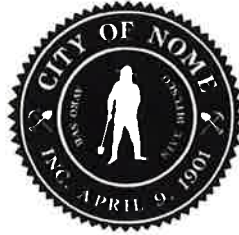


Mayor
Richard Beneville
Manager
Tom Moran
Clerk
Bryant Hammond



Nome City Council
Stan Andersen
Jerald Brown
Doug Johnson
Mark Johnson
Adam Martinson
Lew Tobin

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**NOME CITY COUNCIL
SPECIAL MEETING AGENDA
THURSDAY, OCTOBER 4, 2018 @ 11:00 AM
CITY HALL CHAMBERS**

I. ROLL CALL

II. PUBLIC HEARING

- A. Appeal of City Clerk's Determination of Meghan Topkok's Qualifications to Hold the Office of Councilmember

III. ADJOURNMENT

**MINUTES
NOME CITY COUNCIL
SPECIAL MEETING – PUBLIC HEARING
October 4, 2018**

The special meeting of the Nome City Council was called to order at 11:00 AM by Presiding Councilman Jerald Brown in Council Chambers of City Hall, located at 102 Division Street.

ROLL CALL

Members Present: Stan Andersen; Jerald Brown; Doug Johnson; Mark Johnson; Adam Martinson

Members Absent: Lew Tobin (Excused)

Also Present: Tom Moran, City Manager; Bryant Hammond, City Clerk; John Handeland, Utility Manager; Ken Morton, Assistant Utility Manager; Julie Liew, Finance Director

In the audience: Sandra Medearis, *Arctic News*; Emily Hofstaedter, KNOM; Meghan Topkok; Lisa Ellanna; Melanie Bahnke; Niviaaluk Brandt; Carol Gales; Becka Baker; Rolland Trowbridge; Hannah Schmidt; Alisha Bohrer; Derek McLarty; Keith Morrison; Darlene Trigg; Luisa Machuca; Nils Hahn

PRELIMINARY MATTERS

Presiding Councilman Brown asked each member present if they felt they could not reach an unbiased decision.

- Each member responded with “no.”

Presiding Councilman Brown asked each member present if they had had any ex parte contact with Ms. Topkok regarding her residency.

- Councilman Andersen stated he had a brief one-minute conversation, but explained such did not and would not bias his decision on the matter at hand. He elaborated that he had spoken with 30 – 40 people, though it did not bias his decision. Councilman Brown explained he had not had any ex parte contact with Ms. Topkok, though he explained he had received a few emails and had a few conversations with citizens, and seen a Facebook thread on the matter. He stated such communications did not bias his decision in the matter at hand.

Presiding Councilman Brown asked Ms. Topkok if she requested any member of the Council not participate in the appeal.

- Ms. Topkok responded with “no.”

APPELLANTS PRESENTATION AND EXAMINATION

Ms. Topkok thanked the Council for their time and presented her appeal based on two points:

- The language of NCO 2.15.020 does not require the candidate be a resident of Nome for the year immediately prior to taking a seat on the City Council. The ordinance as currently written is ambiguous vis-à-vis the voter qualification ordinance.
 - The language of NCO could have been very explicit, but was left ambiguous.
 - NCO 7.10.010 Voter Qualifications is explicit, requiring 30 days residence immediately prior to the election.
 - The ordinances were adopted contemporaneously.
 - The Alaska Supreme Court provides guidance (*Anchorage v. Mjos*) that ambiguity should be interpreted in favor of eligibility, so long as it is reasonable to do so.
 - It is unfair and unequal to impose the more restrictive qualification with no explicit precedent.
- The registration to vote in another municipality does not terminate her residency in Nome.
 - Ms. Topkok presented her timeline of habitation in Nome and while in school, explaining she had intent to return throughout her absence from Nome.
 - She felt it important to vote in state and national elections.
 - She chose not to vote in any municipal elections due to her transient status.
 - She registered to vote in different locations for ease of access to the ballot.
 - Her registration to vote in a different location did not terminate her residency, as she voted in the same elections she would have in Nome.
 - She did not change her driver's license.
 - She cited difficulties in voting absentee in Nome while outside, fearing her vote wouldn't count.

Ms. Topkok presented evidence in the form of articles and letters describing Nome as her home, citing difficulties in voting absentee, and the spirit of the law concerning residence.

Ms. Topkok called Melanie Bahnke to testify on her behalf.

The Clerk swore Ms. Bahnke in.

Ms. Bahnke presented testimony as to Ms. Topkok's residency and employment at Kawerak, Inc., highlighting ongoing conversations since Ms. Topkok's internship about her intent to return to Nome for employment and habitation.

The Clerk swore Ms. Topkok in.

Upon request, Ms. Topkok reiterated her presentation under oath.

A motion was made by C. D. Johnson and seconded by C. Martinson to go into executive session to deliberate the appeal.

The Council recessed into executive session at 11:35 AM.

The Council reconvened at 11:51 AM.

A motion was made by C. Andersen and seconded by C. Martinson to grant Ms. Topkok's appeal.

Discussion:

- Presiding Councilman Brown requested each Council Member state their vote and their reason at the roll call:
 - Councilman Mark Johnson voted **AYE** explaining he agreed that Ms. Topkok's interpretation of the Nome's qualification requirements was reasonable and deferred to the Alaska Supreme Court Guidance.
 - Councilman Martinson voted **AYE** citing the vagueness of the ordinance as to qualifications of voters and Council Members and explaining he felt she met the qualifications.
 - Councilman Andersen voted **AYE** agreeing with Ms. Topkok's interpretation of the code.
 - Councilman Brown voted **AYE** stating that Ms. Topkok established residency in 2014 and did not terminate residency since.
 - Councilman Doug Johnson voted **AYE** stating Ms. Topkok's reading of the vague ordinance was reasonable.

The motion **CARRIED**.

ADJOURNMENT

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

Hearing no objections, the Nome Common Council adjourned at 11:54 AM

APPROVED and SIGNED this 29th day of October 2018.



RICHARD BENEVILLE

Mayor

ATTEST:



CHRISTINE PISCOYA
Deputy City Clerk