

**MINUTES
NOME COMMON COUNCIL
REGULAR MEETING
August 28, 2006**

The Regular Meeting of the Nome Common Council was called to order at 7:30 P.M. by Mayor Denise Michels in the City Council Chambers of Nome City Hall located at 102 Division St.

ROLL CALL

Members Present: Stan Andersen, Jerald Brown, Mary Bourdon, Mary Knodel, John Larson, Randy Pomeranz

Members Absent:

Also Present: City Manager Randy Romenesko, City Clerk Leslee Wessel, Utility Manager John Handleland, Police Chief Craig Moates, Visitor Center Director Josie Stiles

In the audience: Eileen H. Johansen, Norwegian Consulate, Anton Meyer, Norwegian Consulate, Donald Handeland, GCI Cable, Nikolai Ivanoff, Jana Varrati, Ted Meyer, Nome Nugget, Irene Anderson, Charlotte MacCay, Warren Woods, Doug Nicholson, Cathi Wojtanck, Ken Pohle, Rita Anderson, Derrick Leedy, Sue Steinacher, Mitch Erickson, Tara McCaw, Tim Hansen, Paul Korchin, KNOM.

INVOCATION

The invocation was given by Paul Korchin.

APPROVAL OF MINUTES

- A. August 14, 2006 Regular Meeting
- B. August 17, 2006 Special Meeting

A motion was made by C. Knodel and seconded by C. Larson to approve the minutes of the Regular Meeting of August 14, 2006 and the Special Meeting of August 17, 2006.

At the roll call:

Ayes: Andersen, Brown, Bourdon, Knodel, Larson, Pomeranz (Aug 17, 2006).

Nays:

Abstention: Pomeranz (August 14, 2006)

The motion CARRIED.

COMMUNICATIONS

Mayor Michels read the communications by title.

Discussion.

C. Brown stated regarding the radon study it looks like they only tested in the Utilidor and areas immediately adjacent. City Manager Romenesko stated it is his understanding they also tested in the main building A, the high school, as well as the gymnasium and the DOT/Admin/Dorm buildings. He stated building A had no radon issues and the gymnasium did not either and the only ones left are the utilidor and the building C which has Admin, Charter School, NACTEC dorms and DOT.

Mayor Michels clarified they will start the initial phases to mitigate. City Manager explained the proposal that has been put together by the school district right now is to do Phase I which is to do the caulking in the utilidor and the building, the weather stripping on the doors to tighten them up and to do some monitoring. They were going to do this with in house staff and their current maintenance budget. Phase II which is the more substantial component deals with the sealing of the sub slab of building D and some kind of ventilation of the Utilidoor they were proposing to do by December of 2007 and since it is a significant capital project, over \$80,000, they need to identify the funds for that.

C Larson asked if there was adequate testing to determine the level of exposure to the students in the charter school. City Manager Romenesko stated he doesn't know the answer to that question. C. Larson stated they need to find that out and also if they have started plugging the holes and dealing with the other things they were going to undertake.

City Manager Romenesko stated one of the things he did mention in his memorandum is they do need to sit down with the district to talk about the capital projects and at that time maybe their consultant can give a more detailed report on their investigation and their analysis of that investigation.

CITIZENS REQUESTS AND GRIEVANCES

Josie Stiles introduced the Royal Norwegian Consulate from Anchorage, Anton Zahl Meyer, and his assistant, Eileen Johanson. Anton Meyer stated Norway has very long tradition of diplomatic relations with Alaska. The first consul to come here was a Norwegian who came in 1901. He was guided by the good smell of fish because he settled in Dutch Harbor. His name was Rasmus Ling and later on at the time of the gold rush he took his consul title and moved to Nome. He thanked the Mayor and the City Council for giving him the honor of addressing them. The Mayor has assigned him to speak under citizen's requests and grievances. While they have been here a whole day they have no grievances. During the next several days there will be others coming from Norway, Anchorage and San Francisco. He understands at this meeting they will consider naming August 31 as Roald Amundson day. In humble anticipation that this might pass he thanked the Council in advance. The planning process for the Amundson Centennial Celebration has been going on for a very long time. It has involved many city agencies and a number of city employees. The cooperation has been excellent between everyone and he sincerely thanked them. They have enjoyed a very pleasant and productive working relationship with Josie Stiles and her staff and the Nome Convention and Visitor's Bureau. On Thursday, August 31 they will celebrate the 100 year anniversary of Roald Amundsen's arrival in Nome in 1906 with his crew of six onboard the polar vessel Gjoa. The celebration will take place at 3:00 p.m. in front of the City Hall at the Amundson memorial and in the evening there will be a grand commemoration dinner at Old St. Joes Assembly Hall. He mentioned the Amundsen exhibit has just been set up at the museum and it will stay until January of next year. By then it will only be another couple of short months before another Norwegian visitor will arrive in Nome. Robert Sortie will be visiting and he will be doing his utmost to be the first in line of the Iditarod dog mushers to arrive on Front Street. He thanked them for their kind attention and for their gallant effort to make Nome an even better place for its residents and all of them who come to visit.

Mayor Michels thanked Consul Meyer and stated they appreciate celebrating this wonderful and heroic event.

Jana Varrati passed copies of her statement to the Council Members. She stated she is pleased to see they are having an executive session with the City Attorney; hopefully that session will include an in-depth exploration of what limited options may yet be available to them regarding the issues brought up by individuals and members of TAC/S at their last non-special meeting. She believes that they as individual council members and as their representatives have not been vigilant regarding mine issues nor have they been informed about their legal responsibilities to inform/hear from citizens surrounding the Rock Creek/Big Hurrah mines as they affect the citizens of Nome. That is their job! They as citizens expect the Council as their representatives to be their representatives, to be out in front of the issues affecting them, to inform themselves about those major issues and then to bring them to them in public hearings, rather than they bringing them to the Council. This particular issue is so very different from the usual ones which they may usually be confronted. This is personal only in that it affects the life, the life style and the

safety of everyone in the City of Nome and the shareholders of the regional and local native corporations most of whom are their voting constituents. She has to tell them that she as their constituent feels betrayed by their passive acceptance of what little information they are fed for these Council meetings. Did they not ever think about or imagine what the overall effects of this mine would have on the City? About the costs to the City? In the two years of so called open meeting some of them have stated they as citizens had ample opportunity to make known their concerns. She asked in those two years of open meetings did they participate on behalf of their concerns. If so, how would they even know their concerns? They called no public meetings they never asked them. It is only because of the concern and vigilance of citizens that once they found out the Council became aware of these issues. And, too late for most of it. Please represent them as they would represent themselves and their grandchildren.

In addition to this she asked them as common council members if they would please consider forming the agenda and publishing it in the Nome Nugget the newspaper of notice in the week before the Council meetings take place. She has been in this conversation for the almost nine years she has lived here. She has been met with the retort that they can't get the people in the departments to get the information until the last minute. In every other city in this state the agendas for the council or the assembly meetings are published in the newspaper in the week before the meetings take place. She doesn't know why that can't be done here. She doesn't know why they have to rely on e-mail, on personal contact with council members, or calling the city clerk or council members or people in the city offices. Why can't they get it together by Tuesday of the week before the Monday in which their council meeting will take place so they as citizens can see that published agenda? Those are her two absolute concerns. She doesn't understand why neither of them have been addressed nor acknowledged or come to fruition. Especially she wants to bring to their attention that they have been remiss in asking citizens what their concerns are about this mine. Especially the cyanide issue. How will it come in to the city, how is it going to be received, stored at the port, transported, and secured. How is it possible that 1million pounds of cyanide in golf ball sized compartments can be guarded and secured.

Mayor Michels stated the LECP met with Nova Gold representatives today and she asked those items were brought up. The City is moving forward with the transportation issue. They are also looking at ordinance issues which were the same concerns she voiced at the last council meeting.

Ms. Varrati asked the Council to discuss with the attorney the lack of legal public notice for all of the state permits and the Corps Permits. Mayor Michel stated they have done that. Ms. Varrati stated the citizens don't know that so that is the issue and they as citizens would really like to have that addressed and taken forward by the city on their behalf.

Mayor Michels stated the mine representatives are at the meeting if there are any questions the council may have during their comments.

PLANNING AND ZONING

SPECIAL ORDERS

UNFINISHED BUSINESS

NEW BUSINESS

A. R-06-08-05 Requesting FY 2007 Payment in Lieu of Taxes Funding from the Department of Commerce, Community, and Economic Development.

A motion was made by C. Knodel and seconded by C. Pomeranz to approve R-06-08-05.

At the roll call:

Ayes: Brown, Bourdon, Knodel, Larson, Pomeranz, Andersen

Nays:

The motion CARRIED.

B. R-06-08-06 Approving Acceptance of a Designated Legislative Grant from the State of Alaska for the Public Safety Building Project.

A motion was made by C. Pomeranz and seconded by C. Bourdon to approve R-06-08-06.

At the roll call:

Ayes: Bourdon, Knodel, Larson, Pomeranz, Andersen, Brown

Nays:

The motion CARRIED.

C. R-06-08-07 Approving Acceptance of a Designated Legislative Grant from the State of Alaska for the Northwestern Career and Technical Center Dormitory Project.

A motion was made by C. Knodel and seconded by C. Larson to approve R-06-08-07.

At the roll call:

Ayes: Knodel, Larson, Pomeranz, Andersen, Brown, Bourdon

Nays:

The motion CARRIED.

D. Request from Rita J. Anderson to waiver/release/subordinate the right of reverter and reversionary interest retained on her property, located at 1004 East 4th Avenue, Lot 10A, Block 74A, Tax Lot #001.032.10.

A motion was made by C. Knodel and seconded by C. Andersen to approve the request from Rita J. Anderson.

Discussion:

C. Andersen asked for further clarification of the memorandum from City Clerk Wessel.

City Clerk Wessel stated they have consulted the attorney to see if it is possible to do what has been requested. It is their understanding that it is difficult to do. There are a couple of options. What the attorney says is the right of reverter provides an interest in the property and as such the City Council would have to follow the disposal of real property procedures in Chapter 2.10 of the code. There is no procedure in the code which is specifically applicable to reverters or to residential real property and this situation does not fit into any of the situations covered in NCO 2.10.030 (b) through (e) so it falls back to requiring the sale of the interest in real property in a bidding process. The reverter can be sold for less than fair market value if this is provided for by Ordinance. In a perfect situation the reverter would come up for bid, the property owner would purchase it for \$1.00 and the reverter would merge with the exiting title and then it would go away.

C. Andersen stated it looks like the property was sold in 1995. City Manager Romenesko stated the property was originally sold by the city in 1982. C. Andersen stated the reverter says within two years they have to build a residence and after five years they have to have the hook up with sewer and water. City Romenesko stated the reverter also states that it shall be residential property only.

City Clerk Wessel stated the reverter is to keep residential in that neighborhood. Whenever the property is sold the reverter keeps it sold as residential property or the city can take it back.

C. Andersen stated he was under the impression when they sold all that property it was going to go for residential and nothing else, but once they bought the property and put a residential house on it, by reading this it should go away. Has anyone else had this problem? City Clerk stated there are several properties in the city that has the right of reverter on them. City Manager stated it is the first time he is aware that a person had difficulty selling their property because of this.

Mayor Michels asked for an explanation of the concern of the possible third party purchasing this right. City Clerk stated if they do it through bid process, someone else could bid on it for a higher amount, be successful and then take over ownership of that reverter which would be more detrimental to the property owner than the City council having the right of reverter. That is not the preferred method of going about doing away with this. So there are a couple of options. One, the City can maintain status quo and keep that reversionary procedure on that property, have the property owner seek another mortgage company. They have sold several pieces of property in this community without this being a problem.

C. Andersen asked if they aren't working on the planning commission rules which will take care of all of this. City Manager stated not necessarily because this deed has that reverter on it. Just because they zone an area residential, which is essentially what the Council was doing in 1982 when they sold this property, it does not change the deed.

C. Andersen the problem with the title company is they consider this a lien on the property. City Clerk Wessel stated the title company is not comfortable with this provision in the deed. The second option is the city can amend the city code to include an exception to the public bidding fall back. They could amend to add a section that says upon request of the citizen the council would have the right to remove that right of reverter or reversionary language out of the deed with certain criteria or requirements. Those are the two options at this point.

C. Andersen but the way it stands right now they don't have the mechanism to do that. They can leave it the way it is or they can amend the city code.

C. Knodel stated they should look at amending the city code. If they accept the zoning as proposed it will stay residential anyway. If someone wants to build commercial they will have to come to the planning commission and get a special permit. City Manager Romenesko stated that is correct once they have the code in place. Right now they don't have that in place.

Mayor Michels stated time is of the essence because Ms. Anderson wants to retire. It is kind of scary to put it out to bid and not know if someone else is going to come and buy the reverter. City Manager Romenesko stated the notice of disposal of property is a thirty day process. He believes the code can be amended through two readings and a public hearing. It would probably be more expedient to amend the code.

C. Larson declared a conflict of interest on this because he owns a piece of property that has the same provision on the deed. But, to him the whole thing is diminimus or of such insignificant value that maybe they could ask the attorney whether they could declare these interest diminimus and deed them to the people.

Rita Anderson stated she spent about two to three hours this morning looking at tax records on her block as well as all the adjacent blocks, researching the whole issue of how many property owners might be similarly affected as far as having that same language. She looked at six blocks on Fourth Avenue between M and N street, fourth to fifth and fourth to third. She looked at 61 different properties and 41 have the right of reverter language in the deed, but interestingly enough in that research there were at least two cases where the reverter had been subordinated by the City. So they have done it in the past.

Mayor Michels asked if this was before the code adoption. City Clerk Wessel stated that was back in the 1980's before the code language was adopted and that is why they were able to do that at that time.

Ms. Anderson stated she would assume it probably happened in similar circumstances to hers where a property owner is selling and it depends on the buyer, the loan company and the title company they might

have to go through. The title company is reluctant to not be in the first lien position. Basically the language when it was subordinated in the past subordinates the city's interest only to the first lien holder. They are trying to sell a property in a soft market and time is of the essence.

C. Andersen asked about the subordination—they didn't give up the right of reverter, they just moved down to the second lien. Mayor Michels stated it was before the code was adopted. C. Andersen stated it still seems like an easy way to ask the attorney to do it.

C. Larson would like to lay it on the table until they talk to the attorney. City Clerk Wessel asked if that would go beyond this meeting. C. Andersen stated he would withdraw his second if the person making the motion will withdraw and then they can do something. City Manager Romenesko stated he doesn't think they will get an answer this evening. C. Knodel withdrew her motion. C. Andersen withdrew his second.

E. Mayor's Proclamation honoring Roald Engebret Gravning Amundsen.

A motion was made by C. Larson and seconded by C. Knodel to approve the Mayor's Proclamation.

At the roll call:

Ayes: Pomeranz, Andersen, Brown, Bourdon, Knodel, Larson

Nays:

The motion CARRIED.

CITY ATTORNEY REPORT

UTILITY MANAGER REPORT

Utility Manager Handeland stated:

- Various resolutions the Utility Board acted recently are in their packet.
- During this last week they received their 2.2 million gallons of fuel at \$2.56. They will have to borrow \$5.5 million from the bank to pay for it. The fuel surcharge is going up by 6 cents. He handed out a resolution that will come at the next meeting to authorize the loan. Mayor Michels asked if this is the same language they had to do to move the amount up last time. Utility Manager Handeland stated this is actually the resolution that approved the sales of the bond. They have already taken one action on this fuel note and this will just formalize the bond issue and their sales to Wells Fargo.
- He stated they are beginning to work on Sixth Avenue on G Street. The traffic on Sixth Avenue will be curtailed for the next month and a half.

C. Larson clarified that Resolution 6-14 asking for \$7,000,000 in interim financing for utility construction replaces Resolution 6-08. Utility Manager Handeland stated the original was \$5,000,000 and they had to replace it with \$7,000,000.

C. Knodel asked if they are still on target for the new generator. Utility Manager Handeland stated he would get them additional information at a later meeting. They are looking at some time in January to turn the switch.

C. Brown asked if there is anything new on wind generation. Utility Manager stated they are still monitoring in two locations and plan for a third.

CITY MANAGER REPORT

City Manager Romenesko stated

- They substantially completed and accepted the cafeteria/gym project on Friday of last week. They did training of kitchen staff so they are able to utilize the new facility. The punch list work is ongoing. The project should be winding down to finish here shortly.
- The sheet pile project with the Corps should have substantial completion by 9-06 and a prefinal on the navigation improvements project will be on 9-7. Both of those projects are winding up real quickly.
- The west side revetment was finished this weekend and they will be moving to the east side this week.
- Bid opening for the Snow Storage Facility will be on 9-1. He anticipates requesting a special meeting next week on Wednesday for awarding that bid and at that time they can also get some of the other issues taken care of.
- He thanked the fire department for filling the swimming pool. That facility is scheduled to be open to the public right after labor day.
- In the packet under the correspondence section notice is made of the Nome Youth Forum scheduled for September 18 at 7:00 p.m. to discuss various youth issues. This is a partnership between the City and the Kawerak Wellness Forum. They have invited the district attorney, the court, youth court, probation office, the youth facility, big brothers big sisters, the Rec Center Director and various other people who deal with youth.
- Mayor Michels and he met with General Peabody who is the Corps Pacific Ocean Division Lead Officer and Colonel Wilson who is with Alaska District August 22 to review the Harbor Improvements Project.
- He met with Eileen Norbert and Kacy Fullwood regarding the Kawerak Cultural Center. Kawerak has a three year planning grant. They are starting year two and they are actively developing partners for their project. He has asked those two ladies to meet with the museum and library commission to inform them of the progress and for further discussion regarding potential partnerships with the City.

COUNCILMEN COMMENTS

C. Andersen had no comments

C. Brown had no comments.

C. Bourdon had no comments.

C. Knodel stated she drove by the dump and wanted to congratulate Gary Hart and his staff on their cleanup. It looks mighty fine out there and everyone who complained should take a drive because it looks very nice. He has done a good job. She reminded people that school has started. There are lots of little bodies on the roads in the mornings and make sure they stop for school buses when the lights are flashing

C. Larson advised representatives of the gold company about the concern in the community regarding the use of cyanide. One of the points that apparently has been raised by Ms. Varrati and Mr. Ahmasuk is the issue of notice and whether adequate notice or notice as required by the Alaska Administrative Code was provided to the public about the filing of the application.

Doug Nicholson, Vice President of NovaGold, stated they believe there was sufficient public notice given. There were two ads run in the Nome Nugget announcing the public meetings as well as Bucket Line articles that were written announcing what the public process would be. Mr. Ahmasuk as filed his request for an informal review and so the state will make a determination on that. C. Larson clarified he is relying on the publication in the Nugget of the two notices that were not consecutive. Mr. Nicholson stated he is not familiar personally with the particular statute as cited, but he believes the state will find that sufficient notice was given. Mayor Michels stated he also ran it in the Anchorage newspaper. Mr. Nicholson stated also in the Fairbanks and it was well announced. As well as he has been out here four years talking about this project and they have had state representatives write articles in the paper about the public process. He believes people should have been sufficiently aware of what was being proposed. He made reference to all the documents that have been made available to the public library on the project.

C. Larson stated there is a lot of public concern about the use of cyanide and he thinks there are quite a few people who feel they were blindsided by this because when they first started talking about this project they said no chemicals.

Mr. Nicholson stated he doesn't believe that is correct. He was the one who was giving most of the talks in the town and what they said was they would try to avoid the use of cyanide, but he always said they would look at it. There has always been a clause in their presentations when they have mentioned the use of flotation chemicals and that is how they were going to try to avoid the use of cyanide. They didn't think they needed to use cyanide early in the project. Now as they studied and as the project was developed and more information became available then it was determined that cyanide would be beneficial to the process. Cyanide carries a bad name. If he could call it something else he would but then they would accuse him of trying to hide it. It is another industrial chemical and there are lots of regulations and lots of history in its use. It is a well regulated produce and procedures for its use are well established. So handled properly it is just like any household chemical. It is a perfectly safe procedure.

C. Larson asked if the company has any plans to have any additional public meetings. Mr. Nicholson stated they are always ready to provide information and are willing to hold any type of public forum here in town. They could put up their slide show and walk through it—walk through all of the processes. They have always been open. He feels they have been very honest with the community and welcomed people to come in with their concerns. When they are thrown up as a way of negating the project then he has a problem, but if someone wants to come in and discuss what they are proposing to do, they have always been willing to do that.

C. Pomeranz had no comments.

MAYOR'S COMMENTS AND REPORT

Mayor Michels asked the Council if they are interested in doing the work session this evening or at a different time. It was determined to hold the executive session, end the council meeting and then go into work session.

EXECUTIVE SESSION

A motion was made by C. Andersen and seconded by C. Knodel to enter executive session to discuss personnel matters and consider advice from the attorney subject to attorney-client privilege.

The Council entered executive session at 8:20 p.m.

The Council reconvened the regular meeting at 9:07 p.m.

ADJOURNMENT

A motion was made by C. Andersen and seconded by C. Knodel that the meeting be adjourned.


Hearing no objections the Nome Common Council adjourned at 9:07 p.m.

SIGNED AND DATED THE 11th day of September, 2006.



HONORABLE DENISE MICHELS, Mayor

ATTEST:



Leslee M. Wessel, City Clerk/Treasurer