

Mayor
Richard Beneville

Manager
Tom Moran

Clerk
Bryant Hammond



Nome City Council
Stan Andersen
Seat "E"
Seat "F"
Louie Green, Sr.
Tom Sparks
Lew Tobin

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**NOME CITY COUNCIL
SPECIAL MEETING AGENDA
THURSDAY, OCTOBER 6, 2016 @ NOON
CITY HALL CHAMBERS**

- I. ROLL CALL
- II. APPROVAL OF AGENDA
- III. CITIZENS' COMMENTS
- IV. NEW BUSINESS

A. R-16-10-01 A Resolution Canvassing the Results of the October 4, 2016 Municipal Election
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- V. ADJOURNMENT

**MINUTES
NOME CITY COUNCIL
SPECIAL MEETING
October 6, 2016**

The special meeting of the Nome City Council was called to order 12:04 PM by Councilman Andersen in Council Chambers of City Hall, located at 102 Division Street.

ROLL CALL

Members Present: Stan Andersen; Tom Sparks; Lew Tobin; Jerald Brown

Members Absent:

Also Present: Tom Moran, City Manager; Bryant Hammond City Clerk; Julie Liew, Finance Director; John Handeland, NJUS Manager; Joy Baker, Port Director (telephonically); Charles Cacciola, City Attorney (telephonically); Patty Andersen, NJUS Executive Assistant; Shawn Arnold, Nome Public Schools

In the audience: Davis Hovey, KNOM; Carl Emmons; Dianna Haecker

APPROVAL OF AGENDA

Councilman Andersen asked if there were any changes to the agenda.

A motion was made by C. Sparks and seconded by C. Brown to approve the agenda as presented.

At the roll call:

Aye: Tobin; Sparks; Brown; Andersen

Nay:

Abstain:

The motion **CARRIED**.

CITIZENS' COMMENTS

- 1) Carl Emmons noted Candidate Chuck Wheeler had not paid required landfill and utility fees over the past four years at the house he claimed as his residence, stating that seating such a man on the Utility Board set a bad example for other residents. Mr. Emmons asked how a board that set utility rates and rules could require residents to pay their bills when one of its elected members refuses to do so.
- 2) John Handeland explained that he felt morally obligated not to get involved in municipal campaigns since taking public employment in 1999. Manager Handeland affirmed Mr. Emmons' claims that Mr. Wheeler's house at 208 Round-the-Clock Dr. has not had electric service since 2012 and no sewer and water service since 2013 when the house was considered "not habitable" and therefore exempt from the mandatory subscription

service. Manager Handeland described NJU's process of using promissory notes to get delinquent accounts current.

- Councilman Andersen asked what the standard of "habitable" was.
- Manager Handeland noted the Utility checked for building permits, but usually took customers at their word.
- Councilman Sparks asked how not habitable buildings were related to the new vacant structures ordinance.
- Councilman Tobin noted that people in town have been on generators, with no power and have had their pipes freeze up.
- Manager Handeland explained that frozen pipes evidenced a not habitable structure because of the lack of sanitation services; however, the homeowner would need to make NJUS aware of the situation.
- Councilman Sparks noted that laterals were the homeowners' responsibility.

NEW BUSINESS

A. R-16-10-01 A Resolution Canvassing the Results of the October 4, 2016 Municipal Election.

A motion was made by C. Tobin and seconded by C. Brown to adopt R-16-10-01.

Discussion:

- Manager Moran explained the challenges to Mr. Wheeler's candidacy and presented the materials in the packet.
- Councilman Andersen asked if the Council was expected to rule on Mr. Wheeler's candidacy and under what authority it could do so.
- City Attorney Cacciola explained that Mr. Wheeler's voter registration card and matching information in the precinct register was presumptive evidence as to Mr. Wheeler's qualifications as a voter in Nome. He explained further that it was not the Council's role in these circumstances to set aside the election results, but to determine whether the lack of deliberate ruling on Mr. Wheeler's eligibility would affect the outcome of the election. In Mr. Cacciola's opinion it did not. Mr. Cacciola explained the process by which an election could be challenged, per Nome's Code of Ordinances.
- Councilman Brown asked what might be grounds to challenge an election.
- Mr. Cacciola explained the threshold for irregularities that might constitute a reason to set aside the election was high and gave examples from *Hammond V Hickel* in which the Alaska Supreme Court ruled the irregularities were not malicious or intended to change the outcome of the election.
- Councilman Brown asked if the Utility Board had the authority to remove one of its members.
- Mr. Cacciola briefly explained the standards a person must maintain to hold office.
- Manager Moran recapped the reasons stated for canvassing the results.

A motion to amend was made by C. Andersen and seconded by C. Brown to add "Chuck Wheeler" to the candidates declared elected on page two of the resolution.

Discussion:

- Councilman Sparks clarified that Mr. Emmons' remarks earlier constituted a formal challenge to the election.
- Mr. Cacciola noted that Mr. Emmons would have to state exactly why he claimed the election should be ruled invalid.
- Mr. Emmons stated that Mr. Wheeler had not lived at 208 Round-the-Clock for years and stated that if that was his residence, then he had defrauded the City of Nome thousands of dollars by not paying mandatory subscription fees. Mr. Emmons further claimed that Mr. Wheeler lived outside of City limits at Fort Davis. He asked who was performing the residence investigation.
- Manager Moran acknowledged these issues, though explained that given the circumstances the City could not invalidate his right to vote. He noted that NJU Board could pursue different legal avenues based on other actions.
- Mr. Cacciola noted that pertaining to elections, it is important to follow the will of the people. Improprieties occurring from declaring falsehoods under oath serve as liabilities down the road for Mr. Wheeler; however, such improprieties do not affect the outcome of the election.
- Councilman Andersen asked how the Council should procedurally handle the challenge by Mr. Emmons.
- Mr. Cacciola recommended the Council note the challenge, that it would not affect the outcome of the election, and canvass the results.

At the roll call:

Aye: Tobin; Andersen; Sparks; Brown

Nay:

Abstain:

The motion to amend **CARRIED**.

Returning to the main motion:

- Councilman Andersen noted the general lack of interest in both Mr. Wheeler as a candidate and the seat in general.
- Councilman Brown asked whether the 50 percent +1 clause referred to the votes cast or the ballots cast.
- Manager Moran and Clerk Hammond stated that clause referred to votes cast and not ballots.
- Councilman Tobin asked if the Council should consider the ballot proposition now.
- Manager Moran explained that the tax goes on the books, though as a formality an ordinance would come before the Council amending the code. The increase in the summer months was final and could only be repealed by the voters. Addressing the ordinance otherwise during the formalities would present a legal quagmire.

At the roll call:

Aye: Tobin; Andersen; Sparks; Brown

Nay:

Abstain:


The motion **CARRIED**.

ADJOURNMENT


A motion was made by C. Sparks and seconded by C. Brown that the meeting be adjourned.

Hearing no objections, the Nome Common Council adjourned at 1:17 PM.

APPROVED and **SIGNED** this 10th day of October, 2016.


RICHARD BENEVILLE
Mayor

ATTEST:


BRYANT HAMMOND
City Clerk