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**City Council Minutes**  
**November 1, 2005 ~ 5:00PM**

**Regular Meeting**  
**City Hall, Delta Junction, Alaska**

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The regular meeting of the Delta Junction City Council was held on Tuesday, November 1, 2005 at City Hall in Delta Junction, Alaska. Mayor Pro tem Leith-Dowling called the meeting to order at 5:00PM.

Council members present: Mayor Roy Gilbertson (telephonically), Mayor Pro tem Mary Leith-Dowling, Mike Tvenge, Lou Heinbockel, Leslie Feilner

Council members excused: Lynnetta Marcellus, John Sloan

City employees present: City Administrator Pete Hallgren, Finance Officer Dave Zimmerman  
Equipment Operator Butch Ellis, Consultant Lamar Cotten  
City Attorney Jim DeWitt, City Clerk Pat White

Approximately 30 residents attended the meeting as well as Teck-Pogo Public & Environmental Affairs Manager Karl Hanneman. Community members who provided questions and comments: Lee McNeil, Mary Woodbury, Darell Darland, Dwight Nissen, Winston Duncan, Al Edgren, Patrick Dalton, Mike Murphy, Loretta Schooley, Mike Schultz, Bill Ward, and Larry Fett.

#### **AMENDMENTS TO AGENDA ~ APPROVAL OF AGENDA**

Heinbockel requested the first item of *New Business, Public Hearing and Second Reading of Ordinance 2006-04*, be moved to the beginning of the meeting prior to *Reports*.

Heinbockel moved to approve the agenda as amended; Feilner seconded. Motion carried.

#### **APPROVAL OF MINUTES OF THE PREVIOUS MEETING**

Heinbockel moved to approve the minutes from the October 19, 2005 meeting as presented; Feilner seconded. Motion carried.

#### **PUBLIC COMMENTS ON NON-AGENDA ITEMS**

Janet Boyer asked if Councilman John Sloan had resigned.

Hallgren stated he had not submitted written resignation and he would continue to serve until a successor is appointed, presumably at the November 15 meeting.

#### **COUNCIL COMMENTS ON NON-AGENDA ITEMS**

Mayor Pro tem Leith-Dowling asked for Council comments on non-agenda items with none being offered.

**Public Hearing and Second Reading of Ordinance 2006-04, An Ordinance Adopting an Agreement for Payment in Lieu of Taxes with Teck-Pogo, and Providing for an Effective Date**

Heinbockel moved to open the public hearing and second reading of Ordinance 2006-04, An Ordinance Adopting an Agreement for Payment in Lieu of Taxes with Teck-Pogo, and Providing for an Effective Date; Feilner seconded. Motion carried.

Heinbockel stated City Attorney Jim DeWitt would provide a presentation and then the meeting would be open for Council and a public question and answer period. Public comments would follow thereafter. DeWitt introduced himself and stated he was “loaned” to the Finance Committee of the Charter Commission to assist in structuring the finances related to the PILT agreement. He stated he was not the Charter Commission attorney but rather the attorney for the local government and community. He referred to his letter that was dated October 18, 2005 and said he hoped everyone in the audience had an opportunity to read it. Using a PowerPoint presentation, DeWitt briefed Council and the public on the background of the PILT agreement. He said the issue tonight addressed accepting the PILT. It was not about creating a borough. The City Council cannot create a borough. Only voters in the Delta/Deltana region have that right. His presence was not to discuss borough formation or to decide if there should or should not be a borough. His purpose was to discuss a funding mechanism for a borough (if it happens), a way for the government to pay for itself, particularly how to pay for local schools. He asked, “What is a PILT?” and answered, “It is a payment-in-lieu-of-taxes contract between a tax payer and a municipality that states what would be paid for taxes (or in lieu of taxes). It is mutually beneficial for both parties. It is a binding agreement. It must provide certainty for the municipality so that they know there is a revenue stream.” DeWitt said a PILT provides certainty for the taxpayer (Teck-Pogo) as well because it clarifies how much they are expected to pay. A gold mine operation tries to predict all operating costs and one is “will we have to pay taxes?” There are a lot of pressures that lead to the PILT because the agreement is between a taxpayer that is not required to pay taxes yet and a municipality where the taxpayer is not even within its boundaries. The municipality of the City of Delta Junction has no authority to tax Teck-Pogo. DeWitt said there are all kinds of pressures to create a borough in the first place. He had been the City’s attorney for 22 years and was clear on two issues: 1) “property tax” is not acceptable and 2) the community wants no more government than what they had to have. He continued, “So why have a borough? The State legislature and Senator Wilken want you to. They have the power to do it. Powers are not defined by the voters, but by the legislators.” He said the Mandatory Borough Act created four boroughs since 1964, one being the Fairbanks North Star Borough (FNSB) where he resides. “Don’t say it can’t happen or that it won’t happen.” DeWitt said, “The second kind of pressure to create a borough comes from the Teck-Pogo mine sitting like a giant plum waiting to be plucked.” If you don’t someone else will, in particular FNSB. You could be annexed by FNSB. You will be able to vote on whether you want to be annexed but you will be voting with 85,000 taxpayers that reside in the FNSB. Suppose Mayor Whittaker offers to lower his taxpayer’s mill rate by voting to annex the Deltana Borough. Delta represents a large chunk of the Alyeska pipeline, Teck-Pogo mine, and millions of dollars in privately owned properties. “Would a Delta resident have a seat on the FNSB 11-person assembly? Probably not. Would services be provided to Delta?” He lives within the FNSB and he does not receive a lot of services there.

Lee McNeil asked DeWitt to address House Bill 133.

DeWitt said it deals with limiting the power of other folks to impose a government. It would make it more difficult for FNSB to annex Delta. He continued his presentation and stated there is pending legislation that would limit the ability of a municipality to impose a mineral severance tax, which taxes money on ores taken out of the ground. Mineral severance tax is a means to fund a borough and gain revenue from Teck-Pogo without applying property tax. The only mineral severance tax presently in effect in Alaska is in the Denali Borough on coal and gravel. Whether the pending bill becomes law or not is not known. There is also uncertainty regarding mineral severance tax. Nothing in the Alaska Statutes or Constitution expressly says mineral severance tax is allowed although it is being done and has been for quite awhile (Red Dog mine in Northwest Arctic Borough). If a taxpayer, being a multi-

national corporation, wanted to take the issue to court, it would take a long time and a lot of money to resolve. The PILT agreement is much less likely to be challenged because it is a voluntary contract by the taxpayer (Pogo). DeWitt continued, saying if a borough is created, there must be a way to fund it. The Alaska Constitution and Statutes say the economy must have the human and financial resources capable of providing municipal services. What must be paid? How will money be raised? There is a minimum revenue requirement imposed by Alaska law that says the government must raise the equivalent of 4 mills on all taxable property in the borough to support education. It does not necessarily have to come from property tax but what is raised must be equivalent to 4 mills multiplied by the taxable property in the borough. Most municipalities pay more than the 4 mills for education. FNSB pays 8 and Anchorage pays 8.5 or 9. Aside from education a minimal level of services must also be provided, such as library and landfill. How do you pay for it? The Charter Commission was clearly against property tax and wrote against it into the Deltana Borough draft charter. There would be no property tax without the approval of the voters. That leaves mineral severance tax or other options that would be to the discretion of the voters. The mineral severance tax only impacts one taxpayer (Pogo). Other tax options would be discussed when voting for or against a borough. The PILT would be on the ballot as well as the borough issue. If the present PILT agreement is not adopted by the City Council, as a funding mechanism for a proposed borough, it is defeated. The agreement states if there is no borough by December 31, 2008 there is no PILT agreement. Conceivably the issue can be brought up twice by that date. DeWitt said mineral severance tax is calculated as a percentage (3%) of the minerals extracted or severed from the ground. Another way of calculating a severance tax is by charging a mill rate on the value of the assets, similar to property tax. The PILT agreement calculates the mineral severance tax as if it were a property tax. DeWitt continued by saying he would explain analysis of the PILT and 1) how it would impact the City of Delta Junction, 2) how it would impact any proposed borough, if the vote was actually to incorporate into one and 3) what impact the PILT has on the incorporation process. DeWitt asked the audience to keep in mind that the Charter Commission was emphatic about giving any future borough assembly as much flexibility as possible.

1. **PILT Impact on the City** - If the City votes to adopt the PILT, Teck-Pogo agrees to pay \$500,000 toward general revenue. Another \$500,000 would be paid in 2006 with half of it being deposited into an escrow account. \$1,000,000 would be paid in 2007 with half of it being deposited into the escrow account. In three years the City would net \$1,250,000 and \$750,000 additionally held in escrow.
2. **PILT Impact on a Proposed Borough, General Revenues (money used for day-to-day operation) and General Obligation Bonds** – If a borough is incorporated it would inherit current City assets and liabilities, including the escrow account, because the City and borough would merge and the City government would dissolve. For the 10-year life of the agreement Teck-Pogo would pay the borough a 10-mill base tax rate on the then current assessed value of the mine, being not less than \$2 million per year. If Teck-Pogo located another ore body their assessed value would increase and the mill rate would be multiplied by a larger number. More money would then be paid to the borough. The assessed value is subject to depreciation and capital improvements but not less than \$2 million would be guaranteed for the life of the agreement. Why only 10 years? That was all the Finance Committee was comfortable with, reading into the future. Another mutual agreement would need to be created beyond that or the borough could impose a severance tax.

Mary Woodbury asked how the 10-mill figure was decided upon.

DeWitt said it was through difficult negotiations, in which approximately 10,000 spreadsheets were generated. Most of the data showed a healthy reserve.

Cotten said the 10-mill rate reflected a reserve that would act as insurance for any future uncertainty.

Mayor Gilbertson joined the meeting telephonically.

DeWitt continued to explain general obligation (GO) bonds and how they would impact a borough. A GO bond is a loan made by a municipality and approved by the taxpayers. It encumbers the assets of a

municipality. Full faith and credit of the borough is pledged for the repayment of the GO bond. Usually GO loans in Alaska are generated for capital improvement projects as in schools, sometimes roads and occasionally an economic development project. GO bonds are levied only when they are voted on. Delta's history has proven it experiences periods of growth. Therefore in the financial models, it was assumed a new school would be needed. Would there be enough revenue without relying on property taxes? The solution negotiated states that if GO bonds are issued by the new borough Teck-Pogo would pay an additional 1.35 mills on the assessed value but not less than \$350,000 per year as long as the community raised a match (revenue from the borough beyond monies received from Teck-Pogo). The public must impose some form of new tax on themselves or use reserves from before incorporating into a borough. Teck-Pogo insisted that monies they paid under the general revenue stream not be used. It was agreed that half of the federal payments could be used toward the match. The bottom line is that Teck-Pogo would pay up to 1.35 mills multiplied by the assessed value, but not less than \$350,000/year, if the community raises the equivalent. DeWitt said in reality only 60% of that would need to be generated because of federal funds that would be eligible for part of that match. It was important to create the ability to issue GO bonds, if they were needed, and get additional financial assistance from Teck-Pogo. Teck needed certainty of what their liability would be. Additionally, the agreement only runs for 10 years but if, during those 10 years, the borough issues GO bonds, Teck-Pogo must make payments for an additional 5 years beyond the 10-year agreement. It allows a future borough assembly a little more flexibility even if GO bonds are never issued.

- PILT Impact on Incorporation** - DeWitt said financial feasibility, defining resources that would fund a borough, must be demonstrated to the Local Boundary Commission (LBC) and the area voters. The PILT does that. It does not solve the whole problem but it does deliver education and minimal government services without a property tax. Most of the spreadsheets that were generated during the course of negotiations showed a substantial surplus at the end of the 10-year window. It will depend upon what the government spends and what the interest rates of return are on the surplus. DeWitt said, during his years of representing the City of Delta Junction, they were one of the most tight-fisted governments that actually generated a substantial surplus. He asked what happens if the City turns down the PILT agreement and answered, the City loses \$1.25 million and the borough, if incorporated, loses the \$750,000 escrow account. There are risks of the State of Alaska forcing borough formation and FSNB annexing Delta and/or Pogo. DeWitt recommended adopting the PILT agreement, as recommended by the Charter Commission Finance Committee. He said to keep in mind that adoption of the PILT by the City Council does not create a borough. It does help make a borough financially practicable. If the City Council adopts the PILT and a borough is voted in, the PILT is a contract of the City's that the new borough would accept during the process of incorporation. It becomes a binding obligation of the new borough.

Leith-Dowling called for Council questions.

Feilner asked Cotten if there was any other way to generate substantial revenue other than the PILT.

Cotten explained that the City Council was pro-active in researching regional government, accepting the fact that it would come and they and the community would have less to say. Residents who live in the area but not within city limits conducted a feasibility study two years ago. The research included a series of taxes that included property, sales, severance, tourism and energy. It was decided to remove property tax from the discussion, whether participants were for or against it. How were the basic services to be paid? The State Assessor determined the value of residential and commercial property in the proposed borough, not including the Alyeska pipeline, was roughly \$200 million and therefore 4/10 of 1% (4 mills) must be generated to pay for education. Continuing conversations revealed that the mining industry does not want severance tax imposed and undoubtedly it would create a lawsuit to explore it. The PILT agreement evolved after researching other forms of taxes. It avoided a potential fight over mineral tax and avoided the property tax requirement. The PILT gave certainty to both the mining company and the community. Cotten said he felt they did their homework.

Tvenge asked Karl Hanneman about “voluntary payments” as stated in the agreement. He asked what that referred to and if it might be a recreation center.

Hanneman, Teck-Pogo Manager of Public Environmental, introduced himself. He said that provision was left in the agreement with the goal of maintaining future flexibility should both the mining company and the community identify a need that was mutually agreeable to address. There was nothing foreseen at this time.

Hallgren said it was no secret to Council members that the City, absent some other form of revenue, would have to cut back on services and the number of employees. The existing municipal government had been living on Department of Defense (DOD) impact funds, which funded the new library, fire station, area-wide landfill, 90% of his administrator wages, 75% of the finance director’s job and 75% of the administrative assistant’s job. That money would be exhausted around mid-2006. Hallgren said it was clear that once the construction projects were completed and the money was gone, so would the staff positions. He said the services, whether they were appreciated or not, would get cut dramatically to pre-1995. The new landfill operation is being subsidized with \$100,000. There are real financial restraints to consider. The status quo cannot continue.

Leith-Dowling asked for public questions.

Darell Darland asked if the PILT would prevent annexation from FNSB.

DeWitt said it would help avoid annexation. Annexation by Fairbanks will not occur without the cooperation and approval of the LBC. The thinking is that if the Deltana Borough progressed in making good-faith effort, LBC would honor that. Is the PILT a magic shield? No.

Darland asked if, in a worst-case scenario that FNSB did begin an annexation move, Teck-Pogo was bound by the PILT agreement.

DeWitt said no because the proposed borough would not come into existence. There is not an exit clause regarding payments to the City. However the overall PILT agreement remains in effect only until a borough is created (by December 31, 2008). If no borough happens the PILT ceases.

Darland asked what happens in the interim if the City approves the PILT and area voters vote against a borough.

Cotten said the PILT is between the City of Delta Junction and the mining company. It has nothing to do with other communities. Should this community be annexed by FNSB, the City retains the \$1.25 million and the PILT becomes null and void.

DeWitt said the strategy thinking is that the LBC won’t let it happen. They would not allow the FNSB annexation petition to go through while the Deltana Borough was still attempting to create itself. Even if it became mixed up somehow the PILT would still cease the day Deltana is annexed by FNSB.

Darland thanked the City Council and members of the Deltana Home Rule Borough Charter Commission for donating their time. He said the process was very time consuming, whether anyone agreed or disagreed.

Dwight Nissen expressed appreciation toward the commissioners for their dedication and also to Jim DeWitt for his presentation. Nissen said he was in favor of local control but had a problem with the “two-year” time limit. He said he had been on three different committees in the past and they were long processes. He felt the community needed more time. The December 31, 2008 deadline was not acceptable and he asked that it be changed. He said he was concerned with it being carried out further should the agreement be rejected. Nissen said tonight offered the first good informational meeting that has been offered to the public. He would like to have a forum with Gary Wilkens, the mayor of Fairbanks, Gene Therriault, and John Harris to educate them and our community.

DeWitt corrected Nissen in the fact that the time limit was three years (38 months), not two years.

Nissen said it was a bit better but nonetheless if the State forces Delta into a borough Pogo was off the hook. He asked the Council to consider that Pogo was simply buying an insurance policy of \$1.25 million for a three-year period. Regarding revenue, Nissen asked to allow a sales tax that would recover tourist money. He said there would be a large motel in Delta some day. He has paid as much as \$24 on room tax when he travels. Nissen said he is a GVEA representative. He asked the audience to look at

their last electrical bill, where 23 cents per kilowatt-hours was added. He paid \$21 in energy tax. The local grocery store can recover that by increasing prices. However, the individual, senior citizens in particular, can't. He asked Council to consider his concerns before they adopt the PILT.

Winston Duncan said comments were made about free money running out but he felt there was no such thing. The City of Delta Junction had made its living for the past 40 years by scamming money from the State and federal government. He asked if passing the PILT agreement would give the LBC a strong leverage to approve the borough petition.

Cotten said he was not comfortable with uncertainty. Doing nothing and refusing to listen to the legislature, Senator Wilkens, and the LBC is the wrong decision, policy and direction to take. The City Council understands risk is involved in whatever decision is assumed. Cotten said, as a former member of LBC and the supervisor of the staff of the LBC for the last seven years, the worst decision is to do nothing. "You cannot pretend the State government will go away and leave us alone just because you don't like government." That is what drives Gary Wilkens up the wall. Someone living in Salcha or North Pole pays 15 mills and receives roughly the same services the residents in Delta Junction do, who pay nothing. He said a family of four who has lived in Delta Junction for the past 20 years has received \$82,000 in free money without having to pay for any State or local taxes. The public needs to not become defensive but rather they need to protect the community from being in a borough with Tok or Fairbanks. Will it be a home run? No. There is risk involved. Delta Junction is less than 1% of Alaska's population. Delta is a weak claimant with a very weak claim. Cotten said no deal is perfect but waiting is the worst strategy the community could make.

Duncan said he was part of a group of four residents who met with Gary Wilkens last year. His problem was that no one outside city limits was given a voice in regards to proceeding with drafting a charter or PILT agreement. The only way the City of Delta Junction could get their sticky fingers into the mine was to form a borough. He disagreed with the fact that the City would disappear and become the borough government. He also disagreed that the borough would assume assets because he said what the City owned were all dead liabilities. Duncan asked what would happen if the public rejected borough formation. He said it was fine that Pogo wanted to give \$2 million but he did not want to be obligated.

DeWitt said only the people can force a borough in regards to PILT. The LBC will not approve a petition that does not demonstrate financial wherewithal. The PILT is only part of the revenue source. It does not legally obligate borough creation.

Al Edgren asked if the PILT agreement is signed and revenue is generated to the City, would funds be used outside of city limits to pave roads.

DeWitt said the monies would be general revenues and the City Council can deliver services wherever they choose.

Edgren asked if there were consequences to not making PILT payments in a timely manner.

DeWitt said one scenario would allow the Deltana Borough to sue for breach of contract. The other alternative would be to threaten a severance tax if the PILT agreement no longer existed.

Edgren said the PILT is tied to becoming a borough. Why not just write a PILT?

DeWitt said it would only be speculation as to why Teck-Pogo linked the PILT to a borough. They would much rather be a taxpayer in a Deltana Borough than they would in FNSB.

Edgren said maybe Pogo was banking on Delta not becoming a borough.

Cotten said revenue sources were studied in length. The basis of the PILT is the principal connection between the mining company and a future borough. The City would assume the contract otherwise.

Edgren said it would have been easier to vote if it were two separate issues.

Hanneman said he would take the opportunity to avoid any speculation. He explained the relationship between the Pogo project and the Delta community. They started in 1997 and 1998 to permit the project, spending a lot of time and effort in Delta to earn support. Together with other regional communities within the area the project was successfully permitted. Presently they are nearing the completion of construction. It was all done in a timely manner with respect to the permitting process and it could not have been accomplished without the support of the community. They faced uncertainty in the form or

manner of government and potential tax burden was not defined. Senator Wilkens' initiatives and effort to form a borough in the Delta area were known. Assumptions were made that some money would be paid to a Delta Borough or the Fairbanks Borough at some future time. They proceeded with the construction process and at the same time the community independently established the Charter Commission to evaluate options of borough formation. He became involved by attending the meetings, seeing it as an opportunity to resolve the issue so that it would be beneficial for both the Delta Junction community and Teck-Pogo Company. Hanneman said the PILT agreement is linked to a potential borough because Teck-Pogo wishes to remove future uncertainty. A long-term agreement is an important element from their perspective. Teck-Pogo will be paying significantly more than 10-mills in the later years of the project that would exceed Fairbanks tax rates. It benefits them in the early years because they pay less and it allows them to gain capital pay back and successfully launch their project. Hanneman said they would live with the consequences of the decision either way.

Patrick Dalton said his freedom was being implicated and wished to explain the misconception of forming a borough in Delta. He talked to Gary Wilkens and discussed the head tax concept, which they agreed was an acceptable alternative to a borough. Wilkens did endorse that bill during the last legislative session.

Leith-Dowling asked Dalton to phrase a question, that comments would follow later in the meeting.

Dalton excused himself, stating he did not want to be "placed in a box."

Lee McNeil said he hears the comment, "Delta does not pay taxes." He asked, "Can you name one State tax that Delta does not pay outside of borough taxes? Can you name one federal tax that others pay that Delta does not pay?" He said we have paid every cent in State taxes that everyone else has paid with the exception of borough taxes.

Cotten said the State of Alaska repealed income tax in 1981. We still pay a gas tax. 97% of Alaskan residents pay local government taxes. Delta is part of the 3% that does not pay but, Cotten said, "It is clear you are not against government because you take your kids to school, you drive on public roads, you call 911 when you have a problem. You do not pay a local tax that goes into a general fund to pay for services (school, library access, road maintenance)." He said the community was successful in running on minimal funds.

McNeil said the school runs off student allotment, the same as other schools across the State.

Cotten said in the last 13 years the school district received \$100 million to operate and the local contribution was nothing. Other communities pay toward their school systems. He said he was not present on behalf of Gary Wilkens. The City Council did not create the issue. It is there in front of you. Gary Wilkens was recently quoted as saying, "Delta Junction is a poster child for people who don't pay."

McNeil said residents pay everything that others pay except for local taxes because we choose to not impose them upon ourselves. Delta does not receive any of the mill tax off the pipeline. Only some of it comes back to Delta. The rest goes into the State's general fund.

Mayor Pro tem Leith-Dowling called for further questions and hearing none asked to continue with public comments.

McNeil said he could not see how Delta could lose on the PILT agreement.

Mike Murphy suggested Council send the PILT agreement back unsigned. He said it was rare anyone approaches the City bearing gifts especially when the gifts were undeserved. Something should have been learned from the unpleasant experience 5 or 6 years ago when the City signed a contract with Allvest. If Teck-Pogo wants to support the formation of the Deltana Borough they only need to set up an escrow account and dump money into it. It is the same as what the PILT agreement promises to do. Leave the City out of it. He asked Council to not sign the agreement, saying "actions speak louder than words."

Nissen expressed his appreciation of the Charter Commission and City Council. He said he travels to Juneau for GVEA related issues and each year the legislators ask, "When is Delta going to start paying their fair share?"

Loretta Schooley stated she knew the amount of hard work involved in negotiations and the PILT agreement. She has been in Delta since 1961. She participated in borough formation in 1974 and again in 1984. The threat was always there but more recently it has become more "real." The PILT is an excellent opportunity and the three years is plenty of time to allow the community to determine our own future. We do not want FNSB to do it and we certainly don't want the legislature to. She again thanked those that were involved in the Charter Commission and the City Council. She said the agreement may not be perfect but "we can make our own mistakes and then at least we can fix them."

Mike Schultz stated he served on the Charter Commission and was part of the negotiating process with the gold mine. He said he would like the Council to adopt the agreement. During negotiations they tried to set up the future borough assembly for success rather than hard times and to leave enough flexibility for decision-making. It also addressed financial capability for the borough to support itself.

Duncan asked if anyone had seriously looked at the population density of the Delta area. The City of Fairbanks could actually fit on a couple of farms. Once people start paying taxes they are going to demand services. One friend paid \$326 to clear his road that was blown closed. Two days later he paid another \$330+ to have it plowed again. We are 40 miles long and 20 miles wide. There is no way enough money will satisfy the request for services. There is not another area in the State that can duplicate what Delta Junction has to offer. He said he did not believe an effective municipal government could exist where the population density is less than 600 people per square mile. There is too great a distance between service points. Duncan said the State pays less per person for those that live in Delta Junction than those that live in Fairbanks or Anchorage. He asked how Council would feel if all the residents outside city limits decided they would turn the entire area into a community instead of a city. Tok is a community. Tok has everything that Delta has and they are not a city. He said he firmly believes the City of Delta Junction has made a living by scamming people out of money. "Now they want in my pockets so that they can dip into Pogo mine." He asked Council to redraw the agreement after the borough is voted down.

Bill Ward stated he was a resident and businessman outside the city limits. He asked DeWitt what the consequences would be if FNSB proposed annexation. If FNSB annexed the Deltana region could they also take the City and its assets? Is it a second process in which the City gives up its authority?

DeWitt said as long as FNSB is a second-class borough they could not grab the City and its assets. Yes, the assets, including the PILT, would remain with the City.

Ward said he participated in the negotiation process. He said much of the community frustration is that the City has revenue, makes decisions and theoretically those that live outside of city limits have no say in affecting those decisions. The PILT allows comment on City operations. The escrow account was established so the City had no free authorization to use those funds. Ward said the PILT would be an opportunity to witness how the City utilizes the funding and the operation would become somewhat of a model for how money would be utilized by a potential future borough. He asked that the City provide openness and transparency for that reason.

Hallgren said the only thing the City has decided, if the PILT agreement is signed, is to replace the \$100,000 that is subsidizing the landfill operation.

Darland recommended the City adopt the PILT agreement. He said he also wanted to make the observation that everyone in the community uses City services, whether it be fire, ambulance, library, roads, or City Hall. We do not vote but we do use the services.

Larry Fett said he served on two local borough commissions. Everybody residing in the surrounding areas would like the option of voting on City decisions because they all benefit from the services and the monies that the City brings in. The simple answer is to join into one borough and everyone has equal participation. They could then be part of the total community instead of as it presently is, one that gets money because they're organized under the State Statutes and one that doesn't.

Feilner asked how many areas in the State are not organized into boroughs.

Cotten said there were 16 borough governments in the State that covered approximately 85% of the State's population. Areas with large population bases that are not organized are eastern Alaska (Tok,

Delta, Glennallen), western Alaska (Bethel, Dillingham, Nome) and the southeast (Skagway, Petersburg, Wrangell). However many of the communities do provide local education. There is no legal distinction between a first-class city or a home-rule city in the unorganized borough and a borough. Boundaries are just larger in boroughs. Cotten stated when the Mandatory Borough Act came about they organized 8 areas into boroughs. The other 8 voted to create boroughs. There are about a dozen regional school districts that are not currently in a borough. Some cities within those Regional Educational Attendance Areas are first-class cities, such as Tanana and Nome. They provide education but are not part of a borough.

Feilner asked if the other communities were getting the same focus as Delta regarding incorporation.

Cotten said some are. If you recall Senator Wilkens submitted a resolution that requested Delta, Tok, Glennallen and two areas in the southeast be forced into mandatory boroughs. Of the areas Delta is given the limelight because of property evaluations and the strong economy.

Heinbockel said he appreciated the public turnout to hear their testimonies. He was surprised that the majority of speakers lived outside of the city limits. He said he was leaning in favor of the PILT because the monies would benefit the entire area, as does most of what the City funds. He has always considered the community as the whole Deltana area. Some issues in the PILT agreement he did not care for but it provides a revenue source and it will hopefully be there when a larger governmental entity is created. He said he has supported the borough concept for 30 years. He thanked the public for their input.

Tvenge also thanked the audience because he wanted to make the right decision based on public opinion. He appreciated hearing both sides, pro and con.

Feilner said Council tries to represent 5,000 residents and she appreciated feedback. She invited the public to continue attending the City Council meetings to share their opinions.

Heinbockel moved to close the public hearing; Tvenge seconded. Motion carried.

Heinbockel moved to adopt Ordinance 2006-04, An Ordinance Adopting an Agreement for Payment in Lieu of Taxes with Teck-Pogo, and Providing for an Effective Date; Leith-Dowling seconded.

Tvenge stated he would like to have more Council members present before adopting the ordinance. He agreed with the document and thought it would benefit the community but wanted a full Council to make the decision.

Heinbockel said five of six Council members were present tonight.

Feilner said she wished to wait until November 15 because she would like to review public comments.

Tvenge said he would like Mayor Gilbertson, Sloan and Marcellus to be physically present.

Discussion followed regarding meeting prior to November 15.

Gilbertson said he would rather read all the comments before he votes because he could not fully hear the audience speak.

Heinbockel asked to call the question. If adoption is voted down it can be brought back for reconsideration. He said the majority of the public that spoke tonight favored the PILT agreement.

DeWitt said motion to continue trumps the pending motion (to adopt the PILT).

Tvenge moved to continue the motion on November 15; Feilner seconded.

Motion passed on a roll call vote with four (Tvenge, Feilner, Gilbertson, Leith-Dowling) voting in favor and one (Heinbockel) voting against.

DeWitt said it would be an item of *Old Business* on November 15.

Hallgren clarified that the motion did not re-open the public hearing on November 15. He asked if appointment of the new Council member would be prior to the continued motion or after.

DeWitt said after.

Hallgren said at this point there were no applications for the Council seat but it would be the first item of *New Business* on November 15.

DeWitt, Cotten and Mayor Gilbertson excused themselves at 6:57PM.

Leith-Dowling called for a break and then called to reconvene the regular meeting at 7:08PM. Three members from the community remained in the audience.

## REPORTS

**Fire Department** – Carin Bear reported she received favorable response regarding the training grant. It is close to being approved. Plans are to have the hazardous waste operator portion of the continued certification in January. They are presently negotiating with the mine.

Hallgren said the old pumper truck could be repaired if they are successful in receiving the grant.

**City Clerk** – Pat White thanked Janet Boyer for providing the publicity that generated public response.

**City Administrator** – Pete Hallgren reported:

- The Commanding General from USARAK would be at the Chamber of Commerce luncheon on November 2. Council members were invited to attend also (Jarvis building, 1:00-2:00PM). Hallgren said he planned to informally inquire about the Eddy Drop Zone range, in which there has been no recent information. He said a decision has been expected for quite awhile.
- A draft letter regarding reducing the speed limit was distributed. Hallgren asked for Council to edit and provide comment. He also asked for their input on the draft job solicitation for a scale house operator.
- An invitation was received from the Alaska Railroad (ARR) Corporation who will host a briefing in Anchorage on December 16. The annual meeting addresses railbelt community mayors and Chamber of Commerce leaders. Hallgren suggested either the Mayor, Mayor Pro tem or himself make arrangements to attend. ARR offered to reimburse travel expenses.
- Landfill weight received in October was again within projected limits. The first septic pit is full. He plans to report and inquire with the engineers. The second septic system may need to be used.

Heinbockel questioned how it was designed. Only the last two months has the landfill accepted septic waste. The old landfill's septic pits survived for many years with only three pits. Heinbockel added that the honor system was working very well with the septic haulers.

- The library well log indicated the well was less than 300 feet deep and the pump was only 108 feet. Hallgren said he discussed the matter with DEC who agreed a larger pump was needed and it also needed to be placed lower in the ground. The pump that was stipulated in the drawings was the one installed. The drawings appear to not state how deep the pump was to be positioned. Contractors were unable to hit water according to the depth indicated and another 50 feet was authorized. In any event the pump should have been positioned lower than what it was because the well log shows the water level went up to 86 feet. Bob Morley is concerned with bombing the system with chlorine because it may not reach the bottom. The new pump will be 1 horsepower and the pipe will be poly pipe. The matter was not a maintenance question but rather related to construction.
- A quarterly impact meeting was scheduled for November 3 with Missile Defense and the State of Alaska. Council members were invited to attend. The school superintendent would attend telephonically.
- The annual Resource Development Council meeting is scheduled in Anchorage on November 16. Hallgren said he planned to attend.

**School Liaison** – Leslie Feilner reported the elementary gymnasium floor was now in use.

**DREDC** – Mike Tvenge reported the next meeting was moved to November 14 to finalize Social Service Grant recommendations and then present to Council thereafter.

**Library** – Mary Leith-Dowling reported heating system problems are not yet resolved nor is the undrinkable water situation. Librarian Joyce McCombs repeatedly praises Bob Morley's willingness to respond to calls at all hours. She is also grateful for the handicapped parking signs.

**Recreation** – Mike Tvenge reported so much effort was put forth to purchase a new lighted ice arena sign and then an "Ice Rink" sign appeared on top of the existing "School Zone" sign. It does not have the same flare as the one on order though. Volunteers are lined out to dig the new sign foundation. Tvenge said concrete would be poured on November 2. The ground was graded and forms were in place. At the same time the Fire Department was making ice that would be finished in one week.

**Public Works** – Lou Heinbockel reported he periodically visits the landfill operation. He asked if Delta Sanitation had responded to the September 15 e.mail correspondence regarding the new proposed dump hours. He said the landfill is closed to the public on Sunday and Monday, which are the equipment operator's only days off. He asked that the landfill be off limits to commercial garbage haulers also, including city staff required to open the landfill when the equipment operators are not there. Cooperation must be two-sided. He added that septic haulers are not subject to the rule.

**Heinbockel moved** to not allow commercial garbage to be dumped when the landfill is closed to the public on Sunday and Mondays; Feilner seconded.

**Tvenge** said the landfill is already subsidized so employees should not be required to go out on their off time.

**Motion carried** by unanimous consent (with a quorum of four present).

**Heinbockel** reported newly posted street signs looked very good and hopefully would survive the youth spinning brodies.

Discussion followed regarding snow machines and four-wheelers causing damage to streets and the airstrip.

**Heinbockel** asked to budget next year for brush removal because the streets were becoming a hazard, especially to school bus drivers, due to overgrowth. He also asked that the library and City Hall sidewalks get plowed at the same time the parking lots are done after every snowfall.

Discussion followed regarding stockpile of gravel and status of the sander truck plow.

**Charter Commission** – Lou Heinbockel reported the November 2 meeting was postponed to November 16 by word-of-mouth. Postponement was a result of not passing the PILT agreement after the public hearing earlier in tonight's meeting.

**Additional Council** - Mike Tvenge checked with GVEA, ACS, and DOT about placement of the hockey rink sign and then found out that the land will belong to the City. Placement of the sign would not be an issue except for the right-of-way. Tvenge stated he placed two orange cones where he envisioned the sign would be located. He wanted to solicit comments from those that drive by. However, the two orange cones were stolen. He would attempt placing them again, this time filling them with concrete.

**Hallgren** said he spoke with DNR two months ago. A property line would be drawn to the edge of the pipeline easement and would include title of the GVEA easement also. Art Saarloos reviewed the specs. Hallgren stated the State survey would not show the proposed school district road. That would be determined at a later date. The angle of the property on the north end of the ice arena building would remain the same.

## UNFINISHED BUSINESS

### **Torba Subdivision**

**Hallgren** reported information carried over from the October 19 meeting in which the proposed Torba Subdivision was discussed. He said Torba was never part of Jack Subdivision. Cul-de-sacs were not necessary because the proposed street widths matched city and State width requirements. DOT would issue permits for the driveways that enter onto Jack Warren Road. Hallgren suggested not putting street names onto the plat so that they could be changed if necessary. The City would neither construct nor maintain the roads but naming of the streets was necessary for the E911 addressing project.

**Heinbockel moved** to approve the plat for the Torba Subdivision as presented at the October 19 meeting; Feilner seconded.

**Motion passed** by unanimous consent.

## NEW BUSINESS

**Public Hearing and Second Reading of Ordinance 2006-04, An Ordinance Adopting an Agreement for Payment in Lieu of Taxes with Teck-Pogo, and Providing for an Effective Date**

See discussion prior to *Reports*.

**Introduction and First Reading of Ordinance 2006-05, An Ordinance Amending Chapter I, Section 1.10.060, Filling a Vacancy**

Heinbockel moved to introduce and hold the first reading of Ordinance 2006-05, An Ordinance Amending Chapter I, Section 1.10.060, Filling a Vacancy and set the public hearing date and second reading for November 15; Feilner seconded.

Hallgren stated City ordinance is unclear in how someone files for a vacancy (by submitting a Declaration of Candidacy and petition versus a letter of interest). The State Statute does not require completion of formal petition. However, current code refers to the word “file” and City Attorney Jim DeWitt suggested changing it to “apply” for clarification. Still though, it would not go into affect before appointing the next Councilman.

Heinbockel said it was a moot point because of such little interest shown in filling the vacancy.

Motion passed unanimously on a roll call vote.

**Re-Sale of (8) Industrial Lots Re-Conveyed to the City – Lots 7, 8, 9, 10, 11, 12, 13, 14 of Block 11 of Delta Junction Townsite, West Addition in the Fairbanks Meridian Alaska (Plat No. 63-7859)**

Hallgren stated Council approval is required for all over-the-counter lot sales. An interested party researched the eight industrial lots that were previously repossessed and requested the City put them up for sale. The public was invited to a first come, first serve over-the-counter sale on October 14, 2005.

Heinbockel asked what the owners plan to do with the property.

Zimmerman said he was told the property would be used for truck repair.

Heinbockel moved to approve sale of 8 industrial lots to Richard D. and Dawn E. Barnett of Waldron, Arkansas for the amount of \$24,000.00; Feilner seconded.

Motion passed unanimously on a roll call vote.

**Sale of (2) Lots on South Clearwater – Lots 13 + 14, Block 31 of Delta Junction Townsite, North Addition in the Fairbanks Meridian Alaska (Plat No. 63-7859)**

Hallgren said there was a buyer for lots on South Clearwater that have been available for many years.

Heinbockel stated he thought it interesting that two little residential lots sold for \$10,500 and eight industrial lots were \$3,000 each. Industrial or commercial property should be of more value than residential. However, the income would be put into the City’s permanent fund.

Heinbockel moved to approve the sale of Lots 13 (commercial) and 14 (heavy residential) of Block 31 to Gregory J. Austin of Delta Junction in the amount of \$10,500.00; Feilner seconded.

Motion passed unanimously on a roll call vote.

**North America Outdoor Institute - Fee Waiver Request for November 29**

Heinbockel said offering the presentation to the public would be well worth waiving rental fees.

Feilner moved to waive the Community Center rental fees on November 29 from 6:00 to 9:00pm for the purpose of presenting avalanche awareness to the community as a public service; Tvenge seconded.

Motion passed unanimously by consent.

**Proposal for City Web Page Upgrade**

Leith-Dowling stated she had recently received comments regarding the City’s website. More information was requested.

Hallgren said there is high interest to the City’s website on a daily basis. Usage increased from 319 visitors in December 2002 to 1,183 in September 2005, which is just under one visitor per minute every hour of every day in September. He said most of them are out of our area and are interested in area photos. He said he also believed reorganization was needed.

Heinbockel asked if the cost was reasonable.

Zimmerman said funding was available in the advertising budget (\$500) and also from contract services.

Hallgren said the City actually saves money by advertising job positions on the web. The paid advertisement refers to researching the City's website.

**Leith-Dowling moved** to approve payment of up to \$1,550.00 to upgrade and re-design the City's website as presented; Feilner seconded.

Hallgren said the City's website was down for a few days because of Hurricane Wilma in South Florida and the server is presently in the midst of switching the City's e.mail home domain.

Leith-Dowling said timing could not be more perfect. She stressed the importance of making information available to the public and the website approach was a necessity.

**Motion passed** unanimously on a roll call vote.

### **Purchase Orders**

PO#010370 to Aetna WHO-AAS in the amount of \$6,633.30 for Nov '05 group health insurance

PO#010371 to Alaska Department of Labor in the amount of \$900.00 for boiler inspections

PO#010372 to Craig Taylor Equipment Co. in the amount of \$780.00 for rental of bobcat with hammer to install sign posts

PO#010373 to Guess & Rudd in the amount of \$10,109.56 for Sept '05 legal services (revision of drug testing policy, library Internet policy, Pogo PILT)

PO#010374 to Mikunda, Cottrell & Co. in the amount of \$8,500.00 for annual FY05 audit

PO#010375 to NC Machinery Co. in the amount of \$795.54 for street grader edges and parts

PO#010376 to Powerhouse Signs in the amount of \$2,863.00 for 16 signs and 40 signposts

PO#010377 to Toni Lee Consulting in the amount of \$540.00 for (8) Rescue Squad drug tests

PO#010378 to Lamar Cotten in the amount of \$1,900.00 for Oct '05 consultant services

**Feilner moved** to approve purchase order 010370 through 010378 as presented; Heinbockel seconded.

Discussion followed regarding paying the State of Alaska for boiler inspections.

Heinbockel referred to 010373 and 010378. He said the Pogo PILT and borough study cost a lot of money but he agreed that it was money well spent for both the City Attorney and the City Consultant.

**Motion passed** unanimously on a roll call vote.

### **ADDITIONAL PUBLIC COMMENTS**

### **ADDITIONAL COUNCIL COMMENTS**

Janet Boyer asked how much the new pump at the library would cost.

Zimmerman said as much as \$3,000.

Discussion followed regarding the depth where the pump was placed and the need to go deeper.

Edgren asked if the finances from the PILT agreement could be spent outside of city limits. He said once the door to the whole community is open there will be more participation from the community.

Leith-Dowling said she had discomfort with little involvement from those residing outside of city limits because the City provides services inside city limits but they are available to the entire community.

Heinbockel said there is a need for road service in the Deltana area. What the State does not maintain and what the City does not maintain does not get cared for. The State has abandoned numerous roads. The City maintains 29 miles of road, which was paid by the State in revenue sharing. That no longer exists. However, road maintenance does.

Edgren said he foresees the \$500,000 PILT revenue being used just to maintain area-wide roads.

Hallgren said those that live in Deltana are looking for representation without taxation, the reverse of the Revolutionary War.

Edgren said he was surprised to hear that the PILT agreement being tied to borough formation was Karl Hanneman's recommendation.

Hallgren said it is because Pogo has no protection because they are not within city limits.

Edgren said Teck-Pogo would pay much more if they were part of the FSNB and they would receive fewer services whereas in Delta services are limited anyway and they would simply pay less.

Hallgren said Pogo is in the Delta-Greely school district and they already receive benefits from Deltana and City Fire Departments and the Delta Rescue Squad.

Edgren said he was baffled by the lack of Teck-Pogo donations toward community organizations.

Heinbockel said we have become accustomed to Alyeska being good neighbors. Pogo has not picked up on that concept yet.

Edgren said the PILT document stated Teck would provide services or some type of community project. Tonight Hanneman stated nothing was planned.

Hallgren said the PILT agreement specifically stated the money paid did not stop the City from asking for more.

Heinbockel said it all evolves around Teck-Pogo's willingness to fund a substantial amount of money into the recreation center prior to negotiations. Maybe they've reassessed and think they would not need to put anything else into the community because of paying out \$1,250,000 and getting no borough. Heinbockel said he felt that was pretty darn cheap.

Feilner said FSNB couldn't pick up Pogo because of their agreement with Delta. Pogo is securing insurance for protection from Fairbanks with their obligatory pay-something effort. The amount is not anything that would be beneficial unless a borough were to come into play.

Heinbockel said Teck-Pogo does not have to give \$1,250,000. It is a plus for the community but only if the community incorporated into a borough would Pogo be committed for a substantial amount toward funding it.

Leith-Dowling said if a borough is not formed within the three-year time frame it is likely that FNSB would annex Delta and charge 15-mills.

Heinbockel said the next Charter Commission meeting would be postponed to November 16. All the money spent so far has been extremely well spent but only if LBC accepts our boundaries and our concept of how to fund it. If borough formation does not pass the area voters and the State mandates a borough they would likely mandate based on the charter that was created.

## **ADJOURNMENT**

Heinbockel moved to adjourn at 8:15PM; Feilner seconded. Motion carried.

Pat White  
City Clerk

Date of approval: November 15, 2005