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**City Council Minutes**  
**September 1, 2009 ~ 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, September 1, 2009 at City Hall in Delta Junction, Alaska. Mayor Mary Leith-Dowling called the meeting to order at 5:00pm.

Council members present: Mayor Mary Leith-Dowling, Mayor Pro tem Pete Hallgren, JW Musgrove
Sherman Stebbins, Pablo Martinez, Dawn Grossmann

Council member excused: Lou Heinbockel

City employees present: City Administrator Mike Tvenge, Finance Officer Dave Zimmerman
City Attorneys Jim DeWitt and Matt Cooper, City Clerk Pat White

Ten members from the community were present.

AMENDMENTS TO AGENDA ~ APPROVAL OF AGENDA

Leith-Dowling reported changes to the agenda:

✓ Public Hearing, Second Reading, and Adoption of Ordinances 2010-02 and 2010-03 would be moved from *New Business* to *Unfinished Business*.

✓ City Attorneys Jim DeWitt and Matt Cooper would speak after Superintendent P.J. Ford Slack introduces the school district's new principals.

Martinez moved to approve the September 1, 2009 agenda as amended; Musgrove seconded. Motion carried.

APPROVAL OF MINUTES OF THE PREVIOUS MEETING

Martinez moved to approve the minutes of the August 18, 2009 meeting as presented; Musgrove seconded. Motion carried.

PUBLIC AND COUNCIL COMMENTS ON NON-AGENDA ITEMS

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

REQUEST TO SPEAK

Delta-Greely School District (DGSD) Superintendent P.J. Ford Slack introduced new principals:

- Duncan Ware, originating from Tennessee, is the new principal for Gerstle River, New Horizons High School, and Delta Cyber School. Ware will complete his doctorate in January.
- Patrick Mayer, Ft. Greely 6-8 School Principal, is an Alaskan, returning to Alaska from California. Mayer lost all his belongings on the Alcan after a U-haul accident.
- Robert Grimes, DHS Principal and the new weatherization project leader, is formerly from Georgia, is retired military, has a number of years of experience, and speaks foreign languages.

Ford Slack displayed a depiction of the weatherization project and a vision of the school campus in ten years. She said a health zone has been created between Nistler and North Clearwater, which includes the fairgrounds, elementary school, rink, hopefully some cross-country paths, and the High School complex. Ford Slack explained hazards: darkness, lack of sidewalks, and traffic that ignores speed limit and stop signs on North Clearwater (that runs through the school campus). She said the envisioned plans may not happen for five years, but DGSD plans to increase outdoor lighting around the new district office.

Grimes invited Council members to see the weatherization project at the High School and said he anticipates a generous donation from the City in support of it.

City Attorney Jim DeWitt, referenced the proposed amended ordinance (2010-03) under *Unfinished Business* and a letter, dated August 26, 2009 that he sent to Commissioner Lloyd Denby of Alaska Department of Fish & Game and Cliff Judkins, Chair of the Board of Game. DeWitt said the ordinance is a poor substitute for a solution because the problem is hunting within the City limits by hunters who may not know the boundaries, locations of residential housing, where students wait for buses, etc. The solution would be to make Delta Junction a controlled management area like Palmer-Wasilla, Harding Lake, the City of Fairbanks, and the City of Healy. Only the State of Alaska can regulate the means by which game is taken. Constitutionally that power is vested in the Board of Game (BOG) or the Department of Fish & Game. The City attempted to get the BOG to make Delta a controlled management area, but they took no action. Delta cannot regulate hunting so creating a prohibition on some kinds of firearms is an attempt to manage the risk, but it is not a good solution because Delta does not have a police department, it is controversial in the community, and it applies only inside the city limits and the problem exists in the whole Deltana region. Whoever has the authority, whether it is the BOG or the Department of Fish & Game, needs to take action to make this a controlled management area. In the meantime, he asked to consider fine-tuning the proposed ordinance amendment to use the language that was adopted for the Palmer/Wasilla Management area, "... the area is closed to hunting except that big game may be taken with a muzzleloader, shotguns with slugs, and bow and arrow only, with weapon-specific certification." Discussion followed regarding using the language as it is written in the 2009-2010 Alaska Hunting Regulations, the City of Delta Junction's inability to regulate the taking of big game, considering litigation, and not being able to resolve anything before this year's hunting season.

Hallgren said the current ordinance states rifles are not to be discharged within City limits for the taking of big game. The issue is to stop hunters from shooting moose near residential homes with .50 caliber weapons.

DeWitt said the real solution is for the BOG and Department of Fish & Game to act on behalf of the City and create a controlled management area. It may require Council members to write letters.

DeWitt, referenced the City Code of Ordinances, Title IV, Land Use, Section 4.70.040 (a/c) and *New Business* item, Stanford Apartments - Request to Vacate Granite Avenue ROW Easement. He said there are two ways of accommodating the request. 1) Grant a temporary revocable license to put the drain field in the undeveloped street, which would be the simplest and cleanest way, but would require a resolution because it deals with disposable property. There is no sale of real property. Should the City want to develop the street, the license would be revoked and the drain field would have to be moved. 2) Per City Code, Section 4.70.040(a), a petition would need to be signed by the "...municipality or owners of the majority of the front feet of the land fronting the part of the street sought to be vacated.... It shall be accompanied by a copy of the existing plat showing the proposed alteration or replat." A hearing is held not more than sixty days after filing and the Council has thirty days to veto it. It becomes official if it is not vetoed. The plat amendment gets recorded and, per fair market value, property owners acquire ownership of the property to the center of the street. The City Council serves as the Planning Commission in the absence of one being appointed. DeWitt said property owners would be required to provide the City Council with an appraisal of the property that is to be disposed. The City is entitled to compensation for a special use easement (a permanent conveyance of real property that is specified to a single use), but not a revocable license (a revocable conveyance of property).

Hallgren said all subdivided lots must have legal access to public streets. He questioned if some of the lots would be landlocked or if they have alternate access. He asked if property owners would be required to pay for property if Granite Avenue is vacated.

DeWitt said the developer must get signatures on the petition and presumably they will pay part or all of the cost for the property acquisition.

Discussion followed regarding ownership of non-State roads that reverted to the City when it incorporated as a municipality.

DeWitt referred to a September 1, 2009 memo he wrote, titled Proposed Amendments to Title 21, Fire Subscription Service. He said the problem is that the City of Delta Junction has partially supported the Fire Department by offering residents the opportunity to pay an insurance fee against a fire call. If there is an emergency they have, in effect, prepaid for the call. If they have not paid, they are charged (\$2,500 for the service). DeWitt said the voluntary "tax" is perfect for Delta Junction, but Alaska Statutes defines it as insurance that the City is not authorized to sell. He proposed using language in his memo to ask the Alaska Legislature to amend the definition of insurance, to create an exception to exclude these kinds of municipal payments. DeWitt said once Representative John Harris supports it, he would present a resolution to the City Council and, upon adoption, submit it to Alaska Municipal League (AML). Leith-Dowling said a fire subscription donation is a small way the community can support the Fire Department.

REPORTS

Rescue Squad – Michael Nuckols reported:

- The new ambulance is in operation, but has not been to Fairbanks yet. Handheld radios are being used until the Alaska Land Mobile Radio (ALMR) base is set up in the new Medic I.
- He questioned the status of the Emergency Services Administrator.

Leith-Dowling suggested a work session.

Nuckols said Fridays are good for him.

- Medic II is in Fairbanks for a front-end alignment and electrical issues.

Airport – JW Musgrove reported:

- The airport surface needs graded before the ground freezes, so brush does not get a foothold on the main runway.
- A couple local pilots have expressed concerns about the rifle range. Most people are responsible, but unrestricted discharge of high-powered weapons in the airport traffic pattern is a hazard. The Department of Environmental Conservation (DEC) is interested in hazardous lead contamination, but they are not responsible for the closing of the rifle range.

Cemetery – Mary Leith-Dowling reported Dick Souhrada voluntarily turned off the water and drained the pressure tank and water lines at the cemetery.

Mayor – Mary Leith-Dowling reported she attended the Ground-based Midcourse Defense (GMD) Appreciation Reception that was sponsored by Boeing on August 25 in Anchorage.

City Clerk – Pat White reported:

- Candidate filing period for the October 6 election ends on September 11.
- Council meetings are scheduled for the first and third Tuesday of every month. Municipal Elections are the first Tuesday in October. City Council meetings in October will be on the 13th and the 20th with the Certification of Election Results on October 13.
- The November 17 meeting will be postponed to November 24 because of the AML Conference in Anchorage. Airline rates are reduced for anyone wishing to make arrangements now.

City Administrator – Mike Tvenge reported:

- He met with Congressman Young's staff, Chad Padgett, Pamela Day, and Meredith Kenny, on August 25 to discuss local issues. Congressman Young is still developing natural resources and State infrastructure.
- A change in landfill hours, as discussed at the August 18 meeting, will take effect on September 29. The landfill will be open on Tuesdays, 11:00 to 5:00 (presently 6:00pm), and Fridays, 11:00 to 4:00 (presently 3:00pm). Saturday hours, 9:00 to 3:00pm, will remain the same.
- Kimberly Phillips, Department of Commerce Grants Administrator, said the paving grant would fund the parking bumpers for the library and the Community Center. Sixteen were approved at the August 18 meeting and additional ones were ordered because there is space at the library for twenty. They will be temporarily placed and anchored with rebar once permanent locations are decided.

Finance – Dave Zimmerman reported Mikunda, Cottrell & Company is tentatively scheduled to begin the annual audit on November 2.

Discussion followed regarding putting the audit out for competitive bid.

Library – Mary Leith-Dowling reported the Fairbanks Sweet Adelines are scheduled to perform on September 12 in the large gym at the school, in celebration of Alaska’s 50th anniversary of statehood.

Park / Recreation – Mike Tvenge said the park pavilion would be closed down by mid-September.

Hallgren reported he personally conducted a nationwide inspection of outhouses from Florida, through Canada, to Delta Junction and he believes the best outhouse is to some degree similar to what is at the local park, basically a cement throne with bars that prevent children from disappearing.

Tvenge said the new (2-seater) outhouse at the Clearwater Campground cost about \$60,000.

Public Health & Safety – Pablo Martinez reported the Alaska Division of Public Health Preparedness Program is scheduled to host the H1N1 (swine flu) Pandemic Influenza Workshop at City Hall on September 17, 8:30am to 4:30pm. The focus of the workshop will be to develop a preparedness plan for our community that includes such things as community containment strategies, protection for critical community services, information and risk communication, and mass vaccine dispensing plans and protocols.

Hallgren said a written plan is needed because the problem has never occurred in the history of the City’s existence. A plan collecting dust is better than not being prepared.

Discussion followed regarding Council members and staff that would be able to attend the workshop.

School Liaison – Sherman Stebbins stated the Delta Football Team is scheduled to go to Barrow this weekend. Delta defeated Valdez last weekend and Barrow has also had one win.

UNFINISHED BUSINESS

Public Hearing, Second Reading, and Adoption of Ordinance 2010-02, An Ordinance Amending City Code of Ordinances, Title II, Elections

Hallgren moved to open the public hearing of Ordinance 2010-02; Martinez seconded.

Tana Wood asked about Section 2.10.020(b) wording, “Nominations for filling of elective offices of Mayor and Council members shall be made only by petition of at least ten (10) qualified voters, ...”

Discussion followed regarding the error, in which Musgrove asked to strike “*Mayor and.*”

Hallgren moved to amend 2.10.020(b) by removing, “... *Mayor and* ...”; Martinez seconded. Motion passed.

Hallgren moved to close the public hearing; Martinez seconded. Motion passed.

Hallgren moved to adopt Ordinance 2010-02, An Ordinance Amending City Code of Ordinances, Title II, Elections per the final reading and amendment; Martinez seconded.

Motion passed unanimously on a roll call vote.

Public Hearing, Second Reading, and Adoption of Ordinance 2010-03, An Ordinance Amending City Code of Ordinances, Title III, Public Health and Safety, Chapter 3.07, Prohibited Hunting of Big Game, Section 3.01.011, Regulation of Firearms

Hallgren moved to open the public hearing and second reading of Ordinance 2010-03; Martinez seconded.

Tana Wood said anything the City Council does to regulate firearms is appreciated because it impacts the whole Deltana area.

Hallgren moved to close the public hearing; Martinez seconded.

Hallgren moved to adopt Ordinance 2010-03, An Ordinance Amending City Code of Ordinances, Title III, Public Health and Safety, Chapter 3.07, Prohibited Hunting of Big Game, Section 3.01.011, Regulation of Firearms; Martinez seconded.

Stebbins said he agreed with how firearms are regulated in the Palmer-Wasilla Management Area. The range in taking big game is limited because weapons are restricted to a muzzleloader, shotguns with slugs, and bow and arrow. Stebbins said he does not like the proposed wording to change the ordinance because handguns can travel the same distance and have the same punch as rifles. The amended ordinance is not in the public’s best interest.

Hallgren said no one wants stray bullets, but he has concerns about a “sledgehammer approach.” He approves of a controlled area, but not in regulating the discharge of firearms entirely.

Discussion followed regarding strength of pistols, enforcement abilities (regulating hunting and/or firearms), and issuing letters to permit hunters.

Motion failed on a roll call vote with three (Stebbins, Musgrove, Leith-Dowling) voting against and three (Hallgren, Martinez, Grossmann) voting in favor.

NEW BUSINESS

Stanford Apartments - Request to Vacate Granite Avenue ROW Easement

Stephen Hammond, of M2C1 Construction & Engineering, explained how a location was selected for a new septic system for Stanford Apartments. The current leach field, located on Lot 11 and adjacent to West 2nd Street, will be decommissioned and abandoned. A 12-13 foot clay layer makes it difficult to dig out leach fields or to fill them with gravel. Ground water is deep enough, but any septic system in the area must be installed 20-25 feet to get through the layer of clay. Also, the State does not recommend tampering with old leach fields. They prefer locating a new one, plus a future replacement.

Hallgren said he does not favor vacating Granite Avenue because of needing to provide legal access to land locked properties, but he does not anticipate developing it in the foreseeable future either. He asked if granting a revocable license for use of the right of way would impact any neighboring lots or any future lots with alternate road access or adequate distance from wells.

Hammond said an easement agreement was considered by the neighbors (Baburkins), but there was a problem with running into the existing leach field. Helen Orcutt owns the Hard Wok and its property. He explained GVEA's sixty-foot ROW, which is close to the apartment building.

Hallgren asked if there would be a problem with traffic running over the leach field if Granite Avenue were ever to be developed, if it is dug deep enough.

Hammond said there are no problems driving over a leach field, but not the septic tank, which is buried 5 feet on Orcutt's property. It was installed in the early spring when the Stanford Apartments' system failed. A temporary line runs between the apartments and Hard Wok Café, under an agreement with Department of Environmental Conservation (ADEC). Washing machine use is restricted. Should the road be constructed, covers over the leach field monitoring tubes would be needed. If the City revoked the license, Orcutt, Stanford Apartments owner, would have to move the leach field to West 2nd Avenue or where Hard Wok Café is, if or when it no longer exists. Other possible locations conflict with wells that serve Stanford Apartments, Hard Wok Café, Orcutt's home, and other houses in the area.

Discussion followed regarding a similar revocable license issued last spring to Feilner/Dufendach.

Musgrove said he totally disagreed with putting a road on top of a leach field. The school and most commercial businesses barricade them. He asked if it is physically impossible to locate the leach system within the limits of the business owner's property because of concern in postponing any future problem.

Hammond said neighboring property owners granted an easement in the 1970s to place the leach field on Lot 11 of Block 6, across Granite Avenue. Before the temporary solution (a line to the Hard Wok), eight hundred fifty gallons of septic waste was being generated each day from the sixteen single-unit apartment complex. Kel's, a local septic service, was pumping the 3,000-gallon tank every three or four days.

Helen Orcutt said she's spoken to all the neighbors and no one wants Granite Avenue built. A petition is already being drafted and signed to ask the Council to vacate it. All property owners have access except one, Michael Baburkin, and he uses her driveway, which has been an easement for forty years.

Martinez said it is a gamble whether Granite Avenue would be constructed in the next forty years.

Discussion followed regarding normal public process, a public water system, common problems on small city lots, revoking the license with 30-day or 180-day written notice, and what measures would be taken to limit public use of the platted, undeveloped road.

Martinez moved to grant a revocable, non-transferable license to Helen Orcutt / Stanford Apartments for use of the Granite Avenue easement or Right of Way; Hallgren seconded.

Stebbins said the revocation should be at least six months because digging a new leach field in the middle of the winter is unrealistic.

Hallgren amended the motion to change the period to revoke the license from 30 days to 180 days; Martinez seconded.

Musgrove asked to modify #2 of the Feilner/Dufendach agreement, "The Licensee may not construct, erect or place permanent improvements or obstructions within the Licensor's right of way or easement." A leach field is a permanent obstruction and the license must reflect that.

Motion passed unanimously on a roll call vote to grant a license to construct a drain/leach field in the platted road, revocable on 180 days written notice.

Tvenge asked Hammond to hold off progress until the license can be drafted.

Purchase Orders

PO#013692 to Aetna WHO-AAS in the amount of \$11,503.21 for Sept '09 group health insurance

PO#013693 to Raymond Andreassen in the amount of \$2,500.00 for July '09 service as Emergency Medical Services (EMS) sponsor

PO#013694 to ASFA-AFCA Joint Conference 2009 in the amount of \$1,275.00 for 3 DJVFD members to attend the Alaska State Firefighters Association and Anchorage Fire Department Conference September 21/25 in Anchorage

PO#013695 to Buffalo Center Auto Parts in the amount of \$512.05 for landfill and street supplies (grease, pump, battery, spark plug)

PO#013696 to Construction Machinery in the amount of \$681.12 for 8 loader bucket teeth

PO#013697 to Denali Fenceworks in the amount of \$2,338.90 for fence for the multi-use outdoor court

PO#013698 to Fire Protection Publications in the amount of \$533.27 for 5 sets of training materials for Fire Department (Vehicle Extrication, Driving a Pumper, Pumping Equipment Use, etc. books and DVDs)

Martinez moved to approve payment of purchase orders 013692 through 013698 as presented; Musgrove seconded.

Motion passed unanimously on a roll call vote.

ADDITIONAL PUBLIC AND COUNCIL COMMENTS

Leith-Dowling called for public and Council comments with none being offered.

ADJOURNMENT

Martinez moved to adjourn at 7:08pm; Grossmann seconded. Motion carried.

Pat White, CMC

Approved: September 15, 2009