Regular Meeting Valdez City Council November 19, 2012 Page 1

#### I. CALL TO ORDER

Mayor Cobb called the meeting to order at 7:00 p.m. 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

Mayor Dave Cobb Council member Dorothy M. Moore Council member Chris Moulton Council member Donna Schantz Council member Jeremy Minor Council member Donna Schantz

Council member Wells was absent and excused.

Also present:

John Hozey, City Manager Sheri Pierce, City Clerk Craig Richards, Acting City Attorney

Members of city staff and approximately 20 people in the audience.

# IV. APPROVAL OF MINUTES OF THE REGULAR MEETING OF November 5,

The approval of the minutes of the meeting of November 5<sup>th</sup> were postponed to the meeting of December 3, 2012.

# V. PUBLIC HEARING – 2013 Budget for the City of Valdez

Mayor Cobb opened the public hearing to receive testimony from the public on the proposed FY 2013 City of Valdez budget.

**Dolores Gard** 

Ms. Gard asked where in the budget document were the costs associated with the school bond listed. Mr. Hozey responded that the costs were shown on page 114 of the budget document under Debt Service.

> After inquiring and hearing no response for any further public testimony on the 2013 budget, Mayor Cobb closed the public hearing.

- VI. PUBLIC APPEARANCES
- VII. PUBLIC BUSINESS FROM THE FLOOR
- VIII. CITY MANAGER/CITY CLERK/CITY ATTORNEY/MAYOR REPORTS

# City Manager

**Shared Fisheries Tax** 

Mr. Hozey stated that Lisa VonBargen, Community Development Director, would be addressing the council regarding the proposed shared fisheries tax program.

Ms. VonBargen stated that the shared fisheries business tax were revenues collected by the State of Alaska from fish taxes collected outside the municipal boundaries which are given to municipalities that can demonstrate that they suffered significant effects from fisheries business activities.

Ms. VonBargen stated that in the past, the communities of Valdez, Cordova and Whittier have equally split the tax revenues received from the Prince William Sound fisheries management area. Ms. VonBargen said that next year, the amount available for distribution in the management area will be \$93,664.71, which split equally would distribute just over \$31,000.00 to each municipality. Ms. Von Bargen explained that other municipalities have used different allocation methods to distribute funds to communities within their management areas such as a 50/50 allocation, where they split 50% of the proceeds equally, then divide and distribute the remaining 50% of the funds based on a per capita ratio.

Ms. VonBargen stated that the City of Cordova has proposed an allocation method which would divide 50% of the funds evenly between Cordova, Valdez and Whittier, then, they want the remaining 50% to be divided unequally, with 55% going to Cordova, 35% to Valdez and 10% to Whittier. Ms. VonBargen stated that Cordova justifies this type of allocation method division because they believe that Cordova receives more of an impact from fisheries in Prince William Sound, therefore they should receive a larger share of the funds. Ms. VonBargen asked for direction from the City Council on how to respond to this request from Cordova. Ms. VonBargen stated that if the City Council gave direction to reject Cordova's proposal, it would require that the City of Valdez research and document the impact of fisheries in Prince William Sound to the City of Valdez and submit these findings in a

"long form" application to the State of Alaska. Ms. VonBargen stated that if all three municipalities do not agree on an allocation plan, as we have previously done, then a long form application would need to be completed by all three municipalities. Ms. VonBargen stated that so far there has been no response from the City of Whittier regarding the allocation plan proposed by Cordova.

Council member Ables said she felt Valdez should support both Whittier and Cordova, go for the standard allocation of 50/50 and that in a gesture of goodwill, Valdez should pass money back to Whittier out of our share. Council member Ables asked if the long form application would demonstrate impacts to Valdez justifying our present allocation. Ms. VonBargen replied that there were a number of things which would be considered impacts to our community such as improvements to our harbor and port, electrical upgrades to the VCT to accommodate fish processors and high mast lighting replacements in the harbor which can be attributed to our fishing industry. Council member Moore said that she had spoken to Pete Heddel, City Council member from Whittier, who expressed the opinion that Cordova could not justify their proposed distribution method. Council member Moore suggested that Ms. VonBargen contact Whittier. Ms. VonBargen responded that there appeared to be no agreement between the communities; therefore it would be prudent to begin the process to submit a long form application to the State. The due date is December 15th; however she believed that the State would grant an extension.

Mayor Cobb stated that he was disappointed in Cordova's proposal and felt that the City of Valdez experienced a much greater impact to our community due to commercial fishing activity which takes place inside of Port Valdez. He pointed out that large quantities of fish are distributed through the Port of Whittier for transport into Anchorage via the Seward Highway. Mr. Hozey, City Manager, agreed that it was unfortunate that the communities could not agree to continue to split the funds evenly as we have done for many years, so we have no choice but to file a long form. Council member Ables reiterated that if Valdez and Cordova file the long form and it is determined that Valdez gains and Whittier loses, then she would like Valdez to provide Whittier with any funds received in excess of 50% of the total amount. Council member Moulton stated he would have to take into consideration the number of staff time hours it will take to complete the long form before agreeing to support Council member Ables suggestion.

#### **Projects**

The City Manager reported the status of the following projects:

- Senior Center Carport project is currently a little behind due to adverse weather conditions however this phase of the carport should be completed by the end of November.
- The Ski Hill project should be completed by the end of November and should be up and running as soon as we receive the required amount of snow to operate.
- The Kelsey Dock Mooring Dolphin project is experiencing delays due to high winds and waves and the inability to drive piling.
- The expansion joints at the VCT have been completed.
- The plans for the landing craft ramp upgrades are under review and the project should be ready to advertise for bids in December.
- The Middle School project is moving forward to meet the required timelines as scheduled.
- A work session was scheduled for December 3<sup>rd</sup> at 6pm with our State Lobbyist to discuss the 2013 legislative priorities. The School Board will be invited to attend.

# City Attorney

Mr. Richards reported that oral arguments on the TAPS Litigation for the 2006 tax appeal will take place in Anchorage on December 12.

#### Mayor

Mayor Cobb asked Mr. Hozey to discuss conversations he had with the Corps of Engineers and comment on the tax cap session he attended at the Alaska Municipal League conference last week.

Mr. Hozey stated that he had met with the Corps of Engineers representatives regarding the proposed method for distribution of project funds should Congress appropriate money through the Corps budget. He said that the Corps is still working through these criteria and therefore it is important for the city to keep talking to the Corps about our harbor project.

Mr. Hozey stated that he had also attended the AML Revenue and Finance Legislative Sub-Committee meetings in which the Alaska Department of Revenue spoke in response to the issue of abolishing the tax cap as proposed by the North Slope Borough during the 2012 legislative session and subsequently endorsed by the Alaska Municipal League last summer. The Department gave the impression to listeners that Valdez and the North Slope Borough would be taking money away from other municipalities if this legislation was passed. Mr. Hozey stated that he was able to call a

procedural stop to this discussion and allegation. He then met with the representatives of the Department of Revenue following the meeting to further discuss the tax cap issue and try to understand their position on this issue. Mr. Hozey stated that this was a very good meeting and that the Department wanted to offer a possible alternate proposal to resolve the tax cap issue. Mr. Hozey said that he requested the proposal be drawn up in writing and forwarded to AML for further review.

# Mayor Cobb

Mayor Cobb stated that he had attended a good panel discussion regarding the future enforcement of EPA water rules and regulations by the Alaska Department of Environmental Conservation.

#### IX. CONSENT AGENDA

- 1. Proclamation: Annual Community Christmas Tree Lighting Ceremony In Honor Of Patricia Haltness
- Approval to go into Executive Session Regarding TAPS Valuation/Litigation

MOTION: Council member Moore moved, seconded by Council member Ables, to approve all items on the Consent Agenda.

**VOTE ON THE MOTION: 6 yea, 1 absent (Wells). Motion carried.** 

## X. NEW BUSINESS

1. Approval of Contract for Project Management Services for the New Middle School with RISE Alaska, LLC in the Amount of \$695,300

MOTION: Council member Moore moved, seconded by Council member Ables, to approve a contract for project management services for the new middle school with RISE Alaska, LLC in the amount of \$695,300.

## **VOTE ON THE MOTION:**

Council member Schantz asked who served on the middle school leadership committee that reviewed the proposals for this contract. Mr. Hozey replied that the committee members were School Superintendant Jacob Jensen, City Manager John Hozey, Council member Mike Wells, School Board President Steve Brockman, Capital Facilities Director Dean Day, School

District Facilities Director Chris Bergeron and Assistant City Manager Todd Wegner.

Council member Moore asked what conclusions the committee reached in recommending RISE Alaska as the project manager. Mr. Hozey stated that both firms who were interviewed were highly qualified; however RISE Alaska was selected for recommendation based on their approach of how to interface with the State Department of Education and their recent experience with the Haines Middle School project as well as our design team. Mr. Hozey said that RISE Alaska just seemed like the better fit for this team.

Council member Schantz said she was concerned that a firm price for their services was not established. Mr. Hozey responded that this contract cannot exceed the amount of \$695,300 if approved by the city council. Any costs in excess of this amount must come back to the council for approval. Mr. Hozey pointed out that although price was not the primary consideration when selecting this proposal, that RISE Alaska had the lowest proposed fee schedule of all the other proposals. Mr. Hozey pointed out that he could not guarantee that something would not come up over the course of the next two years which would require additional funding, however if an amendment to the contract is needed that exceeded Administration's authority, it would be submitted to the council for approval.

Council member Schantz asked if the project engineer was a certified engineer. Mr. Hozey replied in the affirmative.

MOTION: 6 yea, 1 absent (Wells). Motion carried.

2. Approval of Procurement Method for the New Middle School

MOTION: Council member Moore moved, seconded by Council member Moulton, to approve the General Contractor/Construction Manager team build method for procurement of the new Valdez middle school.

Mr. Hozey stated that it is unusual for administration to request the council to approve a construction delivery method. He stated that he wanted to do so in this case because the Valdez City Code does not expressly address this form of procurement. Therefore to ensure that administration has the authority to pursue this method, the council is being asked to approve this approach. If the council approves this concept for procurement for this project, an ordinance will be brought back to amend the municipal code to clarify that this form of procurement is authorized now and for the future. Mr. Hozey stated that if approved tonight, the solicitation process for this project

will move forward while a code change is concurrently developed. He stated however that he would not bring an actual contract to the council for award until the clarifying ordinance was approved. The first reading of this ordinance would be brought forth at the next meeting.

Mr. Kent Crandall, Rise Alaska, LLC, gave a presentation on the General Contractor/Construction Manager team build method. Mr. Crandall pointed out that many municipalities and State agencies in Alaska have successfully used this method. The general contractor will be brought on board immediately and will complete a cost estimate which will be compared with the engineers cost estimate. At 65% when much more will be known about the details of the project the contractor will perform another cost estimate and a guaranteed maximum price (GMP) will be reached. The contractor will be paid for pre-construction services as he works with the design team to provide input. The contractor will be working as a member of the project team in determining different phases of the project. Having the architect, project manager, owner and the contractor all working together early in the project will be a great benefit to the city. Selection of the contractor will be based on his qualifications, experience with schools, working in this climate and price. Mr. Crandall stated that this highly complex project suits itself best to this type of delivery method and is strongly recommended.

Council member Minor asked Mr. Crandall if he had a contractor in mind for this project. Mr. Crandall replied that there are at least half a dozen contractors which come to mind that would qualify for this type of project. He stated that he will work with the existing leadership committee to review proposals and offer advice. Mr. Crandall pointed out that the State Department of Education requires that 60% of the points used to select the contractor be based on price, therefore the city must adhere to this requirement as a part of the selection criteria. Council member Schantz asked if the leadership committee had reviewed and supported this procurement method. Mr. Hozey replied in the affirmative.

Council member Schantz asked why this method did not work when applied to the recent Senior Center carport project. Mr. Hozey explained that it did work in the beginning, however having no project manager with experience in managing this type of procurement method some mistakes were made, such as selecting a contractor who had been through this type of process before. Mr. Hozey stated that many positive lessons were learned.

VOTE ON THE MOTION: 6 yea, 1 absent (Wells). Motion carried.

> Approval of Contract with RSA Engineering for the Design of the Valdez Elementary School HVAC/Boiler Improvements in the amount of \$92,460

> MOTION: Council member Moore moved, seconded by Council member Ables, to approve a contract with RSA Engineering for the design of the Valdez Elementary School HVAC/Boiler improvements in the amount of \$92,460.

**VOTE ON THE MOTION: 6 yea, 1 absent (Wells). Motion carried.** 

4. Approval of City Council Policies and Procedures

MOTION: Council member Moore moved, seconded by Council member Ables, to approve amendments to the City Council Policies and Procedures.

Council member Ables asked if these changes would take effect on January 1. The City Clerk replied in the affirmative. Council member Moore asked that the City Clerk talk about the changes which will take effect on January 1 during her city clerk report at every meeting until the end of the year. Council member Moore asked that a definition of the P-Card be placed in the definitions section of the P-Card policy.

**VOTE ON THE MOTION: 6 yea, 1 absent (Wells). Motion carried.** 

## XI. RESOLUTIONS

1. #12-61 – Authorizing the Issuance of General Obligation School Bonds of the City, in the Principal Amount of Not To Exceed \$39,804,183, in one or More Series, for the Planning, Design, Construction and Configuration of a New Middle School and Other Related Facilities; Authorizing the Preparation, Execution and Delivery of Certain Documents in Connection Therewith; and Pledging the Full Faith and Credit of the City to the Payment Thereof

MOTION: Council member Moore moved, seconded by Council member Ables, to approve Resolution No. 12-61.

Council member Schantz stated that she would not be voting in favor of this resolution due to unresolved questions she had regarding the use of the State Bond Bank verses the City bonding on their own. Mr. Hozey responded that if Council member Schantz had questions they could possibly be

addressed at this time. Council member Moore asked to hear Council member Schantz's concerns. Council member Schantz stated that she believed it had not been made clear what the total estimated cost of the bond will be. Council member Schantz said she believed that it would cost the city less money to use the bond bank.

Mr. John Urbina, Key Bank, said it was very difficult to predict what rate of interest the city will receive, however the range is estimated to be anywhere from 2.25% to 2.35% which is a very reasonable rate. Mr. Urbina said he hoped that the city was confident that they will receive the best possible rate the market has to offer. Council member Schantz stated that reasons given for not using the bond bank included lack of flexibility. She said that she did not see the need for flexibility since a promise was made to the voters that 60% of the cost of the project would be reimbursed by the State of Alaska and that the flexibility that the city would gain by not using the bond bank could allow for the possibility that all of the costs of the project would not be reimbursed at 60%. Mr. Hozey stated that there was one possible early payoff option that could affect the reimbursement amount; however no one was proposing this. If an early pay-off was desirable, there was another way that would preserve the reimbursement amount. So the reason for choosing stand alone, verses using the bond bank has nothing to do with the question of pre-payment of the obligation, as this could be done under the bond bank as well. Mr. Hozey agreed that by not using the bond bank there could be a monetary impact in an amount anywhere between zero and ten-thousand dollars a year which is a real cost. However, there are other tangible benefits that offset this cost, such as the city being able to establish their own credit rating and being in total control of the issue. Mr. Hozey stated that the city has grown to the point where it is now in our best interest to establish credit and not have our assets encumbered with the bond bank to cover what amounts to a co-signed loan. Mr. Hozey said that he, our underwriters, and our bond counsel all strongly recommend that the city proceed with the "stand alone" process.

Mayor Cobb stated that the bond bank is controlled by the State Department of Revenue, who have a vested interest in what is best for the State, not the municipality. He pointed out that the bond bank can make decisions regarding the bonds without the permission of the city.

Council member Moulton stated that the public wants the city to move forward on this project but reminded the council that no money had been cut from the proposed 2013 budget, yet the council was moving forward to authorize debt.

Council member Schantz said she was not convinced that Mr. Urbina was working in the city's best behalf and that she had more confidence that the State would buy the bond at a fair market price. Mr. Hozey pointed out that Mr. Urbina's role would be the same even if the city went with the bond bank. Mayor Cobb disagreed that Mr. Urbina would have any ulterior motive. Mr. Urbina responded that the bond bank is a client of theirs too, so either method the city chooses to take they would be involved in the same capacity. The rate at the end of the day, regardless of the process, would be generated the same way. Mr. Urbina stated that they are agnostic, however this is a city discussion of the bonds and that is why they were here this evening. Council member Schantz asked if the total yield would be exactly the same. Mr. Urbina stated that his job would be exactly the same. Craig Richards, City Attorney, stated that it had already been stated that the price could be a little different, from zero to ten thousand dollars a year, so as not to leave the impression that both options were exactly the same.

Council member Minor stated that he supported the city moving forward to do this on our own to establish a good credit rating.

# VOTE ON THE MOTION: 5 yea, 1 nay (Schantz), 1 absent (Wells). Motion carried.

2. #12-62 – Declaring its Official Intent to Reimburse Capital Expenditures in Connection with the Planning, Design, Construction and Configuration of a New Middle School and Other Related Facilities from Proceeds of a Future Borrowing

MOTION: Council member Moore moved, seconded by Council member Ables, to approve Resolution No. 12-62.

Council member Moore clarified that the purpose of this action was to allow the deduction of funds for design from the bond proceeds. Mr. Richards, City Attorney, stated this was correct.

**VOTE ON THE MOTION: 6 yea, 1 absent (Wells). Motion carried.** 

- XII. REPORTS
  - 1. Change Order Report
- XIII. COUNCIL BUSINESS FROM THE FLOOR

Council member Schantz

Council member Schantz stated that she attended the Newly Elected Officials Training in Anchorage. She commented that she found the training interesting and that she had benefited from the sessions.

#### Council member Moulton

Council member Moulton stated that he had attended the training as well and that he felt very comfortable with the way the City of Valdez conducts their business after hearing many horror stories from other communities.

Council member Moulton commented that he had noticed the city was advertising for an assistant snowcat operator at the rate of \$13.00 per hour and requiring at least two years previous experience. He questioned the fairness of this rate of pay when the city is currently hiring snow shoveler's at the rate of \$21.00 per hour. Mr. Hozey responded that he would look into this.

### Council member Ables

Council member Ables thanked the city for sending her to the recent Alaska Municipal League conference in Anchorage.

#### Council member Moore

Council member Moore explained that there are many groups that hold their association meetings during the Alaska Municipal League Conference, such as the Municipal Clerks and City Manager Associations. Council member Moore stated that energy was a very big issue for municipalities this year. She stated that the Governor was present for the opening session and fielded questions regarding the need for lower energy rates.

Council member Moore stated that she attended a good panel discussion on opening up the arctic for off shore oil exploration and the challenges the Coast Guard is experiencing with this.

#### **Mayor Cobb**

Mayor Cobb stated that the Governor was asked numerous questions about energy and in his opinion did not provide many answers.

Council member Ables asked if Anchorage was experiencing a shortage of natural gas. Craig Richards, Acting City Attorney, responded that there is

going to be a shortage in the near term and that Enstar will be bringing in compressed natural gas from British Columbia.

- XIV. COUNCIL TRAVEL XV. EXECUTIVE SESSION
- XVI. RETURN FROM EXECUTIVE SESSION

  The city council received an update from Mr. Richards, City Attorney, regarding current TAPS litigation.

# XVII. ADJOURNMENT

There being no further business, Mayor Cobb adjourned the meeting at 9:10 pm.

David C. Cobb, Mayor

ATTEST:

Sheri L. Pierce, MMC, City Clerk