



## City Council Minutes ~ Regular Meeting ~ August 21, 2007

The regular meeting of the Delta Junction City Council was held on Tuesday, August 21, 2007 at City Hall in Delta Junction, Alaska. Mayor Mary Leith-Dowling called the meeting to order at 5:03pm.

Council members present: Mayor Mary Leith-Dowling, Mayor Pro tem Lou Heinbockel, Mike Jenkins  
Leslie Feilner, JW Musgrove (telephonically), Pablo Martinez (arrived at 5:05pm)

Council member excused: Pete Hallgren

City employees present: Mike Tvenge, Dave Zimmerman, Letha Burcham

Seven members from the community and one out of town guest were present.

### AMENDMENTS TO AGENDA ~ APPROVAL OF AGENDA

Leith-Dowling reported Mike Paschall asked to speak under *Request to Speak* and a purchase order (PO#011972 issued to Alcan Builders, Inc. in the amount of \$171,649.62 for rink upgrades progress, invoice #1) would be added to *New Business*.

Heinbockel moved to approve the August 21, 2007 agenda as amended; Feilner seconded. Motion carried.

### APPROVAL OF MINUTES OF THE PREVIOUS MEETING

Heinbockel moved to approve the minutes from the August 7, 2007 regular meeting as presented; Feilner seconded. Motion carried.

### PUBLIC AND COUNCIL COMMENTS ON NON-AGENDA ITEMS

Al Edgren stated he appreciated Council's efforts to move forward on the rink progress.

See Margie Mullins' topic of discussion after *Fire Department Report*.

Leith-Dowling called for Council comments on non-agenda items with none being offered.

### REQUEST TO SPEAK

Leith-Dowling introduced Brian Lindamood, Project Manager of the Northern Rail Extension of the Alaska Railroad Corporation (AARC).

**Brian Lindamood** presented a slideshow and explained background and progress of the extension of the Alaska Railroad. The railroad was built in 1914 and operated by the federal government until 1985 when the ownership was transferred to the State of Alaska. It is a State owned and self-supporting corporation that provides year-round service for passengers and freight. Lindamood said the Alaska Railroad is the last railroad in the United States that provides this full service. He explained the 611 miles of track, their branches and terminal locations in Alaska and said most all the traffic is from tidewater / port-type areas into the interior. He said the Department of Defense is a major customer and this rail extension project would serve Ft. Greely also. The mainline track would develop the interior and extend from the Chena River floodway branch in North Pole to the Delta Junction area, which is approximately eighty miles. Route alternatives are planned to cross the Tanana River and again the Delta River, closer to Delta Junction. It would serve Delta Junction and also provide all-weather access to the Tanana Flats Training area as well as Donnelly. The track is designed for a reliable speed of 79mph and the intention is to connect the rail with the rest of Alaska and possibly with the Lower 48, which is being jointly studied by

the Yukon government and the State of Alaska. Lindamood said there are other studies but all of them rely on Delta Junction being the gateway. Lindamood explained how tourism affects the railroad. He explained that AARC moves a lot of military supplies, equipment, and fuel in and out of Anchorage to Delta's backyard, "one of the largest training areas in the world." He referenced the anticipated project schedule and Draft Environmental Impact Statement (EIS) issues, which is due to be completed at the end of this year and will be followed by a public comment period. Lindamood referenced a map explaining the proposed three routes in relationship to the location of the community and Ft. Greely. The preferred route crosses the Delta River south of the community near the Jarvis Creek and the Richardson Highway. The north end of Ft. Greely is undeveloped military property and a logical location for a small terminal facility and a maintenance facility. Lindamood explained finances and said estimated construction costs are between \$400 million and \$800 million but funding sources are unknown. He said the military would not enter into a formal agreement because they do not want to fund it all. There is a good possibility that the railroad extension could be built in phases.

Question and answer discussion followed regarding year-round access to areas across the Delta River and railroad crossings of the Richardson Highway.

Lindamood encouraged the public to send comments to the ARRC website.

**Mike Paschall**, local Delta Wind editor, stated he requested two documents from City Hall concerning the proposed hunting-shooting ordinance. One of the documents withheld is correspondence from City Attorney Jim DeWitt. He said he and DeWitt disagree in the interpretation of Alaska law. Paschall said he believed if correspondence does not pertain to specific legal action then it is not protected by attorney-client confidentiality privilege. He asked Council to release any correspondence from the attorney and not withhold it from the public.

Tvenge stated DeWitt's correspondence with the City is privileged.

## REPORTS

**Rescue Squad** – Lisa Shivel stated she appreciated the squad building being painted and the old Fire Department logo being removed.

Tvenge said paint was already available but the parking lot improvements are still pending.

Heinbockel asked how many active EMT volunteers were on the squad.

Shivel reported there are eight and are continually attempting to recruit more members. She said only one EMT and Deltana firefighter Ernie Wyrick responded to a vehicle accident at 6:30am that day.

**Fire Department** – Carin Bear reported an Insurance Services Office (ISO) agent was in Delta on August 20 and there is no way to be able to maintain the Dwelling 8 classification because of the low population. Bear said the Fire Department personnel response is 4.2, which qualifies as a Class 9.

Heinbockel asked how many active volunteers on the Fire Department.

Bear said there are 10. There was interest expressed at the Deltana Fair but no applications were received. She explained reasons for fluctuating membership and said the ISO agent stated the problem exists all over the country. What used to be 20% of the volunteers that did 80% of the job is now 10% doing 90%.

Heinbockel said firefighting is a rewarding occupation. Progressive municipalities replace volunteerism with paid staff.

Bear said people are motivated to help the neighbor in need, but not when it requires training. Without training though, the Fire Department is limited.

Discussion followed regarding differences between forest and structure firefighting and combining the Fire Department and the Delta Rescue Squad.

## PUBLIC COMMENTS ON NON-AGENDA ITEMS continued

**Margie Mullins** stated she requested to be put on the agenda on August 20.

Burcham explained that Mullins called after the agenda was posted on August 17 and was instructed to speak under *Public Comments on Non-Agenda Items*, that it was not necessary to add her as a change to the agenda (per City Clerk Pat White's advice).

Mullins read for approximately thirty minutes from an eleven-page typed document. She explained her unhappiness with how she was treated at a recent meeting. (See *Additional Public Comments* of the May 15, 2007 City Council minutes.) Mullins spoke about the obligation of City Council members as public servants, violation of her Constitutional and civil rights, and lack of response from local government as evidenced in the formulation of the borough charter. She restated her experience and concerns as presented at the May 15 meeting, explained objections and inadequacies of the borough petition, why Stephen Hammond resigned from the Charter Commission, Lamar Cotten's influence and participation in creating a borough, and Library Association memberships. Mullins said, "Federal courts have held that when civil rights are violated and people are slandered and deprecated unlawfully, as happens at these meetings, there is a massive award for each time it happens. I urge all of you to get with your attorney and check if this is not so. Not only can they come after the city, they can come after the individual. That means they can break through the barrier of your official protection and come after you personally." She said, "... if you cannot act in a professional manner, I beg you to resign for your good and the good of this community or change your heart and attitude toward the citizens that you represent."

Leith-Dowling asked for a copy of Mullins statement.

Heinbockel asked Mullins what she expected, other than resignations.

Mullins said an apology would be appreciated with a commitment to treat people with respect.

Heinbockel said he would like to review the May 15 recording to make sure he committed everything he was accused of.

Mullins asked the Council to spend the money to purchase a tape machine so public requests can be readily made without hassle to the citizen.

## **REPORTS** continued

**Airport** – JW Musgrove reported an increase in activity at the airport due to hunting season.

**Cemetery** – Mary Leith-Dowling reported summer-hire employees repaired the cemetery fence that was damaged by a moose.

**City Clerk** – Letha Burcham reported nominating packets for three Council seats in the October 2 election are available at City Hall and the filing period is August 22 through the close of business on September 6. Seats B, D, and G are 3-year terms, ending in 2010. The municipal election process will continue until borough formation outcome is known. Unofficial results of the Deltana Borough Incorporation Election would be known as early as this evening, when they are posted on the State Division of Elections website ([www.elections.state.ak.us/localelec.php](http://www.elections.state.ak.us/localelec.php)). Beginning August 20th, a bi-partisan absentee ballot review board was to review the information on the outside of the mail-in ballot envelope to determine if the ballot is eligible to be counted. Those ballots that have been reviewed will be counted on election night and again on August 31st (10 days after the election). The process is open to the public. For more information, please contact the Region III Elections office at 451-2835.

Burcham reported CPR and 1st Aid training is being researched. Up to 10 students would cost \$1,000 locally but AML/JIA provides the training to municipalities free of charge. The first week in October is the first available time to schedule. Burcham said she would like to set up the 8-hour course over a 2-day period so the library and city offices would not have to close in order for staff to attend the training. She invited Council to join staff members.

**City Administrator** – Mike Tvenge reported:

- M2C1 has the new Donnelly Transmission tower on site. It was built by Hector's Welding in North Pole. The disconnect and the new antenna connection will take place between 1:00pm and 6:00pm on August 29. There will be unavoidable television interruption. KATN (Channel 13/2) is working to continue local service of their station.

- Alcan Builders is making structural improvements to the Liewer-Olmstead Ice Arena facility. The water well is being installed this week.
- The pre-bid conference for the Zamboni building addition was held on August 16 and six contractors attended. The bid opening is scheduled for 4:00pm on August 22.
- Council and staff were invited to see a C-17 aircraft at Allen Army Airfield on August 17. The Air Force personnel said Delta was a chosen location for this aircraft and to expect activity, potentially 2,000 landings in one year. He said there are eight C-17's in the State. Tvenge said a C-17 can haul two semi-tractor trailers, 40-foot each, side-by-side.

**Finance** – Dave Zimmerman reported he submitted a Homeland Security Grant application in July for \$275,000 but he missed two items in the initial request. Due to funding requirements and his inadequate response, the grant was turned down.

**Library** – Mary Leith-Dowling reported McCombs is working on grant reports and the storage shed project.

**Park** – Leslie Feilner stated she wished to extend appreciation to Cold Regions Test Center (CRTC) for donating and moving the bleachers. She thanked CRTC Colonel Bond and employees Jeff Lipscomb, Todd Zachgo, and Ben Feilner, and City employee Butch Ellis. She said the bleachers are a welcomed improvement to the park. Softball wound down the end of July.

Tvenge thanked Airport Rentals also because they donated the use of the forklift.

**Personnel** – Mary Leith-Dowling reported Butch Ellis would be in Seattle for medical treatment.

**Public Health & Safety** – Pablo Martinez reported an LEPC quorum has not been met in the past couple of months. Training for a mass casualty exercise is being scheduled for mid-October and will be held in the small gym at the school.

**Public Works** – Lou Heinbockel reported he and Tvenge reviewed the progress of the Grizzly with Butch Ellis at the landfill. Chad Morris plans to have it completed in about ten days. Hose was purchased to drain the facultative pond and some modifications will be made so it will function better next year. Heinbockel said it would not have drained this year if it was left to operate as the engineers had designed it. Much of the water is from rain and it collects in the bad section of the settling pond and the holding pond. Someday some bottom cover may need to be considered. Holding capacity is tremendous though and pumping should not be required.

**Additional Reports by Council** – Lou Heinbockel said the library was previously tasked to increase revenue for its \$130,000 operation. He said according to the July statistics presented at the August 7 Council meeting each patron averages 25¢ in contributions.

## **UNFINISHED BUSINESS**

### **Mileage Reimbursement for Volunteer EMTs and Firefighters**

Heinbockel moved to approve use of the Mileage Reimbursement form; Martinez seconded.

Leith-Dowling reported eight volunteers responded for a total of \$288 for the month of July.

Lisa Shivel stated she did not want it coming out of the squad's budget.

Heinbockel said the budget might need to be increased.

Discussion followed regarding funding and implementing mileage reimbursement.

Martinez withdrew his second and Heinbockel withdrew the motion.

### **Mike Coffey, DOT – Response for Trimming Trees on City Streets**

Leith-Dowling reported Mike Coffey notified her that they would be unable to assist in brushing because of difficulty maintaining State equipment.

Tvenge stated two local rental businesses do not have the proper equipment so he made contact with land clearing contractors. The topic will be tabled until more information is available.

Council broke between 6:55pm and 7:00pm.

**NEW BUSINESS****Second Reading and Adoption of Ordinance 2008-04, An Ordinance Repealing Municipal Code Sections 3.07.010, 3.07.020, 3.07.030, and 3.07.040 (Prohibiting Hunting of Big Game Within City Limits) and Enacting Sections for Regulation of Firearms (3.07.011) and Exception to Regulate Firearms (3.07.012)**

Leith-Dowling referenced a second draft, which was an amended version of the ordinance that was introduced at the August 7, 2007 Council meeting.

Heinbockel moved to open the public hearing of (draft #1) Ordinance 2008-04; Feilner seconded.

Leith-Dowling called for public comments, repealing Municipal Code Sections 3.07.010, 3.07.020, 3.07.030, and 3.07.040 (Prohibiting Hunting of Big Game Within City Limits) and Enacting Sections for Regulation of Firearms (3.07.011) and Exception to Regulate Firearms (3.07.012).

Art Griswold, local resident, said half his property is within the city limits and he needs to protect his farm animals and birds against predators. The proposed regulation stops him, specifically regarding center-fire bullets (in draft #2).

Heinbockel said State law that allows “reasonable defense of life and property” would protect Griswold.

Mullins asked Council not to oversee game usage in this region because State and federal law already does. She said that this is a subsistence area and residents within city limits hunt on their own property.

Heinbockel said he preferred to replace Draft #1 with Draft #2, essentially introducing Draft #2 and schedule the second reading and adoption at the September 4 meeting. It would allow enough time for the public to be informed.

Discussion followed regarding changes between the two drafts and the procedure in which adoption of the ordinance is carried out.

Feilner moved to close the public hearing of Ordinance 2008-04; Martinez seconded.

Discussion followed regarding wording changes to Draft 2.

Heinbockel said residents can shoot a bear that attacks their farm animals. Council does not want to limit residents from shooting on their own private property but there is a safety concern because of the 180 permits issued in an area where there has been limited hunting for many years.

Tvenge said he had concerns with inserting “the taking of game” because that is regulated by the State.

Heinbockel said he disagreed. The ordinance regulates the use of weapons in taking of game. It does not prohibit use of a shotgun, a muzzleloader, or a bow-and-arrow. It states .17 caliber and larger center-fire cartridges cannot be used.

Discussion followed regarding known rifle ranges within city limits and contacting the hunters who hold cow moose permits.

Leith-Dowling stated a third reading, public hearing, and adoption would be scheduled for September 4, 2007.

**Resolution 2008-02, A Resolution Requesting FY08 Payment in Lieu of Taxes Funding From the Department of Commerce, Community, and Economic Development**

Tvenge reported the resolution must be adopted in order to receive federal funding.

Leith-Dowling stated the PILT is approximately \$450,000.

Heinbockel moved to approve Resolution 2008-02, A Resolution Requesting FY08 Payment in Lieu of Taxes Funding From the Department of Commerce, Community, and Economic Development as presented; Martinez seconded.

Motion passed unanimously on a roll call vote.

**Road Paving Priorities**

Heinbockel reported Emmaus Road is the #1 priority. It has a huge amount of traffic and is heavily used by school buses and every major contractor in the area that accesses Nistler Road. It will also be a very expensive road to pave because it requires so much maintenance. South Clearwater is the second priority because it is the other major connector off Alaska Highway and is preferred because Emmaus is too rough. Rapids, which turns into North Clearwater, is a priority and should be paved up to Kimball Street, up to the school property. Youth will continue to drive slower through the school district if that section of the road is not paved. If there are funds left over, Heinbockel stated Kimball and Deborah, connector streets with churches and the park, are additional priorities.

Tvenge said money is available for three major roads.

Heinbockel said those three would be Emmaus, South Clearwater, and Rapids. He said over the past 20+ years as serving on Council the most frequent paving request has been for Rapids Street.

Musgrove asked if traffic speed would increase once Rapids is paved.

Heinbockel stated most people drive about 9 miles over posted speed limits, which is not unreasonable.

Al Edgren said it will be difficult to pave Emmaus because of the flooding that exists in that area. The majority could be paved but the last 200-yard stretch nearest Nistler Road would be a problem.

Heinbockel said Emmaus costs the most to maintain and he was concerned that it may require all the available funding. Nistler Road also takes a lot of damage from the excess water.

Edgren said that area could be maintained similar to what DOT does. They chip and tar each year after breakup rather than paving.

Martinez said Rapids, Deborah, and Kimball should be priority because they are in the center of town.

Tvenge said Emmaus would need grade work and improvements to the roadbed because of continuous reoccurrence of potholes. South Clearwater is a much better road but it could be because Emmaus runs through marshland.

Leith-Dowling stated Emmaus attracts more drivers than South Clearwater does.

Paschall said he thought State traffic counters indicated use of Emmaus was three times greater than South Clearwater.

Tvenge said design specification plans for paving choice roads needs completed before winter in order to locate monuments, measure road distances, and look at grade and gravel conditions. The contractor needs specs on each road so they can bid by early winter for next year's construction season. M2C1 has created a short form of agreement to proceed but authorization is needed to continue.

Martinez moved to hire M2C1 Construction & Engineering to begin the design for paving city streets; Feilner seconded.

Heinbockel stated M2C1 was already designated as the design firm for this project.

Tvenge said they produced an engineer's estimate for roads only. The reason the project could not move forward was because this phase of design was not authorized and there have been no competitive bids.

Heinbockel said he suspected charges will be above Council's ability to award without allowing for competitive bidding and that quotes will be needed from other engineering firms.

Martinez withdrew his motion and asked to table the discussion until more research is done.

### **Electronic Access Gate at the Landfill**

Leith-Dowling stated she requested an estimate from Glen Wright / Delta Lock & Key to provide a scan system for the landfill gates because of the on-going problem with unreported traffic. She referenced Wright's price quotes, dated August 15, 2007, and explained his theory. She said Wright was installing a similar system at the elementary school.

Heinbockel moved to accept the proposal from Delta Junction Lock & Key as presented for the amount of \$1,238.16; Martinez seconded.

Tvenge said the quote would not include the electrical service line, which will be extra.

Heinbockel stated the honor system has not worked. There is no compensation for a huge amount of septic dumping that is not being reported. It equates to approximately 60,000 gallons. Septic hauler(s)

did not pay even though they increased rates to their customers and that fraud is perpetrated against the community.

Discussion followed regarding the failed camera system, the current gate situation, how it should have been engineered, and how the haulers have cheated.

Zimmerman stated money is available in the budget for the electronic access gate.

Martinez stated this should be the last concession. Otherwise haulers should be required to check out keys.

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

### **Purchase Orders**

PO#011950 to ACS in the amount of \$1,459.43 for Aug '07 phone lines

PO#011951 to Alaska Rubber & Rigging, Inc. in the amount of \$862.73 for pump and hoses for sewage treatment pond

PO#011952 to Amazon.com in the amount of \$760.37 for library books and materials

PO#011953 to Analytica Group in the amount of \$762.00 for landfill sewage lagoon tests

PO#011954 to Anchorage Daily News in the amount of \$875.46 for advertisement to fill City Admin position

PO#011955 to Arctic Fire & Safety Co. in the amount of \$835.00 for Fire Department and landfill gear

PO#011956 to ATT & Alascom in the amount of \$814.11 for Aug '07 911 phones and power

PO#011957 to Bank of America in the amount of \$630.95 for credit card charges (power supply for desktop computer, replace cooling fan for laptop computer, router for Rescue Squad wireless setup, and landfill supervisor HAZWOPER certification)

PO#011958 to Crowley Petroleum Distribution in the amount of \$985.80 for July '07 landfill equipment fuel

PO#011959 to Delta Industrial Services in the amount of \$3,310.88 for steel and materials for grizzly

PO#011960 to T and J Gilbertson in the amount of \$2,500.00 for Aug '07 warm storage rent

PO#011961 to GVEA in the amount of \$1,909.12 for July '07 electricity

PO#011962 to Green Grass of Alaska in the amount of \$1,476.34 for Aug '07 park lawn maintenance

PO#011963 to Guess & Rudd in the amount of \$5,654.80 for July '07 legal consult (moose hunting inside city limits, questions on borough incorporation, injunction review on borough formation, and rink final contract review)

PO#011964 to Hale & Associates, Inc. in the amount of \$7,425.00 for annual airport runway insurance

PO#011965 to Hale & Associates, Inc. in the amount of \$89,684.00 for annual insurance renewals (property, workers compensation, and casualty)

PO#011966 to Joslin Enterprises in the amount of \$2,687.62 for Aug '07 cemetery lawn maintenance

PO#011967 to M2C1 Construction & Engineering in the amount of \$45,133.00 for 50% of Donnelly Tower progress

PO#011968 to M2C1 Construction & Engineering in the amount of \$20,167.01 for July '07 Zamboni building re-design

PO#011969 to Public Safety Center, Inc. in the amount of \$740.08 for Fire Department supplies

PO#011970 to OCLC, Inc. in the amount of \$842.89 for renewal of library cataloging software

PO#011972 to Alcan Builders, Inc. in the amount of \$171,649.62 for rink upgrades progress, invoice #1

Bear stated purchase order 011955 reports incorrectly. The items do not belong to the Fire Department.

Zimmerman reported Vern Heinz, Assistant Fire Chief and EMT, signed the invoice and it indicates the scuba mask was a test fit for a respirator mask.

Bear said it is not a mask. It is approval to use the mask, which is a code requirement (to wear it) so it does belong to the Fire Department.

**Martinez moved** to approve purchase orders 011950 through 011970 and 011972 as presented; Feilner seconded.

**Motion passed** on a roll call vote with five (Musgrove, Jenkins, Feilner, Martinez, Leith-Dowling) voting in favor and one (Heinbockel) voting against.

#### **ADDITIONAL PUBLIC AND COUNCIL COMMENTS**

Feilner read a written statement regarding an incident she experienced at approximately 5:15pm on August 17, 2007. She, her son, and her husband were riding their bicycles southbound on the paved bike path in front of Kelly's Motel when two northbound ATVs approached them at a high rate of speed. The larger ATV was on the bike path and made no attempt to alter his direction. She and her son were able to get off the path but her husband sustained abrasions and a sprained wrist after braking and flipping his bike. Feilner stated the riders yelled obscenities upon her confronting them. After recovering they continued northbound and then eastbound onto Nistler where they encountered a lime green ATV who was also on the bike path. He moved off to give the bicycles clearance. Closer to the school they encountered another (black and red) four-wheeler that moved off the path only long enough for them to pass. She reported the incidents to the troopers along with the offender's names. Feilner said Alaska State Troopers (AST) deals with four-wheeler and dirt bike issues on a daily basis. She proposed the City Council solicit State Representatives to pass stricter motorized vehicle legislation. Feilner stated Bill Helkenn, local DOT, has posted two no-motorized-vehicle signs on the clinic road and will post more on bike paths. The public needs to be educated on where ATVs can be driven and it is State law that they are not allowed on bike paths, which are Alaska's version of sidewalks. Feilner asked for a consensus from Council members in pursuing the issue with the legislature. Council agreed.

Discussion followed regarding destruction of the walkways from motorized vehicle use, a recent death attributed to a four-wheeler accident, banning motorized vehicles in the same sense of banning firearms, illegal operation versus safely handling vehicles, and penalties of \$100 fines and impounding vehicles.

Feilner said pursuing the issue will not be a popular action but as public officials it is the right thing to do. The troopers are involved and would be helpful to receive support from the legislature.

Mullins asked if schools or ATV shops have been approached to provide information. She volunteered to make posters and said the public needs to be informed of the already-existing laws.

Feilner suggested increasing fines and the 3-foot right-of-way clearance law.

Leith-Dowling reported the school has addressed the safety issue.

Heinbockel said driver's safety was more important in the past. He said maybe it is time for the State to regulate and enforce licensing of motorized vehicles. At the same time the speed limit must be reduced.

Feilner said Helkenn/DOT reported they are paying thousands to repair damages caused by four-wheelers.

Heinbockel said Kenai Peninsula Borough and the City of Soldotna have resources and the ability to impound snowmobiles and four-wheelers, which is an effective tool in managing the problem in their communities.

#### **ADJOURNMENT**

Feilner moved to adjourn at 8:23 pm; Martinez seconded. Motion carried.

Letha Burcham, Acting City Clerk  
Pat White, City Clerk

Approved: September 4, 2007

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