the AGPA auditor. Council member Moore stated that Mr. Ridderbush was correct in reading from Title 29, however as a Home Rule Municipality, the City of Valdez may act otherwise than as provided in AS 29.35.600 thru AS 29.35.925 which speaks to a Port Authority. Mr. Walker stated that the AGPA is a multiple city Port Authority rather than a single city Port Authority, therefore the Port Authority as a group of municipalities selected one auditor who is Mikunda Cottrell.

Mr. Ridderbush stated that Title 29 requires the Port Authority to amend their Development Plan if the AGPA intends to undertake the purchase of Fairbanks Natural Gas. Mayor Cottle responded that the AGPA has not entered into any contract to purchase this company. Mr. Ridderbush responded that the AGPA is undertaking the purchase of this company. Mayor Cottle responded that the AGPA has entered into negotiations relative to the purchase of Fairbanks Natural Gas. He stated that if the AGPA determines this is a viable project, the AGPA Development Plan will be amended and presented to the governing body of the participating municipalities for approval.

Mr. Ridderbush said he would like to see a breakdown of the financials associated with the AGPA. Council member Cobb directed Mr. Ridderbush to submit a formal request for this information to the AGPA. Mr. Ridderbush asked how much public notice is given prior to an AGPA meeting. Mr. Cobb responded that the AGPA complies with the Alaska Open Meetings Act. He stated that the AGPA provides a minimum of 24 hours notice of their meetings by posting all AGPA agendas in a public place. Sheri Pierce, City Clerk, responded that the AGPA agenda is posted by the City Clerk on the official City bulletin board. Ms. Pierce stated that she would provide a notice of all future AGPA meetings to Mr. Ridderbush by email if he wished. Mr. Ridderbush responded that he would appreciate this.

VII. CITY MANAGER/CITY CLERK/CITY ATTORNEY/MAYOR REPORTS

City Manager

Mr. Eric Phillips, Acting City Manager, stated that the City Manager report was included in the information section of the agenda packet. He asked if there were any questions from the city council concerning the report.

Council member Ables asked if city administration had followed up on the request by Sandy Moore, Moore Consulting, that the City of Valdez become a member of the Fairbanks Economic Development Association. Ms. VonBargen, Community Development Director, responded in the affirmative.

City Clerk

Ms. Sheri Pierce, City Clerk, reminded the City Council and the listening public that the City would be participating in the upcoming Alaska Shield exercise the week of April 26 thru May 2.

City Attorney

Mr. Walker provided information to the council regarding the Alaska Gasline Port Authority development plan. He stated that there were seven items relative to Valdez which the AGPA Board approved for inclusion in the revised development plan which will be brought forward to the member municipalities for action. Mr. Walker listed the seven items as follows:

- Provide affordable energy by establishing Copper Valley Electric in Valdez and Golden Valley Electric in Fairbanks as anchor tenants.
- Creation of a transportation corridor from Prudhoe Bay to Cold Foot then on to Fairbanks, Delta Junction, Glennallen and Valdez. Natural Gas refueling stations will be developed at each of these specific locations to permit freight of all types to transit this corridor using trucks converted to operate using natural gas propane.
- All instate exports of natural gas and its byproducts will travel by the transportation corridor and pass through the Port of Valdez.
- All incoming shipments related to construction projects and infrastructure development associated with Fairbanks Natural Gas will be shipped through the Port of Valdez.
- Appropriate storage facilities with enhanced loading and distribution capabilities will be located within Valdez.
- A satellite office will be established in Valdez associated with the Fairbanks Natural Gas operation.
- A requirement that any wholesale gas sold will be sold in such a way to insure that the savings is passed on to the consumer.

Council member Moore asked when the development plan will be forwarded to the council for approval. Mr. Walker responded that the target date was the first meeting in May.

Council member Prax asked for confirmation that any liability relative to this project would fall to the buyers of the bonds. Mr. Walker said yes, and added that by State Statute there must be language printed on the bonds which states that there is absolutely no obligation by any of the member municipalities of the Port Authority.

Mayor

Mayor Cottle stated that he would be attending an upcoming Alaska Municipal League Board meeting in Anchorage.

VIII. CONSENT AGENDA

1. Appointment to the Library Board
2. Approval to go into Executive Session
  - a. TAPS Litigation

Mayor Cottle stated that the City Attorney would not need an executive session. Therefore this item would be removed from the Consent Agenda.

**MOTION: Council member Cobb moved, seconded by Council member Moore to approve the appointment of Fran Baron to the Valdez Consortium Library Board.**

**VOTE ON THE MOTION: 7 yeas. Motion carried.**

IX. NEW BUSINESS

1. Approval to Purchase a 2011 Ford F-250 Super Duty Regular Cab 4X4 from Cal Worthington Ford in an Amount Not to Exceed \$23,745.00.

**MOTION: Council member Wells moved, seconded by Council member Moore to approve the purchase a 2011 Ford F-250 Super Duty Regular Cab 4 X 4 from Cal Worthington Ford in an amount not-to-exceed \$23,745.00.**

Council member Moore asked which city department would be assigned this vehicle. Mr. Larry Weaver, Public Works Director, stated that this vehicle would

be assigned to his department to replace an existing vehicle which will be moved out of the fleet.

**VOTE ON THE MOTION: 7 yeas. Motion carried.**

2. Approval of Contract to Swalling Construction for the Valdez Container Terminal (VCT) Causeway Repair in an Amount Not to Exceed \$303,000.

**MOTION: Council member Cobb moved, seconded by Council member Ables to approve a contract to Swalling Construction for the Valdez Container Terminal Causeway repair in an amount not-to-exceed \$303,000.**

Council member Wells asked why this project amount included a higher than normal contingency of twenty percent. Mr. Jack McCay, Capital Facilities Director, responded that the higher contingency was due to the nature of the work in and around the water.

**VOTE ON THE MOTION: 7 yeas. Motion carried.**

3. Approval of Write-off for Taxes on Abandoned Trailers in the Amount of \$1,526.53.

**MOTION: Council member Cobb moved, seconded by Council member Moore to approve write off for taxes on abandoned trailers in the amount of \$1,526.53.**

Council member Moore asked if the city would be paying space rental to the mobile home park for these trailers. Mr. Tom Schantz, Finance Department Comptroller, said no, that the city would be removing the trailers from the park.

Mayor Cottle requested that the council to be informed of any expense incurred by the city for site clean-up and potential asbestos abatement.

**VOTE ON THE MOTION: 7 yeas. Motion carried.**

X. ORDINANCES

1. #10-03 – Accepting the Withdrawal of the North Slope Borough from the Alaska Gasline Port Authority; Second Reading, Adoption

**MOTION: Council member Cobb moved, seconded by Council member Moore to approve Ordinance No. 10-03. Second Reading. Adoption.**

Speaking from the audience, Mr. Allen Crume asked if there were any existing liabilities of the AGPA which will be assumed by the remaining municipalities after the North Slope Borough withdraws as a member of the Port Authority.

Mr. Walker responded that none of the liabilities of the Alaska Gasline Port Authority are associated with any member municipality.

Speaking from the audience, Mr. Randy Ridderbush asked where the procedures for withdrawal of a member municipality can be found. Mr. Walker stated that the procedure for adding a member municipality required approval by ordinance of the existing member municipalities. Therefore the procedure for allowing a member municipality to withdraw from the Port Authority would also require approval by ordinance. Mr. Walker said this was also the opinion of the bond counsel.

**VOTE ON THE MOTION: 7 yeas. Motion carried.**

XI. RESOLUTIONS

1. #10-17 – Waiving the Solid Waste Fees for Certain Items During the Annual Community Clean Up Day

**MOTION: Council member Wells moved, seconded by Council member Dunham to approve Resolution No. 10-17.**

**VOTE ON THE MOTION: 7 yeas. Motion carried.**

2. #10-18 – Establishing the Policy, Rates and Fees for the Valdez Memorial Cemetery and Columbarium

Mayor Cottle stated that he had been asked by two members of the community to remove this item from the agenda due to concerns they have with the policies. Council member Dunham asked their concerns. Mayor Cottle said they disagreed with the policy prohibiting fencing around the graves, the restriction on how many cemetery plots can be reserved and the flower policy. Mayor Cottle said he had suggested that these citizens contact the Parks and Recreation Department to try and resolve their issues.

**MOTION: Council member Cobb moved, seconded by Council member Moore to approve Resolution No. 10-18.**

Council member Cobb stated that the policies had been approved by the Parks and Recreation Commission.

Council member Moore said that she did not agree with a number of the policies and requested that a work session be scheduled to further discuss this resolution with city administration.

Council member Dunham asked for an explanation of the public process which occurred prior to submission of these policies to the city council for approval. Mr. Todd Wagner, Parks and Recreation Director, stated that a Steering Committee had been formed consisting of staff members and community members who worked on the columbarium project. A work session was held with the Parks and Recreation Commission and a public hearing was held on the policies prior to approval by the Commission. Council member Moore asked how many people attended the public hearing. Mr. Wagner replied that no members of the public were present at the hearing. Council member Moore asked who officially named the cemetery as the Valdez Memorial Cemetery. Mr. Wagner replied that the name of the cemetery was not ever under discussion as it did not relate to the establishment of policy.

Mr. Wagner stated that he understood that this was a sensitive issue and it was the goal of his department to share compassion to people and their loved ones. Mr. Wagner pointed out that the policies provided leeway for the Director to make exceptions when needed, such as allowing fencing for religious purposes. Mr. Wagner said his department has worked very hard on beautification of the cemetery and verifying the accuracy of existing cemetery records over the past few years. Marcie Robertson, Parks and Recreation Department, asked Council member Moore if she would like administration to research the history regarding the naming of the cemetery. Council member Moore replied in the affirmative.

**MOTION TO POSTPONE: Council member Cobb moved, seconded by Council member Moore to postpone Resolution No. 10-18 to the meeting of May 3rd.**

Council member Cobb stated that this would allow time for the Parks and Recreation Director to address any public concerns.

Council member Dunham thanked the Steering Committee for the work they have done over the past year on the columbarium project and cemetery policies.

Marcie Roberts, Parks and Recreation Department, stated that there are families who have been waiting to finalize the internment of their loved ones at the

columbarium for a very long time who are awaiting the approval of these policies. Karen Feero, Steering Committee Member, said the committee has worked very hard and have researched policies from many small cemeteries in Alaska and the lower 48 which provided reference material for the committee.

Ms. Feero said she did not understand why the council would choose to delay action on the policies. Ms. Feero said that the policies have been discussed publicly at many meetings of the Parks and Recreation Commission and a public hearing was held to solicit comment. Ms. Feero stated her concern that the dedication of the columbarium which is scheduled for June 13<sup>th</sup> could be delayed.

Council member Dunham said he did not find it necessary to postpone action on this resolution. He stated that this was a resolution to set policy which can be amended by the City Council at any time at the request of administration. He expressed his confidence that the policy allowed for discretion by the Parks and Recreation Director or his designated Cemetery Manager.

Mayor Cottle stated that he felt he was extending courtesy to the citizens who had contacted him with concerns by postponing action on this resolution for two weeks.

**VOTE ON THE MOTION TO POSTPONE: 4 nays, 3 yeas (Cottle/Cobb/Moore). Motion failed.**

Council member Moore said she was not as concerned about the columbarium policy as she was with the cemetery. She stated that there are some religions that require burial within 24 hrs along with a number of other religious practices which would conflict with the proposed policies. She asked about past promises that have been made to families who believe they will be laid to rest next to their family members, who will now be told that this is not possible due to close proximity to the water. She asked if these policies were based on other private or municipal cemetery regulations. She stated that she believed there should be some established criteria for the cemetery however not at the level which would be established under the proposed policy. Council member Moore stated that many of the sections or words in the policies needed further definition, such as the term "common enemy" which is used as an exception of damage liability by the City. Council member Moore pointed out that a policy which referred to pipelines, gutters and a sprinkler system did not apply to our cemetery which is located in a city that receives 63 inches of annual precipitation. She asked if existing structures such as fencing, which are prohibited under these policies, would be removed by the City. She pointed out the policy which prohibited work

to take place in the cemetery on a Saturday if it could not be completed by Sunday places undue restrictions on families working on memorials. Council member Moore said that she disagreed with the policy restricting use of artificial flowers. She pointed out the prohibition of wooden markers and asked what would happen to the wooden markers already in place. Council member Moore said she disagreed with the limitation that a grave marker must be installed within 2 years of burial. She asked if the city proposed erecting a fence around the entire cemetery which would restrict entrance after 10 pm. She asked that the city consider that during the summer daylight hours it may not be unusual for someone to visit the cemetery at midnight. Council member Moore asked how the \$300.00 which is proposed to be charged for a cemetery plot would be used by the City. Council member Moore said that she objected to the designation of the Cemetery Manager as the person responsible for exceptions, suspensions or modifications to the policies as this opens the possibility of discrimination either for or against people. Council member Moore said the policy does not clearly identify who will be the keeper of the cemetery records, which has clearly been a problem over the years. Council member Moore stated that she believed it to be wrong that our citizens are allowed to swim for free, but that it will certainly cost them a lot to die in our community.

Council member Cobb said he did not have many problems with the policies as written, however the city did owe the public the opportunity to be heard.

Council member Prax said he did not want the cemetery to be an enterprise fund, but he did agree that a fee should be established to control the demand. Council member Prax said there are many polices and laws adopted by the City which are "reasonably enforced" and he was confident that the City would apply this mindset when there were reasonable requests for an exception.

**VOTE ON THE MOTION: 4 yeas, 3 nays (Cobb/Moore/Cottle). Motion carried.**

- 3 #10-19 – Naming the Rates and Fees for Port Permits, Agreements, and Charges and Repealing Resolution 03-12 Formerly Naming Such Rates and Fees.

**MOTION: Council member Wells moved, seconded by Council member Moore to approve Resolution No. 10-19.**

**VOTE ON THE MOTION: 7 yeas. Motion carried.**

4. #10-20 – Authorizing the Lease of Lot D1, USS 439 and Lot D2, ATS 10 to Terminal Radio, Inc. (KCHU Public Radio)

**MOTION: Council member Cobb moved, seconded by Council member Moore to approve Resolution No. 10-20.**

Council member Prax asked to abstain based on the fact that he is part owner of the privately owned KVAK radio station. There was no objection by the council.

Mayor Cottle stated that due to the fact this lease was for an amount less than fair market value it would require an affirmative vote of six council members for approval.

Council member Wells asked about the disparity of valuations for this property. Ms. VonBargen, Community Development Director, stated that the variations in value may be due to the fact that the assessor did not take into consideration the severe development restrictions placed on this property. Ms. VonBargen stated that the Planning and Zoning Commission did recommend granting the lease to KCHU.

Mr. Tom Schantz asked if KCHU had the ability to co-locate other competitive companies on their radio tower. Ms. VonBargen responded that any change to the lease such as co-location of equipment would require the approval of the city council as an amendment to the lease. Ms. VonBargen stated that in the past the city had been asked by KCHU for permission to allow other service providers to use their tower for a fee. Ms. VonBargen said that the recommendation from city administration which was accepted by the council was that KCHU would be required to pay fair market value for the property if they received any monetary benefit for this use.

**VOTE ON THE MOTION: 6 yeas, 1 abstained (Prax). Motion carried.**

## XII. REPORTS

1. Health Insurance Report
2. Moore Consulting Report
3. Construction Pit Recycling Proposal

Council member Moore said she had received a phone call from a resident who was concerned about contamination of the water table associated with recycling efforts at the construction pit.

Council member Cobb asked if a contract for recycling at the site would include a large environmental protection bond. Mr. Larry Weaver, Public Works Director, stated that the city may require any contract language they wanted in order to limit our liability. Council member Cobb asked how many years the life of this landfill would be extended if recycling was permitted. Mr. Weaver said that only a certain section of the pit could be mined for recyclable materials at this time. Mr. Weaver said that the city would be required to adhere strictly to the requirements of our landfill permit. Council member Wells said along with a number of other details, he would like an estimation of the value of recyclable materials included in any proposed contract. Mr. Weaver stated that there are many safeguards which must be put in place prior to administration recommending approval for this type of project. Mayor Cottle asked if this work must be put out to bid by the City. Mr. Weaver said he did not know the answer to this question.

XIII. COUNCIL BUSINESS FROM THE FLOOR

Council member Moore

Council member Moore announced that RCAC will be in Valdez on May 5-7 and that she would provide the city council with a copy of their schedule and agenda.

Council member Prax

Council member Prax said that the City had expended \$26,000 to remove the vessel Sara Nicole from the beach at dock point. Council member Prax said he was unaware that the expense to the city would be this great to resolve the issue. Council member Prax said that in the future the council should make a decision based on the costs of their action. Council member Cobb stated that he hoped that in the future State and Federal agencies would do their job and relieve the city from the need to take action.

XIV. ADJOURNMENT

There being no further business, Mayor Cottle adjourned the meeting at 8:50 pm.