

I. CALL TO ORDER

The special meeting of the Dillingham City Council was held on Thursday, July 9, 2009 at the Dillingham City Council Chambers, Dillingham, Alaska. Mayor Alice Ruby called the meeting to order at 7:01 p.m.

II. ROLL CALL

Mayor Alice Ruby -present

Council Members present:

Keggie Tubbs
Bob Himschoot
Steve Hunt
Sue Mulkeit
Carol Shade
Tim Sands

Staff/Project Manager(s) in attendance:

Randy Romenesko, Special Project Manager
Richard Thompson, Chief of Police
Frank Barrus, Finance Director
Gregg Burton, Assistant Finance Director
Jayne Bennett, Executive Secretary

III. APPROVAL OF MINUTES

There were no minutes.

IV. APPROVAL OF CONSENT CALENDAR

Clerk note: consent calendar items occur regularly and by approving the consent calendar the items are adopted.

APPROVAL OF AGENDA

MOTION: Keggie Tubbs moved and Steve Hunt seconded the motion to approve the agenda.

Discussion: None.

VOTE: The motion passed unanimously.

V. SPECIAL BUSINESS

A. Wood River Road Project Update with State Senator Hoffman, State Representative Edgmon, and Representatives of Alaska Department of Transportation & Public Facilities

Mayor Ruby acknowledged special guests Senator Hoffman and Representative Edgmon. Stated that the Council would receive a presentation from Department of Transportation (DOT).

Senator Hoffman reported that he met with Representative Edgmon and the Deputy Commissioner of DOT Frank Richards to discuss the Wood River Project. He stated that the money needs to be obligated by November. He reported that the State needed to take advantage of the federal money to free up funds for other projects and that this way the project would be done earlier than if waiting for the State of Alaska to get the funding.

Representative Edgmon thanked Senator Hoffman as the Co Chair of the Senate of Finance in Rural Delegation for playing an instrumental role in making this happen stating further that these are one time funds that would not have occurred otherwise. He stated that there are special provisions as described by DOT attached to the spending of the funds. He noted the sense of urgency attached to the partnership with both the State and Federal entities and with the stake holders along the road as there is an accelerated timeline.

Deputy Commissioner of DOT Frank Richards stated that he is confident in addressing the issues further stating that there would be a detailed presentation. He reiterated that this project is part of the American Recovery Reinvestment Act Stimulus Package that Congress and the President put out this spring. He reported that the money would be given to another state if it is not spent and that the Wood River Project was identified as a rural area in economic distress. Commented that the project has been a priority for the department, the community and legislature for many years, that the right of way is under State control and that if they cannot certify free and clear of encroachment problems that the money will not be released.

Mayor Ruby stated that ordinarily the Council does not converse with the public during meetings but as soon as the presentations are done that the rules would be waived so that others can ask questions.

Department of Transportation Specialists reported that there would be a scope reduction to meet the schedule and that right of way encroachments and the environmental document would need to be reevaluated. They stated that there were 42 native allotments they needed to obtain permission to do surveys on for the right of entry process with the BIA; stating that it took two years to get and that FHWA did approve an environmental document in 2005. Commented that in March of 2009 a 65% review was completed under the original scope and that the expenditure of funds since 2002 shows the level of effort placed on projects.

Stated that the original scope of the project was to pave 2.8 miles of road including a separated pathway, Yako and Dagnet Drive with a quarter mile on Waskey. Reported that due to right of way issues they would have to eliminate the quarter mile spur on Waskey and forego any improvement to Yako and Dagnet Road. It was reported that there would be two 12 foot lanes and separated pathway 10 feet in width. Stated that there are utility impacts that could not be avoided noting that the right of way is not uniform along the entire length of the road and if they were occupied prior to the order that provided the right of way then they prevailed. Reported that the right of way has to do with the Territorial Road Act of 1917 of 60 feet as it was expanded by public land owners in 1949 and subsequently increased to 200 feet in 1951. It was reported that

these rights of way were established by the federal government and that the lands were transferred to the State with statehood which is how they became the owners of the rights of way.

Noted that encroachments are items that exist within the right of way that are not in the right of way for road purposes they are items that owners have located in highway easement. Reported that there are approximately 28 properties affected with a total of 43 encroachments that have to be resolved. Noting that if it meets specific criteria they can look at permitting encroachments. Stating that one alternate being discussed is the City taking over ownership of the road to deal with encroachments using existing City Code. Stated that since the right of way has changed the original environmental document approved by FHWA needs to be revisited.

Reported that the way State's Historic Preservation Office is evaluating projects has changed and so they will have to do a historical survey of road which may or may not be a problem if decided historical property in right away. Stated that there are two items pending as a contract has to be given to an archeologist to do survey and they have to create a plan to get approved by FHWA. Stated that the department, community, land owners and FHWA needs to work together to solve the problems.

Discussion:

- asked how many encroachments can be dealt with answered that they are working through the process that they have a start on the plan to get FHWA approval;
- reported that they know what the encroachments are that it is the disposition in how to deal with them that needs to be addressed;
- stated that they brought a drawing list of encroachments, will meet with property owners and are scheduling meetings to meet with individuals;
- asked if it were being proposed that the City take over ownership answered that it was an alternative option that was being talked about internally in DOT;
- reported that permitting encroachments that are out of slope limits still does not solve the land owners problem as they would still have a cloud over it;
- stated that under the State and Federal system regulations there is a fee requirement to vacate any portion of the right away that not affected by any improvements and that property owners would have to buy the State out;
- stated that under the City Code they can vacate the property at no cost and clear the property owners title;
- asked if the State would have to relinquish maintenance of road to the City in order to deal with right of way answered that it was good for the State but not for City;
- stated that it was not certain that the City would be taking over maintenance as this needs further discuss;
- asked if the City would run into the same right of way issues as State and Federal entities because the City does not have power over Native Allotments answered that by re scoping the project they will not be taking Native Allotments and that by turning over to the City that the State does not relieve itself of the Federal obligations;
- reported that procedures for dealing with encroachments are: having the property owner remove the encroachment at their own expense, permit encroachment in the right of way, or if it is determined that the portion of right of way have in the foreseeable future does not have transportation purpose they could vacate portion of right of way but would have to get reimbursed for it;
- asked if the State law allowed the State to vacate property to the municipality without a fee answered that if the State vacated to the City that it has to be used for highway purposes at

that point the City can pin into the road and make their own determination in dealing with encroachments and vacating for right of way;

- asked how the state values land answered at market value determined by a licensed appraiser that in this case they have easement for transportation purposes but adjacent property owner owns the underlying fee of the easement;
- stated that the State's interest is something less than whole value and that property owners do have some rights in right of way;
- asked if paying for easement and not the land answered that the land owner would be paying for the State's interest in the easement;
- commented that while DOT may not know value of easement there must be percentage of the highway easement in comparison to the value of the property answered 90% of their value as written in administrative rules;
- asked if the property could not get variance to move the structure could stimulus money and highway package money be utilized to assist the property owner of expenses to move the structure answered generally with encroachments like that do not fund moving the structure;
- asked if City would be able to provide funds or heavy equipment to help the project along answered that the question has not come before the Council so they have not made a decision but that the City is anxious to see the project go through that everyone knows the budget situation but that it is not entirely out of question;
- asked if eminent domain would come into play answered as far as stimulus funding the State would not be purchasing any additional rights as the project is to be constructed within limits of existing rights of way in order to meet the timeline;
- asked if the Federal government can write some of those public land owners answered that the Federal Government can advocate for but not going to get road again stimulus money is a surprise lobbying for changes in legislation is the way to go but not in time to get money;
- stated that majority of the project does not go out past 100 feet right of way asked if it was possible to transfer the outer 50 feet to the City to solve the easement problems answered discussed internally need to take into account look at each property on a case by case bases;
- stated that another issue land wise is that there would be three layers of ownership with the State's right of way, the City's easement and land owner as got through project and look at vacating right of way thought it would easier if dealt directly with the land owner rather than making it a City issue;
- noted that the Russian Orthodox Church has been up for years and that the right of way chops off part of the church on the hill that right after is a Native Allotment so it does not make sense to tell the church to move answered that the variance could resolve problems which is why DOT is spending the day to meet with owners as each case is different as is the case with church that they are not moving the church as it is out of the question;
- stated that the Department has a right to use for highway purposes and the land owner has the right to have item remain under right of way that talk about vacating the right of way happens after permitting so that it can be accurately discussed as to what is in excess of right of way;
- asked what else DOT needed from the City answered that they already set up interviews and if others picked up hand outs to give to others who own property on Wood River Road they could start working on individual plans;
- stated that they are planning on holding another public meeting in August;
- thanked Senator Hoffman, Representative Edgmon, and DOT for coming out that if the City needs to devote resources the Council needs to know in time to find them;

- stated that this is a small community and while we do not have a lot we are certainly willing to do what we can;
- stated that it is unfortunate that the Federal Government gave right of way as it is impacting people lives however that it is known that there is a goal to improve the road;
- reported that they are trying to achieve this goal and appreciate the City's offer of assistance;
- stated that they will take a cooperative effort and ongoing communication so that in September it can be decided whether or not to go forward with the project;
- commented that they would hate to see the opportunity wasted and the stimulus money go back to federal government and while he may not be looked upon favorably by recommending this it is an option of last resort; that the bike path being talking about that is going to go alongside the road if that is sacrificed some how to get the road paved asked if it is an option;
- stating further that at the very least the sections where the bike path, if bike path is affecting the encroachment issues in preventing the entire road from being paved he thinks that it should be considered answered that the bike path is a workable feature in the right of way and the State can avoid almost all structures;
- stated that the City wants a separated bike path and they think they can deliver although there are utility impacts as mentioned before the State thinks they are doable that on the bike path that they will have to terminate the bike path 600 feet before the intersection at Yako;
- reported that the designers already tried to move the bike path to do as much avoidance of encroachments;
- stated that the issues that need to be resolved by an accelerated timeline need to be resolved anyway;
- commented that they do not want to guess the number of years it will take to get though the normal channels given the price of oil and declining production;
- commented that they had been living here for years that to this day they had not received something saying this is what the State needs from our property and now we are here with a \$10 million dollar project and that if we do not dig in the City loses answered here we are;
- thanked Mayor Ruby for undying support for project Senator Hoffman Representative Edgmon, the Council Members, the City Manger, DOT, and the Planning Director;
- stated that this road is on Tribal Council priority list as well;
- stated that they are a land owner that donated land to the first bike path project and that it gives them great pleasure to see people out on the bike path as it is one of greatest impacts that they would appreciate those who will give up land to give kids more places to ride and things to do;
- noted that the best way to make an appointment is to call Jayne;
- commented that they are currently looking into creating a that website would allow people to track what is going on;
- stated that it was pleasing to see the turn out and that they are looking forward to working with the stake holders and community members as it is a community project that benefits not just Wood River but the community as a whole; and
- commented that Dillingham has the largest population in the region but that it does not mean that we do not struggle as everyone else and we appreciate having such active legislatures in Juneau.

B. Resolution No. 2009-41, A Resolution of the Dillingham City Council Awarding a Contract for the Supply of Sand and Gravel for FY 2010.

MOTION: Tim Sands moved and Steve Hunt seconded the motion to approve Resolution No. 2009-41.

City Manager stated that they increased the amount of gravel because the previous Public Works Director looked into repairing and building up roads in subdivisions.

Discussion:

- asked how it compares to the amount budgeted answered that was how it was factored in amount of yards put out to bid factored out to about \$57K;
- asked if the pit that did not get bids for was going to have impact on Public Works answered that the bid would hopefully accept bid run gravel to deliver to the City stock pile ;
- stated that the gravel would be delivered to where Public Works wanted it and that the pit run contractor would require City staff to pick it up and haul it to their jobs; and
- commented that it was assumed that there are no contractors willing to walk in for a pit run at bid and that the City could still purchase case by case but may not be economical answered yes.

VOTE: The motion passed unanimously.

- C. Resolution No. 2009-42, A Resolution of the Dillingham City Council Awarding the Purchase of Three Vehicles.

MOTION: Tim Sands moved and Sue Mulkeit seconded the motion to approve Resolution No. 2009-42

The City Manger stated that she had been discussing with the Special Project Manger Romenesko looking at the equipment replacement policy the City is putting together. Stated that it is going to take a while but that in Nome they recycle vehicles every five to ten years further stating that they do not have mechanic but that we do. Stated that one vehicle looking to replace is a 1989 Suburban used in the shop which burns lot of oil. Stated that when they put together a needs list it was recommended for replacement as well as a 1993 Dodge Intrepid. Stated that the vintage vehicles were gas guzzlers along with the flatbed truck and if looking at economy of scale it is not best situation and by using smaller vehicles the City will not only save on gas but minimize operation and maintenance costs.

Discussion:

- stated that for the last five years the 1995 flatbed maintenance cost has been about \$15K putting on the sander for winter and removing in the summer;
- stated they would get rid of the Suburban that they have a tie to the Dodge but recommend that the flatbed would be used in winter for sanding;
- asked where funding was coming from answered the equipment replacement fund that it does not include barge cost;
- reported that the Finance Committee agreed not to utilize the funds until there was a policy in place for a number of reasons including who had priority access to those funds and that it is important to work out the details because of what they went through to establish the funds;
- asked what the timeline was for the purchase answered that the City did bidding with Cal Worthington that there is a timeline to bring on the barge;

- noted that one priority for the Council was to be more energy efficient that while it could wait another year at the government rate they could get them for \$18,900;
- stated that they would probably vote no while they understand the necessity to become energy efficient that from what they hear it will not take a year to put the policy in place and that it needs to be before the City starts replacing;
- stated that it was not clear that the City was going to save money unless they take a hard line on getting rid of vehicles that are not fuel efficient;
- commented that when other agencies purchased items that freight was included asking where money for freight was going to come from answered out of the equipment replacement fund;
- stated that there should have been a resolution as to when to buy the cars commenting on concern that this is a fast move as it is not an emergency;
- asked not to take action now as there was conversation with some volunteers at the Fire Department who felt like they were not given the same opportunity as there was no equipment replacement in their budget as it was made City wide with one assurance being that the Council would adopt a policy that the City Manager would work through departments and that priorities would be set;
- stated that it was talked about in the Finance Committee about having a policy when creating this fund knew it was going to be for every department that until have firm policy of replacement and disposition;
- stated that on other hand there has never been a better time to buy but that it will probably extend to next summer would hate to miss opportunity to buy cheap now maybe can do little more work do not know how long get policy maybe can by September and may be something want to pursue;
- stated that the City called car lots but that the only ad was done in the Bristol Bay Times (BBT);
- stated that the way the Code reads with items under \$20K the City can do phone bids thought it was appropriate as it would cost \$1K to advertise;
- reported that there was an understanding as to why the ad was run in the BBT and phone solicitation as a small ad in the Anchorage Daily News costs \$2-5 hundred but the understanding was that the City would get bids and run through the Finance Committee to make recommendation as to how the City was going to pay for them;
- requested freight cost be included when the resolution comes back;
- asked why the City did not check in Seattle as it costs just as much to ship from Seattle as from Anchorage and is often more affordable answered that this was a good opportunity, that the three are similar to the Police Department, are all white with basics that all the City has to do is put the logo on them;
- stated uncertainty in using equipment fund for replacing vehicles of this nature as it should be budgeted instead of using a third of the equipment fund as they could be used for more critical items as they do not see that three rangers are the most critical way to spend the money;
- asked if the Finance Committee could get a policy together and schedule a meeting in order to catch the barge;
- stated that the problem is that if the City is keeping the other vehicles and adding to the fleet for the growing staff that it needs to be done in the budget process as it is not replace; and
- asked if the City contacted with Cal answered no.

MOTION: Keggie Tubbs moved and Tim Sands seconded the motion to postpone Resolution No. 2009-42 until the August meeting.

VOTE: The motion passed unanimously.

- D. Hearing of Protest by NORCON, Inc. Regarding Award of Contract to Alaska Professional Construction.

Mayor Ruby noted that the recommended from the attorney was that protest taken under consideration of open Council. Mayor Ruby asked if anyone from Norcon wished to address the Council.

Discussion:

- asked if they were given the opportunity to address the Council answered yes that all correspondence exchanged clearly outlines the procedure; and
- asked if anyone from Alaska Professional would like to address the Council.

- E. Resolution No. 2009-43, A Resolution of the Dillingham City Council Approving the Award of a Contract to Alaska Professional Construction, Inc. for the Construction of the New Water Treatment Plant and Water Storage Tower Upgrade Project.

MOTION: Keggie Tubbs moved and Tim Sands seconded the motion to approve Resolution No. 2009-43.

Special Project Manager Romenesko:

- stated that the resolution before the Council is to approve Alaska Professional Construction for the construction of the New Water Treatment Plant and the Water Storage Tower upgrade;
- stated that the City did receive bids and prepared a summary statement that describes the process to solicit bids;
- reported that they were opened on June 2 that Bristol reviewed the qualification of the contractor and sub contractor and checked with numerous reference and recommend to award to Alaska Professional Construction with the contract; and
- stated that the City attorney has to attest to the bonding requirements and get concurrence from USDA with notice to proceed.

Discussion:

- asked if they will get started this season answered that he has not seen the schedule that they will start ordering materials but that the pumps have a 20 week lag time;
- reported that it was conceivable for the water tank storage to happen this year;
- asked if this resolution was committing general fund money as it was thought the City was looking into other sources and that use of the general fund would be a last resort answered yes that the council adopted resolutions a year ago that authorized use of water and sewer special revenue funds for partial or matching payment potential;
- stated that it has not been discussed with the City Manager that they were going to see if other agency monies to be gathered can be used as match money; and
- reported that the USDA created expense items assuming that at one point in time the City would have to borrow money to pay for project and so loans were identified as expense

item which do not start to accrue interest until after substantial completion of project that since USDA identified it for budgetary purpose a placeholder was put in.

VOTE: The motion passed unanimously.

- F. Resolution No. 2009-44, A Resolution of the Dillingham City Council Amending Grant No. 28305 from the Alaska Department of Environment Conservation Increasing the Grant Amount by Three Million Dollars for the Project Entitled Water System Improvements.

MOTION: Tim Sands moved and Keggie Tubbs seconded the motion to approve Resolution No. 2009-44

Special Project Manager Romenesko stated that this resolution accepts grant fund of \$3 million and does require a 30% match. Stated that DEC will not allow the City to encumber funds without match and the City will have to look for match to encumber the rest of the grant money. Noted that there is time but that it could happen in year or a couple years.

Discussion:

- asked if the other half don't have match is \$150K answered that we have thirty percent more like \$500K in round numbers.

VOTE: The motion passed unanimously.

VI. CITIZEN'S DISCUSSION (Open to Public)

VII. COUNCIL COMMENTS

Tim Sands

- none.

Carol Shade:

- none.

Sue Mulkeit:

- thanked everyone for coming.

Keggie Tubbs:

- noted that this was the first meeting in July that he has ever had to attend;
- thanked Jayne for filling in for the City Clerk; and
- stated that he wanted to clarify about the bike path comment that only if it was going to jeopardize the project would he consider that an option.

Steve Hunt:

- spoke

Bob Himschoot:

- welcomed Alice back;
- thanked Keggie for filling in;

- stated that a lot of people said this project would not happen but that after tonight it sounds as if it will; and
- thanked Tim Sands for the season.

VIII. MAYOR'S COMMENTS

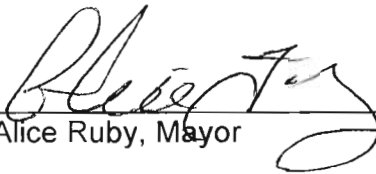
Mayor Ruby:

- thanked Keggie for filling in and all of Council;
- thanked Janice and Randy for their patience;
- stated appreciation for everyone that came including the Planner and City Manger for meeting with DOT as well as for connecting people and taking initiative;
- congratulated Scott King and Tina Garner who "tied the knot" today; and
- requested a moment of silence to acknowledge the recent losses in our community.

IX. ADJOURNMENT

Mayor Ruby adjourned the meeting at 9:15 p.m.





Alice Ruby, Mayor

ATTEST:



Karen McCambly, City Clerk