

**CITY OF CRAIG  
COUNCIL AGENDA  
June 1, 2023  
COUNCIL CHAMBERS 6:30 PM**

**ROLL CALL**

Mayor Tim O’Connor, Hannah Bazinet, Cody Schwegel, Julie McDonald, Michael Kampnich, Chanel McKinley, Millie Schoonover

**CONSENT AGENDA**

*Items listed below will be enacted by one motion. If separate discussion is desired on an item, that item may be removed and placed on the regular meeting agenda.*

- Meeting minutes of May 18, 2023
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**HEARING FROM THE PUBLIC**

- Ordinance 758 Re-Zoning Lot 4, Block 28
- Ordinance 759 Water and Sewer Rate

**REPORTS FROM CITY OFFICIALS**

|               |                      |                             |
|---------------|----------------------|-----------------------------|
| Mayor         | City Planner         | Public Works                |
| Administrator | Fire/EMS Coordinator | Recreation                  |
| Treasurer     | Harbormaster         | Parks and Public Facilities |
|               | Library              |                             |
| City Clerk    | Police Chief         |                             |

**READING OF CORRESPONDENCE**

- Jan Trojan e-mail
- Shaan Seet Response Letter

**CONSIDERATION OF RESOLUTIONS AND ORDINANCES**

- **Ordinance 758 Re-Zoning Lot 4, Block 28**
- **Ordinance 759 Water and Sewer Rate**

**UNFINISHED BUSINESS**

- Joint Meeting with CTA

**NEW BUSINESS**

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**COUNCIL COMMENTS**

**ADJOURNMENT**

To provide public comment to the council remotely, contact the Craig City Clerk at [cityclerk@craigak.com](mailto:cityclerk@craigak.com), before 5:00 p.m. by the day of the council meeting.

**CITY OF CRAIG  
COUNCIL MEETING MINUTES  
May 18, 2023**

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**ROLL CALL**

Mayor Tim O'Connor called the meeting to order at 6:35 p.m. Present were Chanel McKinley, Cody Schwegel, Tim O'Connor, Hannah Bazinet, Millie Schoonover. Michael Kampnich, Julie McDonald (telephonically)

**Staff Present:** Brian Templin, City Administrator; Kecia Weatherwax, City Clerk

**Audience Present:** Clinton Cook, Chris Reiton, Melinda Bass, James Carle

**CONSENT AGENDA**

1. City Council Meeting Minutes of May 4, 2023
2. Ordinance 758- Re-Zoning Proposed Tract C-1
3. Ordinance 759 – Setting Utility Rates

SCHOONOVER/KAMPNICH

Motion to Adopt CONSENT  
AGENDA  
MOTION CARRIED

**HEARING FROM THE PUBLIC**

- Clinton Cook had a couple of comments. 1) CTA has submitted a grant application to extend the bike path between Craig and Klawock from the high school. Kampnich voiced his support for the project and the council discussed it. Schwegel asked if their plans included lights as well. The council said they would support it and Brian said he would draft a letter. 2) Clinton asked about the joint meeting and if they could get a date pinned down. The mayor and Brian informed him of how the Open Meetings Act prohibited not having the public present. Brian said that since the council would need to select a smaller group to represent them that it would be on the agenda for the next meeting. 3) Clinton also inquired about the water/sewer rates and how this increase would affect him as a subsistence user, not every gallon of water goes down his sewer. The city has not worked on his drainage ditch in the past recent years so he doesn't feel like he should pay higher rates. Mille said her water bill goes up in the summertime too.
- James Carle said he heard a rumor that property taxes had gone up high. Chanel and the mayor said not the property taxes, the value has gone up. The value of the properties has increased depending on the type of property. Brian and the council explained that the assessors set the property values and the city did not have influence over that process but the council was considering a lower mill rate this year to benefit property owners. His next question was if the city had a policy in place about wood stoves being run in the summertime. The mayor informed him that the city does not currently have a policy in

place. James asked if the city could put a policy in place to not run wood stoves at night. James said he cannot breathe from the wood smoke at night when he opens his window. We do not currently have any ordinances that address that. Chanel asked if that was a planning commission issue. Brian said they could start the conversation at the planning commission but it isn't a zoning issue and would ultimately have to be addressed by the council in an ordinance. Chanel suggested he talk to his neighbor. Cody asked if Brian had any experience as a planner, about being familiar with stack requirements. Brian was not sure if there was anything in the building codes for residential properties. Brian said he would look into it; the mayor told him to ask his neighbor to put on a taller chimney and James said it's not his job to solve the problem. James thanked the council. Chanel informed James that they are addressing the mill rate at this meeting today. Millie said we have had the same mill rate for as long as she could remember.

The mayor said we have new residents coming in and buying up land and homes here. As a result, it is driving the property value up.

- Clinton asked about the King Salmon issue and the mayor said the city has been involved with this lawsuit for some time now. Clinton went on to say they are addressing this issue with the congressional delegation. Clinton said our king Salmon are going to be gone and if we don't stick up for our community, they will all be gone. Craig Tribal is leading the charge right now with Tlingit & Haida. The mayor told him the progress and efforts the city has already made on this issue by contributing to the legal fund and speaking in the legislature. Kampnich asked about his new letter, that Clinton was requesting, and what it specifically addressed. Clinton went on to explain the King Salmon situation and how people rely heavily on this, and it is gone. James said he thinks it is a great idea that the city and tribe collaborate. Clinton said when this comes forth, he will be reaching out to the city. Kampnich asked about the new letter Clinton was requesting. The mayor told Clinton that he is the Vice-President for the Alaska Trollers Association and that the city supported the ATA in their position in the lawsuit and had sent letters and contributed financially. Clinton said that the tribe had also made a substantial contribution to the legal fund. The mayor asked if there was anything else and we moved on.
- James asked if we had anything similar to Klawock and their Liquor Store that could offset costs to the city. James asked if there was anything we can do as a city that would be similar to that. Kampnich said we are already in a unique situation economically and that roughly one-third of our sales tax comes from outside the community and it already offsets costs.

## **READING OF CORRESPONDENCE**

- Chanel mentioned the letter about childcare and getting a letter of support. Chanel would like us to write a letter for HB 89. She would like the council to write a letter of support for this childcare bill to be passed. This bill would help childcare throughout the state.

Brian said he would reach out to our state delegates and see where this bill is at. He is not sure where they are in the legislative process. The bill would give \$15 million for childcare. Kampnich said it is critically important that we watch this closely. He believes this is a priority in our communities all over.

- Port Saint Nicholas Road Maintenance, Cody said he has heard a couple of people complain about the condition of Port Saint Nicholas Road. Brian said the work done on that road is closely tied to the Public Works Work Plan. Brian said he will talk to Tony and see where they are on it this year. The mayor said we grade that road once a month on average, but when cars drive too fast it just spreads it all out all over again. The mayor said it would be nice to have the rest of the gravel paved at some point, but no one knows when that may be. Kampnich had a question about the Shaan Seet letter. He asked about False Island, is that under the same covenants as the PSN residential lots. Kampnich said he understands that Shaan Seet has the right for first refusal. Brian said that those sales agreements are completely separate from the conveyances to the city. Brian has reviewed both the legal settlement from 1992 and asked the attorney to review the documents. There is only one revisionary clause in the settlement. Brian said 14 (c) (3) is specifically reconveyance of the land from the corporation to municipalities as part of the ANCSA process. The sales agreements that Shaan Seet enters with residential property owners are totally different mechanism than what we are dealing with right now. Millie asked if we were going to respond. Millie would like to just to get it over with rather than get into a long, legal battle. We could grade the road more regularly and he will be putting that on the new Public Works Director's list once we hire a new one. Brian did remind the council that increased maintenance of the PSN road would likely result in increased cost to the property owners out there and that the current maintenance plan tries to balance the amount of work done and the cost to the property owners. The mayor instructed Brian to draft a response.

## **CONSIDERATION OF RESOLUTIONS AND ORDINANCES**

### **Resolution 23-07 Setting Property Tax Mill Rate Levy for 2023**

Schoonover moved to adopt, Kampnich seconded. Open to discussion.

Kampnich said it is a mixed bag and that our costs were increasing as well. The council asked if there was a sunset date for the reduced mill rate. Brian said there is not a sunset date for this per se, but the council will set the mill rate for the property tax next year.2024 in May or June and that the reduction only applies to the 2023 property tax. The mill rate is set only for each calendar year. If the council adopt this tonight, they will have to amend the budget since the current projected revenue for property tax would drop by about \$9,500 with the reduced rate. Cody commented and said for he it was not looking forward to the price going up on his house. Kampnich called the question.

SCHOONOVER/KAMPNICH

MOTION TO ADOPT  
RESOLUTION 23-07  
ADOPTING MILL LEVY  
ROLL CALL VOTE  
MOTION PASSED

**Resolution 23-08 In Lieu Payment**

Motion has been made and seconded. Brian said it was a housekeeping item. Council had no questions.

MCKINLEY/KAMPNICH

MOTION TO ADOPT  
RESOLUTION 23-08  
IN LIEU PAYMENT  
ROLL CALL VOTE  
MOTION PASSED

**Ordinance 757 Reduced Fuel Tax**

Brian explained that the ordinance passed last year allows the council to set the reduced rate by resolution, but still requires an ordinance to change the effective date or extend the reduced sales tax. Ordinance 757 would allow the council to set the rate, effective period, and end date about the First Reading and the Second Reading and how we do it this way, so we don't have to change the Ordinance every time. This ordinance essentially gives the council full authority to change the ordinance. Open to discussion. Brian said he can answer any questions it is basically a housekeeping item.

KAMPNICH/SCHOONOVER

MOTION TO ADOPT  
ORDINANCE 757  
MOTION PASSED BY  
ROLL CALL VOTE

**Resolution 23-09 Reduced Fuel Tax. and Effective Dates**

The resolution sets the fuel sales tax rate back to 4% on September 1, 2023 if the average cost of fuel is above \$4.00 per gallon. By doing this we are reducing the cost of fuel from September 1, 2023 through June 30, 2024, giving our year-round residents a break. Chanel said, there are still a lot of businesses around town with "help wanted" signs on them. Chanel feels like we are helping people who have other options. The mayor said it was a good point, but said that this will help all year round residents by reducing fuel costs through the fall and winter.

KAMPNICH/BAZINET

MOTION TO ADOPT  
RESOLUTION 23-09  
MOTION PASSED 4 YES, 1 NO  
ROLL CALL VOTE

**ORDINANCE 756, FY24 BUDGET**

Millie moved to adopt with a \$9,500 reduction to the property tax revenue projection, Chanel seconded the motion. Kampnich said that he did not question the need for additional staff but he has not seen such a jump in a long time. He realizes there are a lot of economic issues. He is not questioning the financial positioning of the city. Millie asked Brian if these positions are already in the budget. Brian said that these positions were in the budget reviewed and approved by the budget committee. The mayor explained the high turnover rate and people who are training and others who are retiring. Brian said if the council was inclined to reduce the number of new positions they could simply identify a position in the budget. Chanel is concerned that we are going to outwork some of our people, and they are going to leave without training the new ones coming in. The mayor said this is already happening now. Cody said hard times affects every industry. James Carle said he had a question about taxing fish boxes as a way to increase revenue. There was some discussion about the city's limited ability to tax fish boxes for Waterfall and others that simply use Craig facilities. Other than the change to property tax revenue there were no other amendments made to the budget.

SCHOONOVER/MCKINLEY

MOTION TO ADOPT  
ORDINANCE 756 AS  
AMENDED  
MOTION PASSED BY  
ROLL CALL VOTE

**NEW BUSINESS**

**Appropriating Funds to Pay Shaan Seet Invoice for 2022 Slides**

Brian explained this invoice showed up in the mail a recently along with other letters from Shaan Seet. He said that the invoice was for services performed last year and that he did not know why it took so long to be submitted. Brian said that Shaan Seet did provide the services and the council should appropriate funds to pay the invoice. Brian went on to say that there were funds appropriated last year for the slide response, but that appropriation ended with the end of the fiscal year and that no funds had been appropriated for slide responses this year. Brian asked asking the council to approve the \$12,211.68 Appropriation of Funds to pay Shaan Seet Invoice for 2022 Slides. Brian also added that since we are paying the invoice in

the current fiscal year that the item would be added to the annual maintenance report for the PSN road and will be included in the road user fees that will be billed in January or February of 2024. A motion was made and seconded to appropriate \$12,211.16 from the city's general fund to pay the invoice.

MCKINLEY/BAZINET

MOTION TO  
APPROPRIATE \$12,211.68  
FROM GENERAL FUNDS  
TO PAY SHAAN SEET  
INVOICE  
MOTION PASSED BY  
ROLL CALL VOTE

**ADOPTING THE 2023 ASSESSMENT ROLL**

Brian explained this is part of the normal tax assessment process. Henry did a great job this year and was able to resolve all the appeals, without any of them coming before the council. Cody had a question about whether there is a policy of the city to have an independent firm check their work. Brian explained we do put it out to bid every few years, but the amount of money it would cost to have someone re-check their work would be substantially more. Brian explained that we spend about \$35,000 a year on assessments. He said it would cost to do total revaluation general runs about \$100,000. Chanel mentioned beautification incentives other communities are doing and by giving owners exemptions for improving their properties. It is ultimately a council decision if they would like to add more exemptions. Brian said he would have Samantha and Kecia to do some research on other optional exemptions in state statute and what some other communities are doing.

SCHOOOVER/KAMPNICH

MOTION TO ADOPT 2023  
ASSESSMENT ROLL  
MOTION PASSED WITH  
ROLL CALL VOTE

**SCHOOL BUDGET REVIEW FY**

Brian explained to the council the minimum required local contribution to the school district under state law. Brian explained that the school contribution for the past several years was about \$550,000 and that the district had requested \$750,000 this year. Julie asked Chris Reitan and Melinda Bass (School District) how to differentiate numbers that they had come up with. Chris went on to explain the different categories. He explained they came up with that budget based on not knowing what their state funding was going to be for the upcoming year. Julie is concerned



that the school district budget went from and surplus last year to a large deficit this year. Chris went on to explain the main cost increase was salary and benefits and of how health insurance keeps rising. The only way to increase their funding level is to increase enrollment. Cody commented on the declining enrollment and Cody asked what the long-term plan is if enrollment keeps going down. The mayor said we cannot keep funding this every year. Millie commented that the school district salaries are going up a great deal and that city employees are not seeing the same thing. The mayor asked about how they are preparing our children for the outside and commented that with increased funding we should see increased results. James Carle interjected about raising sales tax for the summer so the school can benefit. Julie said the city budget is about five million dollars and the school's budget is eight million. Chris explained how they budgeted on zero increase to the state funding because that is all they have at this time. Cody asked if there was incentive for the bus routes to go into rural areas. Millie recalled years ago when the school needed money and it was during the lean years. There is give and take on both sides, we didn't get raises for years because of the budget and that it is out of balance. Chris shared that teachers get negotiated agreements by their unions. Melinda said there are 38 full time classified positions, The mayor asked how much the teachers are making. They went on to categorize their teachers and said certified teachers typically make \$130,000/year and even more with insurance. Brian explained that the contribution includes the \$200,000 of city general funds included in the budget and that they draw the remainder from the school reserve that we keep at Alaska Permanent Capital Management. Brian also said that when we get the national forest receipts payment each year, the school funding amount is deposited into the reserve for future use. The recent forest receipt payment for the school was about \$485,000 and that the council could choose to stay with the \$550,000 contribution, could approve a \$750,000 contribution and draw additional funds from the reserve account, or could make a contribution to the district of \$685,000 which would mean that we would not increase the reserve account this year, but it would not take additional funds from the reserve either. The council asked Chris and Melinda what the plan was so that we didn't still have an \$800,000 shortfall in the school district budget next year. Chris explained that if there were no increase to the base student amount paid by the state that they would likely have to lay off about eight staff/faculty positions.

KAMPNICH/SCHOONOVER

MOTION TO  
MAKE A LOCAL  
CONTRIBUTION  
TO CSSD FOR \$685,000  
MOTION PASSED  
BY ROLL CALL VOTE

**COUNCIL COMMENTS**

Kampnich was pleased with the extra effort AP & T has made with the Craig- Klawock Highway.

**EXECUTIVE SESSION**

A motion was made and seconded to move into executive session for the purposes of discussing matters that are required to be kept confidential. Brian explained about clearing the room for the executive session and how we will do the proper procedure so he can turn off the recorder and send the City Clerk home.

MCKINLEY/SCHOONOVER

MOTION TO MOVE INTO  
EXECUTIVE SESSION  
MOTION PASSED BY  
VOICE VOTE

**ADJOURNMENT**

MCKINLEY/SCHOONOVER

Adjourn

Moved to

at 10:07 p.m.

MOTION CARRIED

APPROVED ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_,2023.

\_\_\_\_\_  
TIM O’CONNOR, MAYOR

\_\_\_\_\_  
KECIA WEATHERWAX, CITY CLERK

## **CITY OF CRAIG MEMORANDUM**

To: Craig City Council  
From: Brian Templin, City Administrator  
Date: May 24, 2023  
RE: June Staff Report

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### **1. FY24 Budget**

The council passed the FY24 budget on May 18<sup>th</sup>. Kimber has asked Marva to make a visit in the next month or so to start working on the supplemental budget for FY23. The supplemental budget takes all of the revenue and spending adjustments that we have seen through the year. Normally the supplemental budget isn't completed until after the end of the fiscal year, but in order to complete it in a timely manner we will start to work on it now.

### **2. Land Into Trust**

We have not seen any updates from the BIA on the status of the land into trust application submitted by the CTA for the old Haidaway property.

### **3. Water Issues**

We are continuing to work with USDA on some funding to pay for some emergency repairs and work on the water treatment plant that resulted in the boil water notice in March. We have two trains running at full capacity and have the filter media for the other two trains, but we are still waiting on the sludge valve that failed on one train and the nozzles (part of the filtration system for train 4) to arrive. Public works is working with the vendors and manufacturers to get those parts on hand as quickly as possible. We are meeting the current demand and the water tank is full at the moment, but when fish processing starts the demand increases sharply. If we can get the parts expedited we will likely have to pay a premium shipping price to get them here. If we cannot get the parts it will likely impact our ability to provide enough water for local demand and fish processing. We will work with Silver bay and other processors if this looks likely in order to reduce the impacts as much as possible.

The USDA process for the Emergency Community Water Assistance Grant (ECWAG) is slow and complicated. We have an engineer working on a report of the overall failure that led to the boil water notice and another engineer reviewing the SCADA system impacts to the situation. Both of these engineers will be paid out of ECWAG funds when we can finalize the contract documents and grant agreement with USDA. We are currently waiting on responses from USDA on both the contract and application issues. Staff will continue to work on these.

In addition, we have been notified by Senator Murkowski's staff that they are working on a congressionally directed spending request for improvement to the water treatment system. This funding will likely be in the neighborhood of \$2.5 million if approved and appropriated in the upcoming federal budget. It is likely that this funding will go through EPA in the form of a grant to the city. Based on discussions regarding a federal appropriation to upgrade lift stations in the current federal budget, we will likely have a 20% non-federal match to the \$2.5 million. These directed spending requests take a great deal of time and it is likely that we will be looking at this funding (if approved) sometime in late 2024. In conversations with public works employees it is likely that we will use some ECWAG funds and any congressionally directed funding for the water treatment system to make upgrades to the existing plant that will bring us to the point of being able to process about 400 gallons of treated water per minute. This will give us enough

capacity year round for current needs (including summer demand). When we get to this treatment capacity we will likely start working on sections of the raw water line from the dam to the treatment plant. After we have made upgrades/replacement of the line and pressure reducing valves between the dam and the treatment plant we will likely start adding to our treatment capacity to get to 500 – 650 gallons per minute capacity. This will allow for continued expansion and growth. It is unlikely that the ECWAG and potential federal funding will get us to this point. Staff will continue to work on funding for the water treatment system over the next several years.

#### **4. Capital Projects**

Staff is currently working on a number of funding requests or capital projects that are already funded. This includes:

- **Lift Station Replacement.** Approximately \$760,000 (\$950,000 requested) was approved in the current federal fiscal year for replacement of lift stations. This federal funding will go through EPA with a 20% non-federal match. We plan on replacing 1 – 3 aging sewer lift stations in our inventory. The lift stations that need replaced/upgraded include the downtown lift station (high priority), Easy Street lift station, Crab Creek lift station and the Cannery property lift station. The two highest priorities for the project (likely funding limit) will probably be the downtown lift station (maintenance and safety issues) and the cannery property lift station. The cannery lift station was originally scheduled to be replaced as part of the harbor project, and we may still end up with some funding other than the EPA funding for the cannery site, but if no other funding is available it makes sense to replace this lift station to accommodate any other development on the cannery site.
- **Wood Boiler Replacement.** We received a federal appropriation of about \$400,000 (\$800,000 requested) that will be funded through USDA Rural Development to replace the wood boiler used at the pool and middle/elementary school. This funding will require a 50% non-federal match of about \$400,000. It is likely that the project will cost more than \$800,000. Staff is continuing to work on the project and is meeting with the Southeast Conference Biomass Coordinator and the US Forest Service to plan the project out. It is likely that a new boiler would be able to utilize chips (like the current boiler) or pellets as they become more available. Staff is confident that they can get through another year with the existing boiler, but we need to have a replacement in place over the next couple of years to continue to use this resource.
- **Water Treatment Upgrades.** There is currently a \$2.5 million appropriation being submitted in congress for upgrades to the Craig water treatment system. See the Water Issues item in this report to see how those funds would be used. It is likely that this appropriation will be funded through EPA and will require that the city fund 20% (about \$500,000).
- **New Firehall.** We were recently notified that the appropriation request for the new firehall is being submitted for possible funding in the upcoming federal budget. We do not know what federal agency or grant program that this funding will be processed through. If the funding goes through USDA Rural Development we can expect a 20% - 50% match requirement on the \$5 million funding appropriation. We have 95% designs and specifications for the new

firehall which will be located along Cold Storage Road west of the existing public works yard fence. We completed design in about 2015.

- SCADA System. We are still working on the State Revolving Loan Fund (SRF) application for the SCADA system upgrades. As a reminder, we are applying for a loan at a low interest rate through the State of Alaska to upgrade the computers and primary logic control panels of the SCADA system. This system tracks, controls and reports (or alarms) much of the water and wastewater system. It is likely that some discrepancies in the SCADA readings at the water tank contributed to the boil water notice in March. We will also likely do some repair/upgrade of the system related to the ECWAG funding that we are working on. The SRF for the SCADA system will forgive up to 50% of the loan amount, reducing the cost to the city.
- Wastewater Treatment Plan Roof. We are still working on the loan application through the SRF for \$400,000 to replace the roof at the wastewater treatment plan. This roof is in poor condition and needs replaced. Unlike the SCADA SRF loan, there is no loan forgiveness on this project. Both the SCADA loan and WWTP roof loans are being paid for out of increases to the water and wastewater rates effective in FY24.
- POWER Building Renovation/Repairs. Staff is continuing to work on posting a request for proposals to do about \$250,000 in renovations and repairs to the POWER building using funds from the state legislature appropriated last year. This funding will be used to complete some foundation stabilization, siding, window replacement, and other repairs as funding allows.
- Daycare Center Building. Staff is continuing to work on replacing windows, restroom fixtures and other repairs to the daycare building prior to Island Daycare starting operations. This funding was appropriated by the council last year.
- Annual Budget Capital Projects. In addition to these specific projects, staff is also working on a number of equipment and capital improvement projects funded through the city's general fund. For FY23 there is about \$1.3 million in capital projects approved. It is likely that not all of those will be completed and several have been carried over to the new year due to workload and other issues. The recently approved FY24 budget includes about \$1.25 million in capital projects across all departments.

This is not an exhaustive list but is a good representation of current capital projects being worked on across the city. It is likely that we will have to dedicate a significant amount of capital project funding and our state legislative appropriations requests to provide match funding for the federal appropriations over the next few years.

## **5. Staffing and Employee Retention**

Based on recent council input and requests we are working on a number of issues related to employees.

- We are meeting with a representative of the Foraker Group on May 25<sup>th</sup> to discuss having the Foraker Group conduct an employee survey to provide information and recommendations to the council regarding employee satisfaction and issues that need to be addressed. If we have them do this work for us we will be billed for time required to complete the survey and summarize the information and

recommendations to the city. We don't have an idea of how many hours are involved yet, but based on the rate schedule we would likely have to pay one rate (\$175 - \$200 per hour) if we choose not to become a "partner" (pay an annual fee of \$2,500). If we choose to become a "partner" we will have to pay between \$120 and \$150 per hour for the work plus the \$2,500 annual fee. We will ask for an estimate of time when we meet with a representative on the 25<sup>th</sup> and will bring a price to the council to appropriate funds for this purpose.

- We have also asked the Foraker Group to do an analysis of the city's current wage and salaries as requested by the council. If we proceed with the Foraker Group the hourly rates would be the same as shown above.

If we choose not to go with the Foraker Group we can look at the cost for the same services from other vendors. It is likely that Foraker's charge for the services will be less than other vendors. If we have them do both studies for us it will likely be less expensive to pay the annual "partner" fee and the lower hourly rate. We should be able to provide a better estimate of cost at the June 1<sup>st</sup> council meeting after we meet with the Foraker Group.

Based on the time and nature of the studies along with the expertise needed, staff recommends that we contract out both the wage/salary analysis and the employee survey.

#### **6. Joint Workshop With CTA Council**

There is a separate memo in the packet regarding this meeting and asking the council to appoint up to three council members and have a discussion about what potential discussion items the council would like to bring to the meeting.

#### **7. Meeting With Shaan Seet Inc.**

At the council's direction, staff put together a response to the recent letters from Shaan Seet. A draft of that letter was distributed to the council by email for comment before it was sent (along with the check for the landslide services invoice) to Shaan Seet. Before the letter was sent the Mayor requested that we include another invitation for a meeting with the Shaan Seet President and Board of Directors. If Shaan Seet is interested in a meeting to discuss items of mutual interest we will work with them to set up a meeting. Like the meeting with CTA, we will have to determine if this will be an open or closed meeting with some or all of the council; or if the meeting will primarily be the Mayor and staff and will have to plan accordingly. If Shaan Seet wants to meet we will discuss this with them and come back to the council for any decisions that need to be made.

#### **8. Craig Harbor Project**

We are continuing to communicate with the federal delegation about any options that we may want to pursue regarding the harbor project. Most parties agree that in order to continue to move the project forward the USACE will have to complete the general reevaluation report (GRR) with some likelihood that they will also have to redo the preconstruction engineering and design (PED) phase. Unless some exception is found or created through congressional action the city will be responsible for 50% of the GRR (approximately \$1.5 million in local funds) and 10% of the PED (the previous PED cost the city about \$150,000 for the PED and \$53,000 for the additional validation work). Regardless of who pays for the studies the GRR will likely take 3 – 4 years to complete and the PED will take an additional 2 – 3 years to complete.

Over the next few months, staff will be asking the council to make some decisions about proceeding with a new GRR or, if the council does not want to commit the time and funds necessary for a GRR, then some discussion about the development of the cannery site without the federal funds that would have accompanied the harbor project.

Staff will include some discussions and potential decisions about the harbor project and development of the cannery site at the next several council meetings.

#### **9. Travel and Leave Schedule**

I do not have any official or personal travel scheduled for the next month, but as summer approaches I will be spending more time camping and not in cell phone range most weekends.





CITY OF CRAIG  
MEMORANDUM

June 01, 2023

To: City Council

From: Kimber Mikulecky, Treasurer

Re: Monthly Report

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The May monthly financials and APMC reports are included.

I am pleased to say that I have successfully completed my first budget for the city. I have reached out to Marva and asked her to come over mid-June to show me the supplemental budget process. Per discussions with Marva and Brian, it was decided that we are going to change the time schedule for the supplemental budget. Rather than doing the supplemental budget after the new fiscal year starts, we are going to do it prior to the start of the new fiscal year. This will ensure that we are one step closer to having our audit and being able to stay on track and on schedule.

Rebecca and Lisa have been working very hard at collecting any delinquent debts between sales tax and utility bills. We now have a more defined process and procedures regarding delinquent accounts with schedules for sending delinquent notices and sending accounts to collections.

I am still taking college classes through the University of Alaska Southeast to receive my AAS in Accounting. It is my intent to continue with classes to achieve a bachelor's degree. With the change of timeline for the supplemental budget and closing out the fiscal year, I decided it was best to not take a class during the Summer. I signed up to take Accounting 202 this fall.

If you have any questions please contact me at [finance@craigak.com](mailto:finance@craigak.com)

City of Craig  
Cash Balances

5/22/2023

General Fund

|                               |                         |
|-------------------------------|-------------------------|
| Deposit Clearing Account      | 55,719.84               |
| Checking - First Bank         | 2,019,980.28            |
| Checking - Wells Fargo        | 25,218.73               |
| Petty Cash                    | 356.60                  |
| Petty Cash-Harbors            | 165.29                  |
| Petty Cash- Aquatic Center    | 250.00                  |
| Petty Cash - Police           | 204.95                  |
| Petty Cash- Library           | 150.00                  |
| Wells Fargo CD Saving Account | <u>1,876.87</u>         |
| <br>Total                     | <br><u>2,103,922.56</u> |

Restricted Fund

|                               |                         |
|-------------------------------|-------------------------|
| Cares Fund Checking           | 432,087.78              |
| Cash, Police Fund             | 11,706.76               |
| Cash Evidence, Police         | 4,420.60                |
| Cash, Police Federal Fund     | 11,944.78               |
| Police Petty Cash             | 781.17                  |
| Cash Hatchery Salmon Derby    | 12,090.13               |
| MM Park Funds                 | 7,702.76                |
| Fish Quota Funds              | 15,552.70               |
| MM POW Clinic Funds           | 46,429.61               |
| MM Invest Muni Land           | 433.73                  |
| Hatchery Saving Account       | 54,854.59               |
| Cash MMkt NFR -School FB      | 534,670.50              |
| Cash Invest School Funds APCM | 2,901,437.01            |
| Accrued Interest, School      | <u>6,267.46</u>         |
| <br>Total                     | <br><u>4,040,379.58</u> |

Endowment

|  |                           |
|--|---------------------------|
| Cash Held Endowment                    | 244,282.44                |
| Fixed Inc. Investment Endowment        | 5,641,408.19              |
| Accr. Int., Endowment                  | 36,520.18                 |
| Equity Invest., Endowment              | 6,868,734.44              |
| Unrealized Gain/Loss Endowment         | (576,431.97)              |
| Unrealized Gain/Loss Equity, Endowment | <u>(21,333,907.44)</u>    |
| <br>Total                              | <br><u>(9,119,394.16)</u> |

Enterprise Fund

|                    |                     |
|--------------------|---------------------|
| DNR Performance CD | <u>8,500.00</u>     |
| <br>Total          | <br><u>8,500.00</u> |

**City of Craig**  
**02a. Craig Gov Rev**

**May 22, 2023**

|   | M-T-D<br>Actual | Y-T-D<br>Actual  | Budget           | Over(Under)<br>Budget | % of<br>Budget |
|---|-----------------|------------------|------------------|-----------------------|----------------|
| 01 00.4000.00 000 Property Tax                      | 0               | 692,098          | 687,480          | 4,618                 | 101            |
| 01 00.4050.00 000 Sales Tax                         | 69,856          | 2,175,695        | 1,205,500        | 970,195               | 180            |
| 01 00.4051.00 000 1% Sales Tax for School           | 0               | 0                | 340,850          | (340,850)             | 0              |
| 01 00.4052.00 000 Alaska Remote Sales Tax           | 17,720          | 200,492          | 100,000          | 100,492               | 200            |
| 01 00.4053.00 000 1% Sales Tax Pool & Rec           | 0               | 0                | 340,850          | (340,850)             | 0              |
| 01 00.4054.00 000 Fuel Sales Tax                    | 0               | 63,046           | 0                | 63,046                | 0              |
| 01 00.4055.00 000 Delinquent Sales Tax              | 0               | 1,164            | 0                | 1,164                 | 0              |
| 01 00.4060.00 000 Liquor Sales Tax                  | 5,287           | 122,230          | 120,000          | 2,230                 | 102            |
| 01 00.4065.00 000 Transient Room Tax                | 7,775           | 39,500           | 20,000           | 19,500                | 198            |
| 01 00.4080.00 000 Sales Tax Penalties               | 161             | 3,051            | 0                | 3,051                 | 0              |
| <b>Total Local Taxes</b>                            | <b>100,799</b>  | <b>3,297,276</b> | <b>2,814,680</b> | <b>482,596</b>        | <b>117</b>     |
| 01 00.4100.00 000 Property PILT Funding             | 0               | 308,529          | 300,000          | 8,529                 | 103            |
| 01 00.4110.00 000 State Revenue Sharing             | 0               | 97,940           | 75,000           | 22,940                | 131            |
| 01 00.4111.00 000 Liquor Revenue Sharing            | 0               | 7,350            | 4,000            | 3,350                 | 184            |
| 01 00.4112.00 000 Fish Bus Tax - DOR                | 0               | 231,825          | 75,000           | 156,825               | 309            |
| 01 00.4120.00 000 Shared Fish Tax - DCED            | 0               | 0                | 2,000            | (2,000)               | 0              |
| <b>Total State Revenue</b>                          | <b>0</b>        | <b>645,644</b>   | <b>456,000</b>   | <b>189,644</b>        | <b>142</b>     |
| 01 00.4200.00 000 COVID 19 Response Revenue         | 0               | 0                | 75,000           | (75,000)              | 0              |
| 01 00.4220.00 000 EMS Service Fees                  | 1,820           | 38,342           | 50,000           | (11,658)              | 77             |
| 01 00.4250.00 000 EMS Training Fees                 | 0               | 0                | 1,000            | (1,000)               | 0              |
| 01 00.4255.00 000 EMS Estimated NonCollectable      | 0               | 0                | (25,000)         | 25,000                | 0              |
| 01 00.4260.00 000 Aquatic Center Revenue            | 2,541           | 26,259           | 50,000           | (23,741)              | 53             |
| 01 00.4270.00 000 Library Fees                      | 0               | 109              | 1,000            | (891)                 | 11             |
| 01 00.4275.00 000 Recreation Revenue                | 840             | 25,705           | 15,000           | 10,705                | 171            |
| 01 00.4280.00 000 Senior Card Fees                  | 60              | 1,410            | 3,000            | (1,590)               | 47             |
| 01 00.4620.00 000 Taxi Permit Fees                  | 0               | 0                | 100              | (100)                 | 0              |
| 01 00.4640.00 000 Building Permit Fees              | 30              | 840              | 2,500            | (1,660)               | 34             |
| 01 00.4644.00 000 Access Permit Fees                | 0               | 6,941            | 5,500            | 1,441                 | 126            |
| 01 00.4645.00 000 Subdivision Fees                  | 0               | 210              | 0                | 210                   | 0              |
| 01 00.4646.00 000 PSN Road Maintenance              | (72)            | 13,914           | 40,000           | (26,086)              | 35             |
| <b>Total Permits &amp; Fees</b>                     | <b>5,219</b>    | <b>113,730</b>   | <b>218,100</b>   | <b>(104,370)</b>      | <b>52</b>      |
| 01 00.4300.00 000 Property Lease/Rentals            | (21,091)        | 70,967           | 53,000           | 17,967                | 134            |
| 01 00.4400.00 000 Material Sales                    | 0               | 0                | 1,000            | (1,000)               | 0              |
| <b>Total Local Revenue</b>                          | <b>(21,091)</b> | <b>70,967</b>    | <b>54,000</b>    | <b>16,967</b>         | <b>131</b>     |
| 01 00.4700.00 000 Police-Fines,Citation             | 0               | 10,423           | 10,000           | 423                   | 104            |
| 01 00.4702.00 000 Drivers License Fees              | 0               | 215              | 0                | 215                   | 0              |
| 01 00.4703.00 000 Motor Vehicle Commision           | 6,101           | 64,956           | 60,000           | 4,956                 | 108            |
| 01 00.4704.00 000 Dog Licenses                      | 0               | 20               | 0                | 20                    | 0              |
| 01 00.4650.00 000 State Trooper Dispatch            | (14,625)        | 6,250            | 7,200            | (950)                 | 87             |
| 01 00.4660.00 000 State Jail Contract Revenue       | 0               | 415,037          | 357,524          | 57,513                | 116            |
| 01 00.4665.00 000 Klawock Dispatch                  | (39,816)        | 44,240           | 53,088           | (8,848)               | 83             |
| 01 00.4670.00 000 Forest Service Dispatch           | 0               | 0                | 3,000            | (3,000)               | 0              |
| <b>Total Public Safety Funds</b>                    | <b>(48,340)</b> | <b>541,141</b>   | <b>490,812</b>   | <b>50,329</b>         | <b>110</b>     |
| 01 00.4820.00 000 Interest Income (A/R)             | (4)             | 1,267            | 1,000            | 267                   | 127            |
| 01 00.4900.00 000 Misc Revenue                      | 522             | 16,803           | 5,000            | 11,803                | 336            |
| 01 00.4990.00 000 TRANS.FRM RESERVES BAL.<br>BUDGET | 0               | 895              | 0                | 895                   | 0              |
| <b>Total Other Revenue</b>                          | <b>518</b>      | <b>18,965</b>    | <b>6,000</b>     | <b>12,965</b>         | <b>316</b>     |

**City of Craig**  
**02a. Craig Gov Rev**

**May 22, 2023**

|                       | <u>M-T-D<br/>Actual</u> | <u>Y-T-D<br/>Actual</u> | <u>Budget</u>       | <u>Over(Under)<br/>Budget</u> | <u>% of<br/>Budget</u> |
|-----------------------|-------------------------|-------------------------|---------------------|-------------------------------|------------------------|
| <b>Total Revenues</b> | <b>\$ 37,105</b>        | <b>\$ 4,687,723</b>     | <b>\$ 4,039,592</b> | <b>\$ 648,131</b>             | <b>\$ 116</b>          |

**City of Craig**

## Revenue and Expense YTD &amp; Budget

May 22, 2023

|  | Y-T-D<br>Actual     | Y-T-D<br>Encumbrance | Y-T-D<br>Budget     | Total               |
|--|---------------------|----------------------|---------------------|---------------------|
| <b>Administration</b>                    |                     |                      |                     |                     |
| Total Personnel Expenditures             | 296,924             | 0                    | 335,041             | 296,924             |
| Total Benefits Expenditures              | 126,897             | 0                    | 157,542             | 126,897             |
| Total Contract Expenditures              | 206,777             | 0                    | 178,200             | 206,777             |
| Total Travel & Expenditures              | 23,784              | 0                    | 14,545              | 23,784              |
| Total Materials Expenditures             | 18,571              | 0                    | 11,625              | 18,571              |
| Total Utilities Expenditures             | 27,021              | 0                    | 20,370              | 27,021              |
| Total Repairs & Maint Expenditures       | 5,177               | 0                    | 4,760               | 5,177               |
| Total Other Expenditures                 | 49,139              | 0                    | 53,639              | 49,139              |
| Total Capital & Debt Expenditures        | 1,932               | 0                    | 8,000               | 1,932               |
| Total Expenditures                       | <u>\$ 756,222</u>   | <u>\$ 0</u>          | <u>\$ 783,722</u>   | <u>\$ 756,222</u>   |
| Excess Revenue Over (Under) Expenditures | <u>\$ (756,222)</u> | <u>\$ 0</u>          | <u>\$ (783,722)</u> | <u>\$ (756,222)</u> |
| <b>Council</b>                           |                     |                      |                     |                     |
| Total Personnel Expenditures             | 14,420              | 0                    | 20,124              | 14,420              |
| Total Benefits Expenditures              | 1,782               | 0                    | 6,864               | 1,782               |
| Total Contract Expenditures              | 1,282               | 0                    | 950                 | 1,282               |
| Total Travel & Expenditures              | 8,679               | 0                    | 5,050               | 8,679               |
| Total Materials Expenditures             | 450                 | 0                    | 1,000               | 450                 |
| Total Utilities Expenditures             | 0                   | 0                    | 0                   | 0                   |
| Total Repairs & Maint Expenditures       | 0                   | 0                    | 0                   | 0                   |
| Total Other Expenditures                 | 4,700               | 0                    | 10,428              | 4,700               |
| Total Capital & Debt Expenditures        | 0                   | 0                    | 0                   | 0                   |
| Total Expenditures                       | <u>\$ 31,313</u>    | <u>\$ 0</u>          | <u>\$ 44,416</u>    | <u>\$ 31,313</u>    |
| Excess Revenue Over (Under) Expenditures | <u>\$ (31,313)</u>  | <u>\$ 0</u>          | <u>\$ (44,416)</u>  | <u>\$ (31,313)</u>  |
| <b>Planning</b>                          |                     |                      |                     |                     |
| Total Revenues                           | \$ 10,077           | \$ 0                 | \$ 0                | \$ 10,077           |
| Total Personnel Expenditures             | 44,979              | 0                    | 41,915              | 44,979              |
| Total Benefits Expenditures              | 20,471              | 0                    | 26,132              | 20,471              |
| Total Contract Expenditures              | 25,100              | 3,248                | 6,500               | 28,348              |
| Total Travel & Expenditures              | 1,297               | 649                  | 2,700               | 1,946               |
| Total Materials Expenditures             | 50,258              | (41,187)             | 1,000               | 9,071               |
| Total Utilities Expenditures             | 0                   | 0                    | 0                   | 0                   |
| Total Repairs & Maint Expenditures       | 119                 | 0                    | 500                 | 119                 |
| Total Other Expenditures                 | 1,090               | 0                    | 1,742               | 1,090               |
| Total Capital & Debt Expenditures        | 0                   | 0                    | 0                   | 0                   |
| Total Expenditures                       | <u>\$ 143,314</u>   | <u>\$ (37,290)</u>   | <u>\$ 80,489</u>    | <u>\$ 106,024</u>   |
| Excess Revenue Over (Under) Expenditures | <u>\$ (133,237)</u> | <u>\$ 37,290</u>     | <u>\$ (80,489)</u>  | <u>\$ (95,947)</u>  |
| <b>Parks &amp;Facilities</b>             |                     |                      |                     |                     |
| Total Personnel Expenditures             | 128,856             | 0                    | 158,330             | 128,856             |
| Total Benefits Expenditures              | 60,591              | 0                    | 68,945              | 60,591              |
| Total Contract Expenditures              | 7,846               | 699                  | 7,500               | 8,545               |
| Total Travel & Expenditures              | 0                   | 0                    | 0                   | 0                   |

BACK TO TOP

# City of Craig

## Revenue and Expense YTD & Budget

May 22, 2023

|   | Y-T-D<br>Actual       | Y-T-D<br>Encumbrance | Y-T-D<br>Budget       | Total                 |
|---|-----------------------|----------------------|-----------------------|-----------------------|
| Total Materials Expenditures                | 57,128                | 8,337                | 16,175                | 65,465                |
| Total Utilities Expenditures                | 24,388                | 0                    | 19,200                | 24,388                |
| Total Repairs & Maint Expenditures          | 0                     | 0                    | 12,000                | 0                     |
| Total Other Expenditures                    | 17,869                | 0                    | 18,534                | 17,869                |
| Total Capital & Debt Expenditures           | <u>7,842</u>          | <u>78,066</u>        | <u>48,550</u>         | <u>85,908</u>         |
| Total Expenditures                          | <u>\$ 304,520</u>     | <u>\$ 87,102</u>     | <u>\$ 349,234</u>     | <u>\$ 391,622</u>     |
| Excess Revenue Over (Under)<br>Expenditures | <u>\$ (304,520)</u>   | <u>\$ (87,102)</u>   | <u>\$ (349,234)</u>   | <u>\$ (391,622)</u>   |
| Public Works                                |                       |                      |                       |                       |
| Total Personnel Expenditures                | 110,504               | 0                    | 111,888               | 110,504               |
| Total Benefits Expenditures                 | 68,464                | 0                    | 64,617                | 68,464                |
| Total Contract Expenditures                 | 12,511                | 0                    | 720                   | 12,511                |
| Total Travel & Expenditures                 | 0                     | 0                    | 0                     | 0                     |
| Total Materials Expenditures                | 69,617                | 3,126                | 74,825                | 72,743                |
| Total Utilities Expenditures                | 16,191                | 0                    | 18,925                | 16,191                |
| Total Repairs & Maint Expenditures          | 61,256                | 4,377                | 53,200                | 65,632                |
| Total Other Expenditures                    | 24,476                | 0                    | 16,049                | 24,476                |
| Total Capital & Debt Expenditures           | <u>75,730</u>         | <u>4,754</u>         | <u>111,774</u>        | <u>80,484</u>         |
| Total Expenditures                          | <u>\$ 438,749</u>     | <u>\$ 12,257</u>     | <u>\$ 451,998</u>     | <u>\$ 451,005</u>     |
| Excess Revenue Over (Under)<br>Expenditures | <u>\$ (438,749)</u>   | <u>\$ (12,257)</u>   | <u>\$ (451,998)</u>   | <u>\$ (451,005)</u>   |
| Police                                      |                       |                      |                       |                       |
| Total Personnel Expenditures                | 569,379               | 0                    | 635,955               | 569,379               |
| Total Benefits Expenditures                 | 294,827               | 0                    | 357,833               | 294,827               |
| Total Contract Expenditures                 | 25,306                | 0                    | 26,931                | 25,306                |
| Total Travel & Expenditures                 | 9,748                 | 433                  | 5,000                 | 10,181                |
| Total Materials Expenditures                | 76,572                | 10,185               | 60,000                | 86,757                |
| Total Utilities Expenditures                | 15,973                | 0                    | 27,111                | 15,973                |
| Total Repairs & Maint Expenditures          | 0                     | 0                    | 1,000                 | 0                     |
| Total Other Expenditures                    | 49,852                | 1,937                | 56,008                | 51,788                |
| Total Capital & Debt Expenditures           | <u>1,000</u>          | <u>0</u>             | <u>1,000</u>          | <u>1,000</u>          |
| Total Expenditures                          | <u>\$ 1,042,657</u>   | <u>\$ 12,555</u>     | <u>\$ 1,170,838</u>   | <u>\$ 1,055,211</u>   |
| Excess Revenue Over (Under)<br>Expenditures | <u>\$ (1,042,657)</u> | <u>\$ (12,555)</u>   | <u>\$ (1,170,838)</u> | <u>\$ (1,055,211)</u> |
| EMS   |                       |                      |                       |                       |
| Total Personnel Expenditures                | 153,202               | 0                    | 202,467               | 153,202               |
| Total Benefits Expenditures                 | 65,401                | 0                    | 69,165                | 65,401                |
| Total Contract Expenditures                 | 6,235                 | 464                  | 4,900                 | 6,699                 |
| Total Travel & Expenditures                 | 1,468                 | 0                    | 8,200                 | 1,468                 |
| Total Materials Expenditures                | 8,405                 | 0                    | 13,450                | 8,405                 |
| Total Utilities Expenditures                | 7,321                 | 0                    | 8,600                 | 7,321                 |
| Total Repairs & Maint Expenditures          | 0                     | 0                    | 0                     | 0                     |
| Total Other Expenditures                    | 10,109                | 0                    | 10,077                | 10,109                |
| Total Capital & Debt Expenditures           | <u>19,577</u>         | <u>147</u>           | <u>30,000</u>         | <u>19,724</u>         |
| Total Expenditures                          | <u>\$ 271,718</u>     | <u>\$ 611</u>        | <u>\$ 346,859</u>     | <u>\$ 272,329</u>     |

# City of Craig

## Revenue and Expense YTD & Budget

May 22, 2023

|  | Y-T-D<br>Actual | Y-T-D<br>Encumbrance | Y-T-D<br>Budget | Total        |
|--|-----------------|----------------------|-----------------|--------------|
| Excess Revenue Over (Under) Expenditures | \$ (271,718)    | \$ (611)             | \$ (346,859)    | \$ (272,329) |
| Fire Department                          |                 |                      |                 |              |
| Total Personnel Expenditures             | 0               | 0                    | 0               | 0            |
| Total Benefits Expenditures              | 1,015           | 0                    | 4,186           | 1,015        |
| Total Contract Expenditures              | 5,100           | 0                    | 5,400           | 5,100        |
| Total Travel & Expenditures              | 0               | 0                    | 2,500           | 0            |
| Total Materials Expenditures             | 2,196           | 1,502                | 2,300           | 3,699        |
| Total Utilities Expenditures             | 5,413           | 0                    | 5,425           | 5,413        |
| Total Repairs & Maint Expenditures       | 0               | 0                    | 1,000           | 0            |
| Total Other Expenditures                 | 4,115           | 0                    | 5,954           | 4,115        |
| Total Capital & Debt Expenditures        | 0               | 0                    | 5,000           | 0            |
| Total Expenditures                       | \$ 17,839       | \$ 1,502             | \$ 31,765       | \$ 19,342    |
| Excess Revenue Over (Under) Expenditures | \$ (17,839)     | \$ (1,502)           | \$ (31,765)     | \$ (19,342)  |
| Library                                  |                 |                      |                 |              |
| Total Revenues                           | \$ 53,999       | \$ 0                 | \$ 0            | \$ 53,999    |
| Total Personnel Expenditures             | 66,787          | 0                    | 76,341          | 66,787       |
| Total Benefits Expenditures              | 15,570          | 0                    | 15,242          | 15,570       |
| Total Contract Expenditures              | 1,200           | 2,491                | 2,650           | 3,691        |
| Total Travel & Expenditures              | 150             | 0                    | 1,000           | 150          |
| Total Materials Expenditures             | 44,030          | 784                  | 11,884          | 44,814       |
| Total Utilities Expenditures             | 6,264           | 0                    | 11,100          | 6,264        |
| Total Repairs & Maint Expenditures       | 311             | 0                    | 500             | 311          |
| Total Other Expenditures                 | 2,897           | 0                    | 2,770           | 2,897        |
| Total Capital & Debt Expenditures        | 1,015           | 0                    | 2,860           | 1,015        |
| Total Expenditures                       | \$ 138,224      | \$ 3,275             | \$ 124,347      | \$ 141,499   |
| Excess Revenue Over (Under) Expenditures | \$ (84,225)     | \$ (3,275)           | \$ (124,347)    | \$ (87,500)  |
| Recreation                               |                 |                      |                 |              |
| Total Revenues                           | \$ 10,053       | \$ 0                 | \$ 0            | \$ 10,053    |
| Total Personnel Expenditures             | 60,459          | 0                    | 82,055          | 60,459       |
| Total Benefits Expenditures              | 31,785          | 0                    | 43,963          | 31,785       |
| Total Contract Expenditures              | 304             | 0                    | 1,500           | 304          |
| Total Travel & Expenditures              | 200             | 0                    | 0               | 200          |
| Total Materials Expenditures             | 1,949           | 0                    | 2,525           | 1,949        |
| Total Utilities Expenditures             | 11,794          | 0                    | 19,625          | 11,794       |
| Total Repairs & Maint Expenditures       | 1,442           | 0                    | 2,100           | 1,442        |
| Total Other Expenditures                 | 18,265          | 0                    | 6,239           | 18,265       |
| Total Capital & Debt Expenditures        | 2,232           | 0                    | 4,000           | 2,232        |
| Total Expenditures                       | \$ 128,430      | \$ 0                 | \$ 162,007      | \$ 128,430   |
| Excess Revenue Over (Under) Expenditures | \$ (118,377)    | \$ 0                 | \$ (162,007)    | \$ (118,377) |
| Aquatic Center                           |                 |                      |                 |              |

# City of Craig

## Revenue and Expense YTD & Budget

May 22, 2023

|  | Y-T-D<br>Actual     | Y-T-D<br>Encumbrance | Y-T-D<br>Budget     | Total               |
|--|---------------------|----------------------|---------------------|---------------------|
| Total Personnel Expenditures             | 86,913              | 0                    | 162,472             | 86,913              |
| Total Benefits Expenditures              | 59,955              | 0                    | 115,484             | 59,955              |
| Total Contract Expenditures              | 406                 | 0                    | 4,040               | 406                 |
| Total Travel & Expenditures              | 3,566               | 7                    | 5,670               | 3,573               |
| Total Materials Expenditures             | 11,371              | 2,128                | 23,420              | 13,498              |
| Total Utilities Expenditures             | 137,811             | 0                    | 138,650             | 137,811             |
| Total Repairs & Maint Expenditures       | 5,389               | 764                  | 9,250               | 6,153               |
| Total Other Expenditures                 | 16,484              | 0                    | 20,012              | 16,484              |
| Total Capital & Debt Expenditures        | 148,076             | 14,949               | 157,738             | 163,026             |
| Total Expenditures                       | <u>\$ 469,971</u>   | <u>\$ 17,848</u>     | <u>\$ 636,736</u>   | <u>\$ 487,819</u>   |
| Excess Revenue Over (Under) Expenditures | <u>\$ (469,971)</u> | <u>\$ (17,848)</u>   | <u>\$ (636,736)</u> | <u>\$ (487,819)</u> |
| <b>Sewer</b>                             |                     |                      |                     |                     |
| Total Revenues                           | \$ 226,799          | \$ 0                 | \$ 0                | \$ 226,799          |
| Total Personnel Expenditures             | 105,575             | 0                    | 137,550             | 105,575             |
| Total Benefits Expenditures              | 49,442              | 0                    | 63,163              | 49,442              |
| Total Contract Expenditures              | 5,344               | 1,065                | 7,800               | 6,409               |
| Total Travel & Expenditures              | 1,844               | 1,000                | 2,280               | 2,844               |
| Total Materials Expenditures             | 7,897               | 1,076                | 8,350               | 8,973               |
| Total Utilities Expenditures             | 45,711              | 1,392                | 51,700              | 47,103              |
| Total Repairs & Maint Expenditures       | 9,899               | 208                  | 4,000               | 10,108              |
| Total Other Expenditures                 | 19,417              | 0                    | 26,262              | 19,417              |
| Total Capital & Debt Expenditures        | 48,555              | 0                    | 379,445             | 48,555              |
| Total Expenditures                       | <u>\$ 293,684</u>   | <u>\$ 4,741</u>      | <u>\$ 680,550</u>   | <u>\$ 298,426</u>   |
| Excess Revenue Over (Under) Expenditures | <u>\$ (66,885)</u>  | <u>\$ (4,741)</u>    | <u>\$ (680,550)</u> | <u>\$ (71,627)</u>  |
| <b>Water</b>                             |                     |                      |                     |                     |
| Total Revenues                           | \$ 268,418          | \$ 0                 | \$ 0                | \$ 268,418          |
| Total Personnel Expenditures             | 145,752             | 0                    | 199,528             | 145,752             |
| Total Benefits Expenditures              | 71,527              | 0                    | 92,026              | 71,527              |
| Total Contract Expenditures              | 13,394              | 4,401                | 10,000              | 17,795              |
| Total Travel & Expenditures              | 4,345               | 1,198                | 4,935               | 5,544               |
| Total Materials Expenditures             | 86,060              | 22,310               | 69,900              | 108,368             |
| Total Utilities Expenditures             | 30,707              | 0                    | 57,400              | 30,707              |
| Total Repairs & Maint Expenditures       | 44,331              | 4,705                | 30,000              | 49,036              |
| Total Other Expenditures                 | 4,050               | 0                    | 18,345              | 4,050               |
| Total Capital & Debt Expenditures        | 81,937              | 5,980                | 83,208              | 87,916              |
| Total Expenditures                       | <u>\$ 482,103</u>   | <u>\$ 38,594</u>     | <u>\$ 565,342</u>   | <u>\$ 520,695</u>   |
| Excess Revenue Over (Under) Expenditures | <u>\$ (213,685)</u> | <u>\$ (38,594)</u>   | <u>\$ (565,342)</u> | <u>\$ (252,277)</u> |
| <b>Garbage</b>                           |                     |                      |                     |                     |
| Total Revenues                           | \$ 307,617          | \$ 0                 | \$ 0                | \$ 307,617          |
| Total Personnel Expenditures             | 41,072              | 0                    | 50,543              | 41,072              |
| Total Benefits Expenditures              | 19,887              | 0                    | 17,731              | 19,887              |
| Total Contract Expenditures              | 145,104             | 0                    | 239,500             | 145,104             |



# City of Craig

## Revenue and Expense YTD & Budget

May 22, 2023

|  | Y-T-D<br>Actual   | Y-T-D<br>Encumbrance | Y-T-D<br>Budget     | Total             |
|--|-------------------|----------------------|---------------------|-------------------|
| Total Travel & Expenditures              | 0                 | 0                    | 0                   | 0                 |
| Total Materials Expenditures             | 14,233            | 0                    | 9,475               | 14,233            |
| Total Utilities Expenditures             | 209               | 0                    | 500                 | 209               |
| Total Repairs & Maint Expenditures       | 5,000             | 0                    | 5,000               | 5,000             |
| Total Other Expenditures                 | 4,873             | 0                    | 5,802               | 4,873             |
| Total Capital & Debt Expenditures        | 31,765            | 0                    | 55,831              | 31,765            |
| Total Expenditures                       | <u>\$ 262,143</u> | <u>\$ 0</u>          | <u>\$ 384,382</u>   | <u>\$ 262,143</u> |
| Excess Revenue Over (Under) Expenditures | <u>\$ 45,474</u>  | <u>\$ 0</u>          | <u>\$ (384,382)</u> | <u>\$ 45,474</u>  |

### Harbor

|  |                     |                    |                     |                     |
|--|---------------------|--------------------|---------------------|---------------------|
| Total Revenues                           | \$ 259,775          | \$ 0               | \$ 0                | \$ 259,775          |
| Total Personnel Expenditures             | 113,155             | 0                  | 166,081             | 113,155             |
| Total Benefits Expenditures              | 86,857              | 0                  | 105,024             | 86,857              |
| Total Contract Expenditures              | 0                   | 0                  | 1,200               | 0                   |
| Total Travel & Expenditures              | 2,792               | 350                | 2,500               | 3,142               |
| Total Materials Expenditures             | 21,140              | 1,349              | 29,925              | 22,490              |
| Total Utilities Expenditures             | 41,615              | 0                  | 45,492              | 41,615              |
| Total Repairs & Maint Expenditures       | 7,628               | 1,290              | 4,000               | 8,918               |
| Total Other Expenditures                 | 28,168              | 0                  | 26,619              | 28,168              |
| Total Capital & Debt Expenditures        | 78,312              | 27,145             | 196,250             | 105,457             |
| Total Expenditures                       | <u>\$ 379,667</u>   | <u>\$ 30,134</u>   | <u>\$ 577,091</u>   | <u>\$ 409,802</u>   |
| Excess Revenue Over (Under) Expenditures | <u>\$ (119,892)</u> | <u>\$ (30,134)</u> | <u>\$ (577,091)</u> | <u>\$ (150,027)</u> |

### JTB Industrail Park

|  |                   |                   |                     |                   |
|--|-------------------|-------------------|---------------------|-------------------|
| Total Revenues                           | \$ 638,640        | \$ 0              | \$ 0                | \$ 638,640        |
| Total Personnel Expenditures             | 114,803           | 0                 | 97,407              | 114,803           |
| Total Benefits Expenditures              | 43,227            | 0                 | 39,183              | 43,227            |
| Total Contract Expenditures              | 358               | 0                 | 2,200               | 358               |
| Total Travel & Expenditures              | 0                 | 0                 | 0                   | 0                 |
| Total Materials Expenditures             | 8,022             | 0                 | 22,225              | 8,022             |
| Total Utilities Expenditures             | 43,476            | 0                 | 50,100              | 43,476            |
| Total Repairs & Maint Expenditures       | 18,716            | 1,558             | 12,500              | 20,274            |
| Total Other Expenditures                 | 18,983            | 0                 | 21,081              | 18,983            |
| Total Capital & Debt Expenditures        | 145,982           | 6,972             | 168,400             | 152,953           |
| Total Expenditures                       | <u>\$ 393,567</u> | <u>\$ 8,530</u>   | <u>\$ 413,096</u>   | <u>\$ 402,096</u> |
| Excess Revenue Over (Under) Expenditures | <u>\$ 245,073</u> | <u>\$ (8,530)</u> | <u>\$ (413,096)</u> | <u>\$ 236,544</u> |

### Ward Cove Cannery

|                              |          |      |       |          |
|------------------------------|----------|------|-------|----------|
| Total Revenues               | \$ 2,776 | \$ 0 | \$ 0  | \$ 2,776 |
| Total Personnel Expenditures | 0        | 0    | 0     | 0        |
| Total Benefits Expenditures  | 0        | 0    | 0     | 0        |
| Total Contract Expenditures  | 0        | 0    | 0     | 0        |
| Total Travel & Expenditures  | 0        | 0    | 0     | 0        |
| Total Materials Expenditures | 0        | 0    | 0     | 0        |
| Total Utilities Expenditures | 2,741    | 0    | 2,800 | 2,741    |

BACK TO TOP

# City of Craig

## Revenue and Expense YTD & Budget

May 22, 2023

|  | Y-T-D<br>Actual       | Y-T-D<br>Encumbrance | Y-T-D<br>Budget     | Total                 |
|--|-----------------------|----------------------|---------------------|-----------------------|
| Total Repairs & Maint Expenditures       | 4                     | 0                    | 0                   | 4                     |
| Total Other Expenditures                 | 2,478                 | 0                    | 2,732               | 2,478                 |
| Total Capital & Debt Expenditures        | 15,961                | 0                    | 76,750              | 15,961                |
| Total Expenditures                       | <u>\$ 21,184</u>      | <u>\$ 0</u>          | <u>\$ 82,282</u>    | <u>\$ 21,184</u>      |
| Excess Revenue Over (Under) Expenditures | <u>\$ (18,408)</u>    | <u>\$ 0</u>          | <u>\$ (82,282)</u>  | <u>\$ (18,408)</u>    |
| <b>PSN Hatchery</b>                      |                       |                      |                     |                       |
| Total Personnel Expenditures             | 0                     | 0                    | 0                   | 0                     |
| Total Benefits Expenditures              | 0                     | 0                    | 0                   | 0                     |
| Total Contract Expenditures              | 0                     | 0                    | 0                   | 0                     |
| Total Travel & Expenditures              | 0                     | 0                    | 0                   | 0                     |
| Total Materials Expenditures             | 0                     | 0                    | 0                   | 0                     |
| Total Utilities Expenditures             | 508                   | 0                    | 0                   | 508                   |
| Total Repairs & Maint Expenditures       | 0                     | 0                    | 0                   | 0                     |
| Total Other Expenditures                 | 0                     | 0                    | 0                   | 0                     |
| Total Capital & Debt Expenditures        | 0                     | 0                    | 0                   | 0                     |
| Total Expenditures                       | <u>\$ 508</u>         | <u>\$ 0</u>          | <u>\$ 0</u>         | <u>\$ 508</u>         |
| Excess Revenue Over (Under) Expenditures | <u>\$ (508)</u>       | <u>\$ 0</u>          | <u>\$ 0</u>         | <u>\$ (508)</u>       |
| <b>School Support</b>                    |                       |                      |                     |                       |
| Total Personnel Expenditures             | 0                     | 0                    | 0                   | 0                     |
| Total Benefits Expenditures              | 0                     | 0                    | 0                   | 0                     |
| Total Contract Expenditures              | 0                     | 0                    | 0                   | 0                     |
| Total Travel & Expenditures              | 0                     | 0                    | 0                   | 0                     |
| Total Materials Expenditures             | 0                     | 0                    | 0                   | 0                     |
| Total Utilities Expenditures             | 0                     | 0                    | 0                   | 0                     |
| Total Repairs & Maint Expenditures       | 0                     | 0                    | 0                   | 0                     |
| Total Other Expenditures                 | 1,048,056             | 0                    | 0                   | 1,048,056             |
| Total Capital & Debt Expenditures        | 0                     | 0                    | 0                   | 0                     |
| Total Expenditures                       | <u>\$ 1,048,056</u>   | <u>\$ 0</u>          | <u>\$ 0</u>         | <u>\$ 1,048,056</u>   |
| Excess Revenue Over (Under) Expenditures | <u>\$ (1,048,056)</u> | <u>\$ 0</u>          | <u>\$ 0</u>         | <u>\$ (1,048,056)</u> |
| Other Fund Sources                       | (350,660)             | 0                    | 0                   | (350,660)             |
| Other Funding Sources/Outflows           | (350,660)             | 0                    | 0                   | (350,660)             |
| <b>GF Revenue</b>                        |                       |                      |                     |                       |
| Total Revenues                           | <u>\$ 4,687,723</u>   | <u>\$ 0</u>          | <u>\$ 4,039,592</u> | <u>\$ 4,687,723</u>   |
| Total Personnel Expenditures             | 0                     | 0                    | 0                   | 0                     |
| Total Benefits Expenditures              | 0                     | 0                    | 0                   | 0                     |
| Total Contract Expenditures              | 0                     | 0                    | 0                   | 0                     |
| Total Travel & Expenditures              | 0                     | 0                    | 0                   | 0                     |
| Total Materials Expenditures             | 0                     | 0                    | 0                   | 0                     |
| Total Utilities Expenditures             | 0                     | 0                    | 0                   | 0                     |
| Total Repairs & Maint Expenditures       | 0                     | 0                    | 0                   | 0                     |
| Total Other Expenditures                 | 0                     | 0                    | 0                   | 0                     |
| Total Capital & Debt Expenditures        | 0                     | 0                    | 0                   | 0                     |
| Total Expenditures                       | <u>\$ 0</u>           | <u>\$ 0</u>          | <u>\$ 0</u>         | <u>\$ 0</u>           |

**City of Craig**

## Revenue and Expense YTD &amp; Budget

May 22, 2023

|   | <u>Y-T-D<br/>Actual</u> | <u>Y-T-D<br/>Encumbrance</u> | <u>Y-T-D<br/>Budget</u> | <u>Total</u>        |
|---|-------------------------|------------------------------|-------------------------|---------------------|
| Excess Revenue Over (Under)<br>Expenditures | <u>\$ 4,687,723</u>     | <u>\$ 0</u>                  | <u>\$ 4,039,592</u>     | <u>\$ 4,687,723</u> |
| Inter Governmental Transfers                |                         |                              |                         |                     |
| Total Personnel Expenditures                | 0                       | 0                            | 0                       | 0                   |
| Total Benefits Expenditures                 | 0                       | 0                            | 0                       | 0                   |
| Total Contract Expenditures                 | 0                       | 0                            | 0                       | 0                   |
| Total Travel & Expenditures                 | 0                       | 0                            | 0                       | 0                   |
| Total Materials Expenditures                | 0                       | 0                            | 0                       | 0                   |
| Total Utilities Expenditures                | 0                       | 0                            | 0                       | 0                   |
| Total Repairs & Maint Expenditures          | 0                       | 0                            | 0                       | 0                   |
| Total Other Expenditures                    | 0                       | 0                            | 0                       | 0                   |
| Total Capital & Debt Expenditures           | 0                       | 0                            | 0                       | 0                   |
| Total Expenditures                          | <u>\$ 0</u>             | <u>\$ 0</u>                  | <u>\$ 0</u>             | <u>\$ 0</u>         |
| Excess Revenue Over (Under)<br>Expenditures | <u>\$ 0</u>             | <u>\$ 0</u>                  | <u>\$ 0</u>             | <u>\$ 0</u>         |
| Other Fund Sources                          | 578                     | 0                            | 0                       | 578                 |
| Other Funding Sources/Outflows              | 578                     | 0                            | 0                       | 578                 |

# CITY OF CRAIG - PERMANENT FUND

Account Statement - Period Ending April 30, 2023



ALASKA PERMANENT  
CAPITAL MANAGEMENT  
Registered Investment Adviser

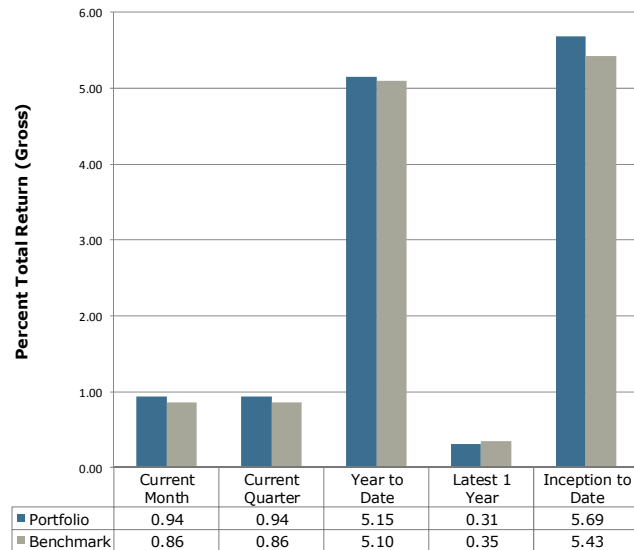
## ACCOUNT ACTIVITY

|                             |            |
|-----------------------------|------------|
| Portfolio Value on 03-31-23 | 15,026,371 |
| Contributions               | 0          |
| Withdrawals                 | 0          |
| Change in Market Value      | 130,597    |
| Interest                    | 10,134     |
| Dividends                   | 0          |

Portfolio Value on 04-30-23 15,167,101

## INVESTMENT PERFORMANCE

Current Account Benchmark:  
Equity Blend

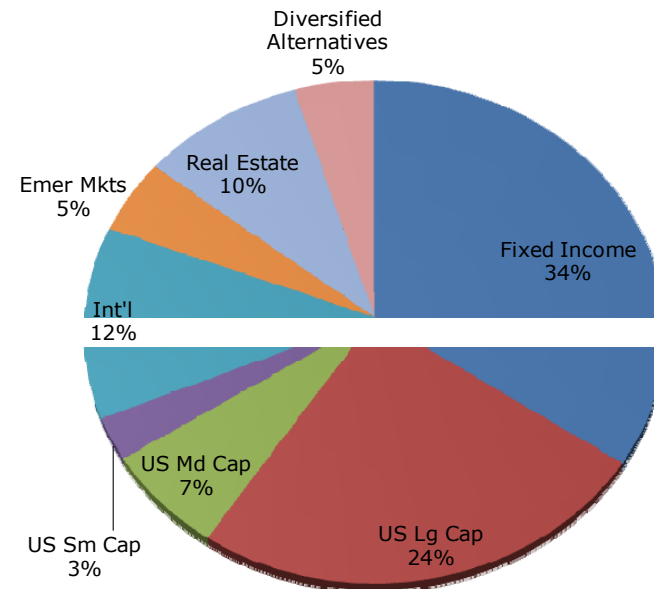


Performance is Annualized for Periods Greater than One Year

## MANAGEMENT TEAM

|                              |  |
|------------------------------|--|
| Client Relationship Manager: | Blake Phillips, CFA®<br>Blake@apcm.net |
| Your Portfolio Manager:      | Bill Lierman, CFA®                     |
| Contact Phone Number:        | 907/272 -7575                          |

## PORTFOLIO COMPOSITION



Clients are encouraged to compare this report with the official statement from their custodian.

# CITY OF CRAIG - CAPITAL RESERVES

Account Statement - Period Ending April 30, 2023



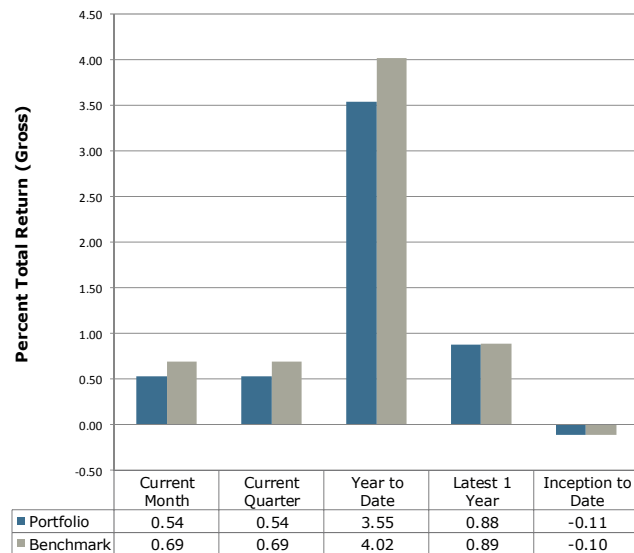
ALASKA PERMANENT  
CAPITAL MANAGEMENT  
Registered Investment Adviser

## ACCOUNT ACTIVITY

|                             |           |
|-----------------------------|-----------|
| Portfolio Value on 03-31-23 | 2,271,363 |
| Contributions               | 0         |
| Withdrawals                 | 0         |
| Change in Market Value      | 8,721     |
| Interest                    | 10        |
| Dividends                   | 3,448     |
| Portfolio Value on 04-30-23 | 2,283,541 |

## INVESTMENT PERFORMANCE

Current Account Benchmark:  
Equity Blend

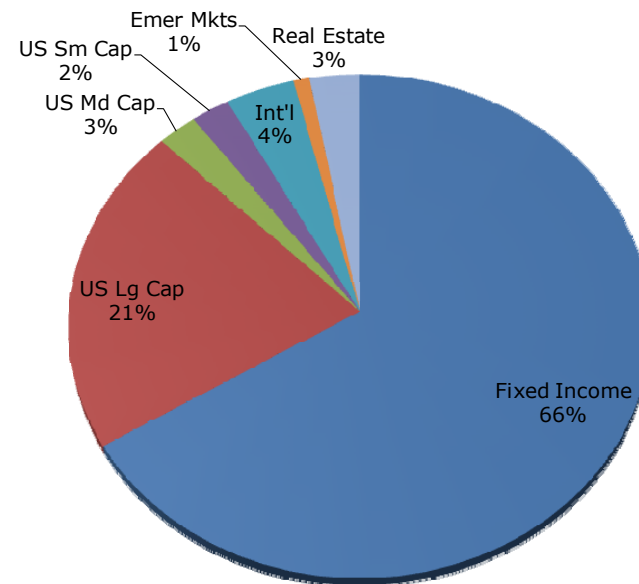


Performance is Annualized for Periods Greater than One Year

## MANAGEMENT TEAM

|                              |  |
|------------------------------|--|
| Client Relationship Manager: | Blake Phillips, CFA®<br>Blake@apcm.net |
| Your Portfolio Manager:      | Brandy Niclai, CFA®                    |
| Contact Phone Number:        | 907/272-7575                           |

## PORTFOLIO COMPOSITION



Clients are encouraged to compare this report with the official statement from their custodian.



May 25, 2023

Re: City Clerk Staff Report

To: Craig City Council

From: Kecia Weatherwax

I advertised the Public Works Director position in three newspapers: Seattle Times, Anchorage Daily News, Ketchikan Daily News and Indeed. I check the Indeed account daily for any applicants because it costs money if they are left waiting in the system. This involves going back and forth with the publications and discussing cost vs. copy. I called Petersburg, Wrangell, and Ketchikan to get a ballpark figure of what they are paying their Public Works Director.

I submitted the 2022 Workmen's Compensation Report to the Bureau of Labor Statistics and the 2023 Public Survey for Public Employment and Payroll. This was a 20-page report that required Kimber and I to go through our most recent payroll period and record numbers from each department within the municipality. I also completed an OSHA Report and had to confer with APEI to get old incident reports.

I processed our first Workmen's Comp claim, dealt with the employee, processed their paperwork and fulfilled our requirements as an employer by reporting it promptly and following through with the different agencies. I am currently e-mailing several employees who are deliberating on whether they want to participate in the Premera Blue Cross. I am also currently processing an employee who was exposed to In celery and he did not sign up for medical. I was unsure about filing a workmen's Comp but will consult our policy.

Veronica and I worked with the Public Works Department to get through the Spring Clean-Up Week. Veronica gathered all the names submitted on our website and worked closely with Public Works to try and get to everyone's request. This was not easy, everyone helped with the phone calls and the Public Works crew was down from 7 to 3.5 men, but they did a great job.

I processed two burials and am learning how to explain our policy. We are currently waiting for the land expansion and so are not taking any reservations currently. I usually deal with Doug and Terry for this, Terry will be retiring this December 31, 2023. We are running out of plots.

I scheduled my arrangements to attend the 2023 Northwest Clerks Institute Professional Development Training in Seattle, Washington for June 11-16<sup>th</sup>.

I do my Human Resource duties as they come in. When there is an applicant, I forward the e-mail to the department head and basically wait for further instructions. I usually get their file together and set up their drug test and payroll and until I hear anything further.

I have designated Fridays to de-clutter and go through the website and take off what is no longer relevant.





# CITY OF CRAIG MEMORANDUM

To: Craig Mayor and City Council  
From: Samantha Wilson, City Planner  
Date: May 22, 2023  
RE: Planning Department Staff Report – June 2023

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1. Federal Appropriation Applications: EPA Community Grant webinar (lift stations approved last year).
2. POWER State Grant:
  - a. Review of the RFP
3. Water Treatment Emergency:
  - a. EJCDC Contracts R&M Engineering and RMC Engineering Services
  - b. ECWAG Grant
4. Cemetery Updates:
  - a. Updated cemetery map
  - b. Site visit and outline of new plot areas in agreement with 2022 master plan.
  - c. Chris Piburn contacted for review and quote for surveying services/placement of reference markers in new grave space.
5. MARS Updates: supplementing records with missing information and adding missing records.
6. Craig City Map and Zoning Map Updates
7. Building Permits:
  - a. Becky Gardner: wanigan & extend roof at Site 1B, Lot 1, Block 13, USS 1430
  - b. Chris Piburn: two new decks and greenhouse on Lot 2, Tract B, USS 2327
8. Emergency Grant Equipment Inventory
9. ICS 300: Intermediate ICS for Expanding Incidents May 23-25 Training



## **EMS Report**

**May 24th, 2023**

**Submitted by Tsai, EMS/Fire Coordinator**

### **Calls to Date**

May 2023 Calls: 9 (Updated 5/24)

2023 Calls to date: 83 (Updated 5/24)

### **Crew Status**

All EMTs are responding as scheduled or to back up crew as needed.

EMT Certifications are all up to date until End of Year.

Certain CPR Recertifications will be updated this year.

Sandy is taking the AKEMT Class.

1-2 EMTs will be busy from June/July/August and off the on call schedule.

New ETT on squad and will be taking on call shifts. He is currently working on his EMT 1 Certification.

### **Training**

Monthly Meetings are occurring again for EMS and the Fire Department.

### **Recruitment**

Looking for additional volunteers (CPR/First Aid certified is the minimum requirement)

### **Other Responsibilities:**

Working on obtaining a new medical director

Posted the position for DMV/Admin Clerk position (Possible candidate)

Keeping reports up to date with EMS System/Billing and State of Alaska.

Updating and maintaining Team Schedule

Preparing for EMS Symposium

CPR Instructor: Pending

EMS/Fire Budgets





To: Craig City Council

From: Hans Hjort, Harbor Master

Date: May 24, 2023

RE: June staff report

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### **Harbor department report June 2023**

- Still working to get the pile driving barge here from Ketchikan to replace the broken piling at the City Dock Float. The contractor came and looked at the job. He thinks he will be able to swing over the top of the City approach dock and drive a new larger pile over the old broken off pile. When he comes he will also replace a wood fender pile at the False Island dock. The contractor has some other work happening at the end of the month or the beginning of June here on the island. He plans to come after that work is completed.
- The electrical upgrades have been completed at the City Dock. These upgrades included eliminating one meter base and consolidating into one meter base, new service disconnect, improving the ground system, as well as installing an emergency shut off for the public crane.
- More boat stands have been ordered for the boat yard. They are currently being shipped to AML in Seattle. We have ordered a total of 16 stands.
- We have finally received the new coin operated shower timers for the Harbor restrooms. We will be changing out the old coin boxes and mechanical timer system with a new modern system. The new system is almost impossible to jamb up with coins. The old system was very temperamental and jammed up frequently. We have begun working on this with the help from Parks and Facilities.
- The false island boat ramp project has been placed on hold. The permit has been approved. We will try to get the work done early in the fall when things slow down.
- The hydraulic pump for the City dock crane failed. We were able to order parts and I rebuilt it. The Crane is now back up and running.
- The recent cellular tower problems have caused problems for the credit card machines that operate the harbor cranes. The systems have been in use now for almost 5 years. They use a cellular signal to take a credit card to start the crane. We have had times in the past that had limited cell signal and caused similar problems. We have not experienced the long and frequent



problems that the Island has recently experienced. It has been difficult. I don't think the problem needs to be addressed at this time because AT&T is sure to get this problem fixed soon.

- Four finger floats are now built. Harbor staff will install the fingers as soon as we have time and a support vessel available.
- The tires for the Brownell haul out trailer are now here. The company actually had to have the tires custom made by a tire manufacturer. The new tires are mounted to wheels and are filled with foam. We will be replacing the tires and wheels as soon as we have a good weather day with no boats to haul. When we remove the wheels we will also pull the hubs off and replace the wheel seal. The spindles have corrosion issues so we will install speedy sleeves to fix the problem.
- The ice house has been keeping us very busy this spring. Longlining, trolling, and shrimping all came at the same time. We've also been selling a lot of ice to Craig Fish this year. We have been able to keep up with the demand so far.



New meter base at head of City Dock



New plywood against building, and new rain tight service panel.





**04/21/23-05/22/23**

Patron Visits: 691

Circulation: 2,228

Alaska Digital Library: 221

Computer Usage: 88

Wi-Fi Usage: 209 unique visitors, 528 total visits

Programs: Craig Public Library Story Time (46 Children)

Spring Program: 80 Planting Kits, and Seed Exchange

100 people signed up for the Spring Reading Program

Teen Computer Gaming 30

Free Items 107 (Victoria)

Inter-Library Loans: 60

Volunteer Hours: 55 hours

New-

- ✓ Put together 20 bags/80 items for summer reading bags for take home month of June.
- ✓ Working on ALA Grant- \$10,000
- ✓ Processing over 300 items to the library

Project-

- Summer Reading Program
- Working on children's picture books.
- Working with MRV- Zane Jones
- Processed over 300 books and DVDs this month and still working on orders.



Submitted by Patricia Gardner, Library Director



**CITY OF CRAIG  
MEMORANDUM**



**Date:** 05/25/2023  
**To:** Honorable Tim O'Connor, Craig City Council  
**Fr:** RJ Ely, Police Chief  
**Re:** Staff Report / May 2023

*RJ Ely*

**ACTIVITY**

Activity from April 14, 2023 through May 24, 2023 the Dispatch Center took the following amount of calls for service.

|         |     |                                |
|---------|-----|--------------------------------|
| Craig   | 958 |                                |
| Klawock | 35  | (CPD Assisting AST with Calls) |
| AST     | 12  |                                |

**DEPARTMENT OF MOTOR VEHICLES**

Currently working with EMS on filling the DMV / EMS Admin Position. Interviews are taking place and hope to have position filled soon.

**DISPATCHER(S)**

Fully Staffed

**OFFICER(S)**

Fully Staffed / Have filed the C.E.O. / Code Enforcement Officer Position. Cole Connelly accepted the position and will be arriving at the end of May.

Ofc. Dustin Connolly is currently at the Police Academy, assisting with Training new officers, filling in as a TAC Officer.

**OTHER**

Klawock has hired a new Chief of Police. Corey White, who comes from Montana and was sworn in on Friday, May 19, 2023. We are assisting him with his RMS, as it's same as CPD.

Ofc. R LaRue is set to attend the Police Academy, in Sitka, end of July this year.

Working with Facilities to add onto the rear of the Police Department, to make a DataMaster & Live Scan Office. As well, at the end of this new addition, a restroom will be installed, allowing dispatcher shorter, quicker access to facilities. Also working with planning/zoning to insure we comply with city code.



## Public Works Report May 2023

### Streets & Drainage:

- a. Cold patching various pot holes
- b. Keeping culverts and catch basins clear and flowing
- c. Will be keeping fire hydrants cleared of grass and weeds
- d. Street sign upkeep and replacement as needed

### Sewer:

- a. Monthly Sludge processing
- b. Monthly sampling
- c. Dealing with weekly failing Lift stations
- d. Extra clean up at plant do to higher flow from Tyler rental dumping in the East Hamilton lift station.

### Water:

- a. Monthly and quarterly sampling
- b. Still awaiting parts to get train 3 and 4 back on line
- c. Water meter maintenance as required
- d. Monthly data reported to DEC

### Solid Waste:

- a. Working to make the garbage route more efficient for maximum use of our time and man power
- b. Had critical maintenance on the Garbage truck performed by island repair. It resolved some of the issues
- c. Waiting on quote from island repair to make the final repairs
- d. Adding summer receptacles as requested

Projects:

- a. Completed Spring clean-up (with help of Shaan Seet and Curtis Looper)
- b. Assisted Parks and Public Facilities with the Lagoon Beach Clean-up
- c. Reinstated RV station and grounds maintenance

Routine operations:

- a. Monthly meter reads and rereads
- b. Burn pit maintenance as man power allows
- c. City shop facility grounds keeping
- d. City shop facility and equipment housekeeping
- e. Weekly safety meetings

Administrative:

- a. Interviewing for new hires
- b. Working cohesively with city hall for routine administrative needs

# RECREATION SUMMARY FOR COUNCIL MEETING 6/1/23

## Whats going on with recreation?

In the past month

- had the Highschool tour the youth center
  - k-2 finished up and went very well
  - ballet lessons have been going well
  - last month of afterschool programming
    - hired a new worker
    - spring bazaar, 5/28
    - 4th of July planning
- handling hero ticket selling, booth registration, parade registration, hero party planning, parade registration and volunteer accumulation for the 4th
  - got garden baskets out
- got new garden planters out around town
  - Memorial Day blessing of the fleet
    - announcing at the marathon
    - developed a summer schedule
- ordered new playground equipment for the playground outside daycare
  - got 4th trailer repaired
  - put full time job posting out

in the next month

- June 3rd swap meet
- June 4th ballet recital and music show
  - replacing rollerblades with new ones
  - building new playground equipment
    - getting flowers in new planters
- repairing 4th of July trailer and building new games
- I will be taking two weeks off but still coming in for half days occasionally as my family is coming into town.
  - full time employee interviews
  - starting family nights and teen nights up
    - getting in new wrestling mats
- getting the deck and park area behind youth center finished
  - getting 4th of July financials organized

im taking a break from pool drop ins and management until I get the full time employee in July. The pool currently has 2 employees and is still looking for a full time swim coach and part time worker.







# Parks & Public Facilities

5/25/2023

## Staff Report –May 2023

To: Craig Mayor and City Council

From: Douglas Ward

### Current Projects Underway:

- 1 Cemetery Trail maintenance brushing.
- 2 Little League Ballfield annual cleanup and maintenance.
- 3 Install conduit and wiring for heating controls at Harbor building.
- 4 Design and install new flower pots at ballfield entrance.
- 5 Install cornhole game at ballfield.
- 6 Finish Daycare window upgrade, and repairs.
- 7 Columbarium purchase.

### **COMPLETED ITEMS**

- Cemetery clean-up for Memorial Day.
- Finished cutting trees down at community garden.
- Parking lot pothole repair and grooming with Ventrac.
- Assisting other department heads with repairs and help as needed.
- Spring cleanup around shop and yard.
- Weekly mowing.
- Lawncare equipment maintenance.

Responded to day-to-day routine, and emergency calls as they come in.

As always, don't hesitate to call or contact me anytime with questions or concerns. (907) 401-1038



## Brian Templin

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**From:** Brian Templin  
**Sent:** Wednesday, May 24, 2023 9:12 AM  
**To:** Jan Trojan; Richard Trojan; A. Millie Schoonover; Hannah Bazinet; Julie McDonald; Tim O'Connor; Tim O'Connor - Mayor  
**Subject:** RE: Open Meeting Act

Jan,

Thank you for your email. I will try to address each of your items below as best I can.

1. It is our practice to post the agenda for each meeting in multiple public places (usually the Post Office, our website, Facebook (link), City Hall, and First Bank. You are correct that there is some confusion about the posting of this meeting's agenda and it was likely not posted as our usual practice. However, it is important to note that posting the agenda of each meeting is not required under state law or municipal code. Section 2.04.150 A of the Craig Municipal Code lays out the minimum requirements to meet legal requirements for posting meetings. This section of code states:

*“Regular meetings of the council shall be held on the first and third Thursdays of every month in the council chambers unless public notice is given for a period of at least 24 hours to the effect that the meeting will be held on a different day and/or in a different place. Whenever a first or third Thursday of the month is a holiday or if it is found that there is not going to be a quorum for a meeting, the regular meeting scheduled for that day may be changed to a different day, hour or place, or it may be cancelled, so long as there is at least one regular meeting in the month, in accordance with AS 29.20.160(b), and proper notices have been posted as noted above. No notice of any regular meeting is required except that in the month of January of each year the clerk shall post a notice in three public places in the city stating the time and place of regular meetings of the council as provided by this chapter.*

As Mr. Leahu shared with you in the email chain below, the municipality must provide “Reasonable public notice shall be given for all meetings required to be open under this section. The notice must include the date, time, and place of the meeting...” The city continues to meet this burden and regularly provides items (i.e. agenda, packets, etc) that are above and beyond what is required.

As I said above, it is our regular practice to post the agendas for each meeting and the meeting packet online and easily accessible to the public. We will continue to do this to the best of our ability in the future as well. While it is unfortunate that there was some confusion and all of the information that we normally post was not posted in the same places, our notice of the public meeting met state and municipal requirements. I will also point out that the meeting agenda and packet were posted on the web site, but were not linked where they could be easily found for this meeting. The information was still available either by going to the “Agendas/Minutes” option under the “Resources” tab on the site’s home page, or by simply contacting the city clerk for a copy of the agenda or packet. It is also good to note that copies of the unapproved minutes for any meeting are generally included in a subsequent (usually the next meeting) council meeting packet as well.

2. There are several items on the city’s website that are in the process of being updated. As mentioned above, while the agenda for the May 4<sup>th</sup> meeting did not have the visible links that we usually post, the agenda and packet were up on the website.
3. Thank you for your comments at the meeting regarding the mayor’s salary and the information that you provided from other municipalities. Recusals are normally tied to voting on issues, and as you may

be aware, the mayor does not vote on issues except in the case of a tie council vote. The increase to the mayor's salary was proposed by staff as part of the overall cost of living increase for all wages for city employees. The reason that the mayor's salary was discussed separate from all other employees (COLA was included in the budget for most other employees) was that the mayor's salary is set by resolution according to Craig Municipal Code 2.04.045.

4. The work that you are referring to is a modification to the boat launch ramp at False Island. We have been working to renovate the ramp to reduce the overall grade and remove a "hump" at the top of the ramp that limits the haulout trailer's ability to haul out vessels that should be within the specifications of the trailer. Based on council direction in late 2022, staff solicited bids for the work. The original goal was to complete the work early in 2023 to have the least impact on the commercial, sport, and subsistence fleet needing to launch their boats. We had a narrow window between the end of winter and boat launches picking up that we were trying to complete the work. The council approved the contract and appropriated the funds in February 2023. Unfortunately the permit for the work was not issued as quickly as we anticipated and by the time we received the permit, our window to do the work without impacting fishermen had passed. We have worked with the selected contractor to complete the work in October, which is our next available window with the least impact to fishermen.
5. The council passed Resolution 23-06 on May 4<sup>th</sup>. The resolution and the meeting were legally noticed and the process set forward in municipal code for adjusting the mayor's salary was followed by the council. The council has the prerogative to ask staff to submit another resolution adjusting the salary back, but the council would have to request that action and approve a new resolution setting the mayor's salary at some other rate. Also, just to be clear, the increased salary was not intended as a raise, but simply to offer the same COLA increase made to all other city employees for FY24.

I hope that this helps to answer your questions/items and clear up any confusion about the requirements to post meetings. It is the city's intent to provide information to the public above what we are required to do, but we are not always able to do that.

I will include a copy of this email and your attachments regarding the Open Meetings Act under correspondence for the June 1, 2023 regular city council meeting.

Brian

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**From:** Jan Trojan [REDACTED]  
**Sent:** Tuesday, May 23, 2023 8:00 PM  
**To:** Richard Trojan [REDACTED]; A. Millie Schoonover [REDACTED]; Hannah Bazinet [REDACTED]; Julie McDonald [REDACTED]; Brian Templin [REDACTED] Tim O'Connor [REDACTED] Tim O'Connor - Mayor [REDACTED]  
**Subject:** Fwd: Open Meeting Act

So..... the city did a few wrong things. In attempting to increase the Mayor's wages.

Tim O'Connor is no Dennis Watson. I attended the council meeting with a checklist, a salary of mayors and a personal letter from Richard.

Attached are what I presented to the council.

1.The post office did not have a posting of the council agenda. City Clerk fessed up to it.

2.The Craig City website is outdated. I could not pull up AGENDA to see if I wanted to attend.. 2 council members attested to it. Julie McDonald said she could read it (because she is the council) Hannah Bazinett attested that the public could not. Thank you Hannah. Confusion on the city. Website should be current for tourists too!! We used to have a good website.

3. As I attended the council meeting. They opened the conversation on the mayor's raise. Mike Kampsnitch said that my chart should be ignored-paraphase. He said something like that, that pissed me off. Then the mayor explained why to give him a raise. I don't know enough about politics and parliamentary rule. I just know if you are vested in something you should recuse yourself. The mayor explained just a few more dollars in salary he would get PERS. As a council member that lost my PERS because I didn't make enough money-it stuck in my craw.

Who decided the mayor needed a raise?????

4. A different topic. The city of Craig called 2 contractors to do a 30,000.00 bid for ramp repair. My husband being a contractor was not one of them. The harbor master stated he was instructed to get bids expedited asap. It was quickly explained by the mayor that there was a deadline(in the council meeting). The repair has not been done. What was the deadline????

Meetings need to be open. Business needs to be transparent.

5. Maybe a raise for the mayor should be voided at this point to avoid any lawsuit..

Jan Trojan

907-401-0148

PS I only sent to emails I had.

----- Forwarded message -----

From: Leahu, Iura S (CED) [REDACTED]

Date: Tue, May 23, 2023 at 4:02 PM

Subject: RE: Open Meeting Act

To: [REDACTED]

Hi Jan! I copied and passed the provisions of OMA answering your question below:

The answer to your question is under AS 44.62.310(e)(f)

(e) Reasonable public notice shall be given for all meetings required to be open under this section. The notice must include the date, time, and place of the meeting and, if the meeting is by teleconference, the location of any teleconferencing facilities that will be used. Subject to posting notice of a meeting on the Alaska Online Public Notice System as required by AS 44.62.175(a), the notice may be given by using print or broadcast media. The notice shall be posted at the principal office of the public entity or, if the public entity has no principal office, at a place designated by the governmental body. The governmental body shall provide notice in a consistent fashion for all its meetings.

(f) Action taken contrary to this section is voidable. A lawsuit to void an action taken in violation of this section must be filed in superior court within 180 days after the date of the action. A member of a governmental body may not be named in an action to enforce this section in the member's personal capacity. A governmental body that violates or is alleged to have violated this section may cure the violation or alleged violation by holding another meeting in compliance with notice and other requirements of this section and conducting a substantial and public reconsideration of the matters considered at the original meeting. If the court finds that an action is void, the governmental body may discuss and act on the matter at another meeting held in compliance with this section. A court may hold that an action taken at a meeting held in violation of this

section is void only if the court finds that, considering all of the circumstances, the public interest in compliance with this section outweighs the harm that would be caused to the public interest and to the public entity by voiding the action. In making this determination, the court shall consider at least the following:"

I also attached an article and the state law for you to refer to. Regards.

**Iura S Leahu, DCRA Juneau Office**

Local Government Specialist

Rural Utility Business Advisor

State of Alaska, Division of Community and Regional Affairs

Rural Utility Business Advisor Program

P.O. Box 1108009


Juneau, AK 99801

(907) 465-4814 (work)

907-268-7833 (cell)

(907) 465-4761 (fax)

[iura.leahu@alaska.gov](mailto:iura.leahu@alaska.gov)

 **Facebook: DCRA - Local Government Assistance**

[Sign up for our Listserve to receive regular emails about Best Practices, Bulk Fuel Revolving Loan Program, Grants & Funding Opportunities, Training Opportunities, and Public Notices!](#)

**\*\*Reminder: The next Best Practices Scoring is January 2023. Please submit June-November Best Practice documents monthly\*\***

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*"Democracy is two wolves and a lamb voting on what to have for dinner. Liberty is a well armed lamb contesting the vote."*

*Benjamin Franklin 1759*

# Alaska's Open Meetings Law

Gordon J Tans  
October 2002  
3rd Edition

## I. INTRODUCTION TO ALASKA'S OPEN MEETINGS ACT

## II. WHO IS COVERED BY THE ACT?

## III. WHAT IS A MEETING?

## IV. PUBLIC PARTICIPATION RIGHTS

## V. WHAT NOTICE IS REQUIRED?

## VI. EXECUTIVE SESSIONS

## VII. REMEDIES AND PENALTIES FOR VIOLATIONS

## APPENDIX

## PREFACE

The first edition of this publication appeared in 1992 under the title "Alaska's Open Meetings Act: A Guide For Local Governments And School Districts." In 1994 the Alaska State Legislature passed significant amendments to AS 44.62.310-.312, popularly known as the Open Meetings Act, which is reprinted in the Appendix. Among other changes, the legislation clarified the definitions of "governmental body" and "meeting" coming within the coverage of the act. Sweeping changes were made to the law of remedies available for violation of the act. The second edition of this publication was published in 1996 to incorporate these legislative changes. This third edition broadens the scope of the publication and provides additional analysis. It also refers to all court decisions discussing the Open Meetings Act that have been issued since 1996.

This publication refers to court decisions from several different courts. Generally, only those opinions from the Alaska Supreme Court (cited as Alaska) would be considered binding precedents. Cases cited from other states, or from the Superior Court (cited as Alaska Super. Ct.) or the U.S. District Court for Alaska (cited as D. Alaska) are cited for illustrative purposes. Although those cases show how courts interpret the Open Meetings Act, they are not precedents binding on any other court's interpretation of the act.

This publication is intended to provide accurate and authoritative information in regard to the subject matter covered. It is made available with the understanding that the author and publisher are not engaged in rendering legal or other professional service. If legal advice or other expert assistance is required, the services of a competent professional should be sought.

## I. INTRODUCTION TO ALASKA'S OPEN MEETINGS ACT

### A. Background

Alaska's open meetings law has been in the statute books since the earliest days of statehood. For the first twenty years since statehood in 1959, no reported Alaska court decision even mentioned the open meetings law. The first decision to do so appeared in 1980,<sup>1</sup> and since then there have been many. In the 1980s there were eleven reported decisions in which the law played a substantive role and another eight where the law was mentioned, but played an insignificant part. In the 1990s, the law was substantively applied in ten reported cases and mentioned in another four decisions.

In 1994 the law, popularly known as the Open Meetings Act, was significantly amended by the Alaska Legislature. Among other changes, the legislation clarified the definitions of "governmental body" and "meeting" within the coverage of the act. Sweeping changes were made to the legislated remedies for violation of the act.



One should be aware of the effect of these changes when reviewing court decisions based on the prior law.

### **B. The OMA Requires Meetings To Be Open To The Public**

Alaska's "Open Meetings Act" ("OMA"), AS 44.62.310-.312, requires meetings of most legislative or administrative state and local governmental bodies to be open to the public. The essence of the OMA is stated in its first sentence:

All meetings of a governmental body of a public entity of the state are open to the public except as otherwise provided by this section or another provision of law.<sup>2</sup>

The OMA, generally applicable to the state government, is specifically made applicable to all municipalities by AS 29.20.020 and [AS 44.62.310](#). School districts are also subject to the OMA according to [AS 44.62.310\(h\)\(3\)](#).

The complete Open Meetings Act, as in effect on the date of this paper, is reprinted in the [Appendix](#) at the end of this paper.

### **C. State Policy Regarding Open Meetings**

State law expresses a strong policy in favor of opening governmental meetings to the public. The statement of policy says government exists to aid in the conduct of the people's business; government actions should be taken openly and deliberations conducted openly; the people do not yield their sovereignty to government agencies; the people do not give public servants the right to decide what is good for the people to know and not good for them to know; and the right of the people to remain informed shall be protected so the people may retain control over the government.<sup>3</sup> Further, the OMA is to be narrowly construed to avoid unnecessary executive sessions and exemptions from coverage of the act.<sup>4</sup>

This statement of policy is quoted often by the courts when interpreting the OMA. It provides a strong impetus for court interpretations of the OMA in favor of openness.

## **II. WHO IS COVERED BY THE ACT?**

The Open Meetings Act requires that many governmental meetings be properly noticed and open to the public. To whom do these requirements apply?

### **A. Public Entities**

The OMA applies to every "governmental body" of a "public entity." "Public entity" is defined to include entities of the state, the University of Alaska, and all political subdivisions, including boards, commissions, agencies, municipalities, school districts, public authorities and corporations, and other governmental units of the state and political subdivisions of the state.<sup>5</sup>

### **B. Governmental Bodies**

For OMA purposes a "governmental body" means an assembly, council, board, commission, committee, and any other similar body of any public entity.<sup>6</sup> Both home rule and general law municipalities are covered equally.<sup>7</sup> By its terms, the act also applies to members of a subcommittee or other subordinate unit of a governmental body if the subordinate unit consists of two or more members.

The OMA draws a distinction between two types of governmental bodies: those with authority to establish policies or make decisions for the public entity, and those with authority only to advise or make recommendations to the public entity. Both of these types of bodies are covered by the OMA, but the distinction arising from the way a "meeting" is defined<sup>8</sup> affects the remedies that will be available for violations of the OMA.<sup>9</sup>

### **C. Some Examples**

It is important to note that a body does not have to have any decision-making power to be subject to the OMA. A body is subject to the OMA even if its only power is to give advice or make recommendations on matters of public concern.

Certain bodies are easy to categorize as policy-making or decision-making bodies. Obviously included in this category are the Local Boundary Commission, a reapportionment board, borough assemblies, city councils, school boards, boards of adjustment, and boards of equalization. Each of these is easily characterized as a "governmental body" with decision-making authority.

Other bodies may sometimes have policy-making and decision-making authority and at other times have only advisory authority. The functions assigned to each board, committee, or commission should be examined to determine if it has some authority to make policy or decisions binding on the government. Examples of bodies that sometimes have policy or decision-making authority might include planning and zoning commissions, port authority boards, service area boards and similar bodies.

An example of a body that does not have authority to make policy or decisions for the governmental entity would be an advisory neighborhood council, like the community councils in the Municipality of Anchorage.

Alaska Supreme Court decisions have held that some not so obvious groups are governmental bodies covered by the OMA. For instance, the following are or may be covered: a local tenure committee formed to advise the administration of the University of Alaska,<sup>10</sup> a gathering of municipal assembly members at a developer's office for an informal discussion of a proposed development,<sup>11</sup> and a joint federal/state advisory task force (including both agency and non-agency members) formed to give advice to administrative agencies about the terms of proposed leases.<sup>12</sup>

The very first reported case interpreting Alaska's OMA was an attempt to apply it to the Alaska Bar Association to void the results of a 1978 meeting of the board of governors held in Hawaii.<sup>13</sup> The court held that the statute<sup>14</sup> governing the bar association, as in effect at that time, exempted the association from the OMA. At the very next legislative session the law was amended to make the OMA expressly applicable to the Alaska Bar Association, with specific requirements that 30 days' notice be given of all meetings and that all board meetings be held within Alaska.<sup>15</sup>

### **D. Who Is Not Covered?**

#### **1. Individuals**

One assembly member, council member, board member, or other individual member of a body may meet alone with members of the public or lobbyists to discuss matters of public business without violating the OMA.<sup>16</sup> It has also been decided that the Commissioner of the Department of Fish and Game, acting under authority delegated to him by the Board of Game, did not fall within the coverage of the current OMA when, acting alone, he deliberated and adopted subsistence hunting regulations.<sup>17</sup>

#### **2. Employees and staff**

Staff meetings and other gatherings of employees of the public entity are expressly exempt from coverage under the OMA.<sup>18</sup> Thus, a weekly staff meeting of department heads and the mayor or municipal manager, for example, is not a governmental body covered by the act. The Alaska Supreme Court also held that everyday dealings of public employees with each other and with members of the public in day-to-day conduct of government business are not "meetings" of "bodies" and that such employees are not "governmental units."<sup>19</sup>

However, sometimes an employee may be appointed to a board or committee that has either decision-making authority or advisory authority for the public entity. In such cases the board or committee is covered by the OMA. The mere presence of one or more employees on such a body will not exempt it from the act.

### **3. Quasi-judicial bodies solely when making decisions**

State agencies, municipalities, and school districts may, from time to time, convene meetings of quasi-judicial bodies to make decisions in adjudicatory proceedings. Examples of quasi-judicial bodies include the Local Boundary Commission, the Worker's Compensation Board, boards of adjustment, boards of equalization, boards of appeals, and disciplinary boards. Sometimes other bodies may also sit as quasi-judicial bodies, such as the assembly, council, planning and zoning commission, and school board. Such bodies are exempt from the OMA when meeting *solely* to make a decision in an adjudicatory proceeding.<sup>20</sup> An "adjudicatory proceeding" is generally one in which the rights of specific, identified individuals are being determined, such as a request for a zoning variance, an appeal of a tax assessment, or consideration of a contract termination.

To be exempt from the OMA means that such bodies, in such cases, may meet in executive session to deliberate and make a decision in the pending case. If the meeting is convened *solely* for that purpose, public notice is not even required (such a meeting is entirely *exempt* from the OMA). However, if other public matters are also addressed at such a meeting, then public notice is required and the other requirements of the OMA must be met as to the other matters to be addressed.

The exemption from the OMA also means that a quasi-judicial body, when meeting to make a decision in an adjudicatory proceeding, is also further exempt from AS 29.20.020(a), meaning it does not have to give the public an opportunity to be heard during the deliberation session.<sup>21</sup>

### **4. Organizational votes**

The OMA does not apply to votes required to organize a governmental body.<sup>22</sup> Organizing votes are those that elect the leaders or officers of the body, such as the mayor, mayor pro tempore, chair, vice-chair, secretary, parliamentarian, and the like.

### **5. Meetings of membership organizations**

Public entities are frequently members of other organizations, like the Alaska Municipal League, Alaska Association of School Districts, National League of Cities, and so on. Sometimes the body, *e.g.*, council, board, or commission, or the members of those bodies will themselves be members of other organizations. These membership organizations may be national, state, or local in scope.

The OMA does not apply to meetings held for the purpose of participating in or attending gatherings of such membership organizations if the public entity, the body, or the member of the body is a member.<sup>23</sup> However, this exception only applies if no action is taken and no business of the governmental body is conducted at the meeting of the membership organization.

## **6. Hospital staff**

Also exempt from the OMA are meetings of a hospital medical staff and meetings of the governing body or any committee of a hospital when meeting solely to act upon matters of professional qualifications, privileges or discipline.[24](#)

## **7. Alaska Legislature**

As applied to the Alaska Legislature, the OMA, like the legislature's Uniform Rule 22, is viewed by the court merely as a rule of procedure concerning how the legislature has determined to do business. While by its literal terms the OMA is applicable to the legislature, a violation of the OMA by the legislature will not be considered by the courts, absent infringement of the rights of a third person or violation of constitutional restraints or a person's fundamental rights.[25](#)

In 1994 the legislature enacted a law requiring itself to adopt guidelines applying open meetings act principles to the legislature.[26](#) This was to have been done during the 1995 legislative session, but it has still not happened as of this writing.

## **8. Alaska Railroad**

The Alaska Railroad Corporation is a public corporation and an instrumentality of the state within the Department of Community and Economic Development. As such it would be ordinarily be subject to the OMA, but the law grants the Alaska Railroad an express exemption from the act.[27](#) However, the railroad corporation act requires the board of governors to provide reasonable notice to the public of its meetings.[28](#) This is identical to the OMA's requirement of giving reasonable notice to the public, so the discussion below concerning the meaning of "reasonable public notice" under the OMA is relevant to the Alaska Railroad board of governors.[29](#) The list of topics that may be discussed in executive session by the Alaska Railroad board of governors is considerably broader than that found in the OMA.[30](#) Because of the similarities between the laws, the discussion below concerning executive sessions will have considerable relevance to the Alaska Railroad.[31](#)

## **9. Others**

The U.S. government, corporations, including non-profits, and Native entities are not covered by the OMA. A clause of AS 44.62.310(a) extending the OMA to "organizations . . . supported in whole or in part by public money" was removed from the law in 1994.

# **III. WHAT IS A MEETING?**

The OMA has two definitions of "meeting" that differ significantly. One definition is applied to decision-making or policy-making bodies, and the other definition applies to advisory-only bodies. The differences between these two kinds of bodies is discussed in [Section II.C](#). The different definitions require each kind of body to be discussed separately.

### **A. Meeting-Decision-Making Or Policy-Making Body**

For a decision-making or policy making body, the OMA defines a meeting to be:

a gathering of members of a governmental body when . . . more than three members or a majority of the members, whichever is less, are present, [and] a matter upon which the governmental body is empowered to act is considered by the members collectively . . . [32](#)

### 1. A meeting may take any form

There is no particular format required for a gathering of members of a decision-making body to become a meeting under the OMA. In fact, if a sufficient number of members are present, *any* gathering where public business is considered may become a meeting subject to the act, including dinner before or coffee after a formally scheduled meeting. Informal gatherings are treated the same as formally called meetings. Work sessions are treated the same as regular meetings. Furthermore, it does not matter whether the government called the meeting, an individual or a private business called the meeting, or nobody called the meeting. No matter where, when, or how it occurs, it is a meeting if a sufficient number of members of a covered body get together and collectively consider a subject upon which the body is empowered to act. In this context, transacting public business is broadly construed. It includes *every* step of the deliberative and decision-making process, including work sessions, investigations, fact-gathering, lobbying and simple discussions of matters of public business.[33](#)

### 2. Four members or a majority make a meeting

Before the 1994 amendments to the OMA there was uncertainty about how many members of a body could meet without violating the OMA. The amendments have clarified this issue.

For a decision-making or policy-making body, four members or a majority of the body, whichever is **less**, will comprise a meeting. A gathering of less than that number is not a meeting according to the definition.

The typical city council has six or seven members, depending on whether the mayor is a member of the council. In either case, a typical quorum is four. Therefore, a meeting will occur when four members of a typical city council are present and collectively consider a matter of city business.

For any larger body, like a borough assembly or school board with eight or more members, the number of members that could constitute a meeting is **always** four.

For a smaller body, like a subcommittee or board with less than six members, any gathering of a majority of the body will constitute a meeting if the members collectively consider any matter upon which the body has the power to act.

### 3. Teleconference meetings

Telephone conference meetings are allowed by the OMA.[34](#) Both members of the body and the public are authorized to participate from remote locations. Presumably, speaker phones or their equivalent must be used so all persons present in every location may hear the proceedings and participate. Materials to be considered must be made available at teleconference locations, if practicable. Votes at a teleconference meeting must be taken by roll call so all will know how each member votes. Public notice of teleconference meetings must include notice of the location of the teleconference facilities that will be used.

The Supreme Court has approved, if somewhat reluctantly, the practice of allowing citizens to phone in comments to a public meeting that is held at a single site. The court did not consider this to be a teleconference meeting, and agreed that it had the effect of expanding public access consistent with the intent of the OMA.[35](#)

### 4. Issue: Telephone polling, serial communications, and e-mail

Occasionally, someone will "poll" the members of a governmental body, usually by telephone, but it may be done by other means as well. One member, or a staff person for the public entity, may speak to all the members of the body, one at a time, to discuss an issue. The caller may either determine how the individual feels about the issue, or attempt to influence the way the individual feels about the issue. In this manner the outcome of the issue may be predetermined, without discussing it at a public meeting. This is sometimes called a "serial meeting" because it involves a series of consecutive communications closely related in time.

If there are not more than three members present at any one time for a collective discussion, such serial communications do not come within the OMA's 1994 definition of "meeting." Nevertheless, there is still some risk that serial communications might be considered an illegal meeting in violation of the OMA. The reason for this risk is that the series of telephone calls could be viewed by a court to have the effect of circumventing the OMA by determining the outcome of a vote before (or without) a meeting and without a public discussion.

Applying the law in effect before the 1994 OMA amendments, two courts have concluded a series of consecutive individual conversations may amount to an illegal meeting. A Superior Court judge in Juneau concluded that a series of telephone calls about nominees for appointment to advisory committees was an illegal meeting.<sup>36</sup> The Supreme Court in *Hickel v. Southeast Conference*<sup>37</sup> upheld a trial court finding that several one-on-one conversations by reapportionment board members, coupled with a lack of substantive discussion in a public meeting, was sufficient evidence to affirm the trial court finding that business was being conducted outside scheduled meetings in violation of the OMA.

A judge who gives great weight to the OMA's strong public policy favoring open meetings might reach the same result even though the current definition of a "meeting" seems to rule out that conclusion. In the context of the question of whether a quorum or less than a quorum could constitute a meeting, the Alaska Supreme Court said in a pre-1994 opinion:

Given the strong statement of public policy in AS 44.62.312, the question is not whether a quorum of a governmental unit was present at a private meeting. Rather, the question is whether activities of public officials have the effect of circumventing the OMA.<sup>38</sup>

Thus, if a court is persuaded that public business is being conducted outside the public scrutiny with the effect of circumventing the OMA, then it is possible a court will be tempted to overlook the fact that there is no "gathering ... when more than three members ... are present"<sup>39</sup> at any one time and nevertheless conclude the OMA is being violated.

Indeed, without even commenting on the fact that there were *no* members of the redistricting board *present* at a *gathering*, the superior court in *In re 2001 Redistricting Cases* concluded that the redistricting board violated the OMA by using e-mail for communications among three members of the five member board.<sup>40</sup> The offending e-mail communications concerned the important "board business" of choosing the locations for holding constitutionally-required public hearings on proposed redistricting plans. From all appearances, the 1994 OMA definition of "meeting" was never addressed by the superior court when making these findings. On appeal, the Supreme Court expressly declined to say whether the e-mail exchanges actually violated the OMA, and based on an *assumed* violation of the OMA, concluded the trial court was correct in deciding that there should be no remedy in any event.<sup>41</sup> Therefore, while one superior court judge has implicitly held that serial e-mails can constitute an improper "meeting" under the post-1994 law, the Supreme Court expressly left the issue open.

Such questioned serial communications should be distinguished, however, from other similar communications that are proper. The same superior court decision found that other e-mails relating to procedural and administrative topics and not involving discussion of actual redistricting did not violate the OMA.<sup>42</sup> This finding was affirmed by the Supreme Court.<sup>43</sup> Although the Supreme Court offered no explanation for its conclusion, the distinguishing feature for the superior court

appears to have been that the question of where to hold constitutionally mandated public hearings was a substantive matter of redistricting "board business," while mere procedural and administrative matters were not.

The OMA also authorizes group discussions of substantive business, if limited to less than four members or a majority of a decision-making body. Because by definition a physical gathering of three or fewer members of a body of six or more do not constitute a "meeting" in violation of the OMA, then it seems quite logical to conclude such a number may also communicate by telephone or e-mail without violating the act. If the members are doing nothing more than exchanging views on an issue, then it seems their activity does not circumvent the OMA, and no violation occurs. However, when the private discussions have the *purpose and effect* of eliminating public discussion of the same issues and predetermining the outcome of a vote, then the public policy behind the OMA is frustrated. In this *purposeful* situation the possibility seems greatest that a court may conclude a violation has occurred when a related series of telephone or e-mail communications cumulatively involves the participation of four or more members, even though no single communication involved four or more.

It is settled that a member of the public may privately contact each member of the body without violating the OMA.<sup>44</sup> Thus, a constituent may use the telephone to lobby each member of the body, one at a time, and attempt to count the number of votes for and against the issue in question. As long as that individual is not acting as the agent for the public entity or a member of the body there should be no problem. An individual has a right to petition the government and attempt to influence the outcome of decisions. On the other hand, if the individual is, in reality, acting as an agent of the public entity and serving as a go-between among the members of the body, then it appears there is an attempt to circumvent the OMA. In this context the activity stands the same risk of being found to be an illegal serial meeting as the telephone poll conducted by a member of the body or a staff member.

#### **5. Issue: Lobbying by the mayor**

What about the mayor of a city or borough lobbying the council or assembly? Is the mayor a member of the body such that it is improper to call all the members of the council or assembly to lobby for a particular matter? In second class cities and some home rule municipalities it is clear the mayor is member of the governing body.<sup>45</sup> In these municipalities the mayor's activity presents some risk of being found to be an improper serial meeting if a sufficient number of other members of the body are contacted.

The result of the mayor's lobbying activity is not so clear, however, in boroughs, first class cities, and those home rule municipalities where the mayor is by law not a member of the governing body.<sup>46</sup> Although not a member of the governing body, the mayor is nevertheless often the presiding officer of the body or the chief executive officer of the municipality, or both,<sup>47</sup> and will sometimes vote with the council or assembly in the case of a tie.<sup>48</sup> In these circumstances, some municipalities, especially those without a manager plan of government, consider the mayor's office more like a separate administrative branch of government rather than part of the governing body. There is some justification for this point of view, given the mayor's veto power and other distinctions between the office of mayor and the office of assembly or council member. As a non-member of the governing body, and perhaps a distinct branch of government, may a mayor be allowed to privately contact all members of the governing body and attempt to influence the outcome of governing body decisions? Just how the Alaska Supreme Court will respond to this question is not known. It might conclude the mayor is allowed to do so because the mayor is not a member of the body, but it is also possible the court might view the mayor as simply an agent of the governing body serving as a go-between facilitating an improper serial meeting.<sup>49</sup> Such activity by the mayor might have the effect of circumventing the policy that governmental units should conduct deliberations and take actions openly, so there is some risk that a mayor's private lobbying of four or more members or a quorum of the governing body will be found to be a violation of the OMA.

#### **6. Issue: Social gatherings**

The OMA does not apply to purely social gatherings of members of a decision-making body. A meeting only occurs when a sufficient number of the members collectively consider a matter of government concern on which they are empowered to act. However, experience suggests it is very difficult to have a purely social gathering of politicians. If the talk turns to public business of the body, the OMA will come into effect if a sufficient number of members are present and engage in collective consideration. The key point to remember is that every step of the body's decision making process must be open to the public and, if a discussion by a sufficient number at a social gathering tends to circumvent that policy, it is possible a violation has occurred. Even if the social gathering is public, a violation can occur when public business is collectively discussed if reasonable public notice and an opportunity to be heard are not given.

## **B. Meeting-Advisory-Only Body**

As noted above, the definition of a "meeting" for a body that only gives advice and recommendations differs from the definition for a decision-making body. For a body that only has authority to advise or make recommendations but has no authority to establish policies or make decisions, a meeting is defined to be:

a gathering of members of a governmental body when the gathering is prearranged for the purpose of considering a matter upon which the governmental body is empowered to act . . . [.50](#)

### **1. A meeting must be prearranged**

For an advisory-only body a meeting occurs when the members gather by prearrangement for the purpose of considering a matter upon which the body is empowered to act. Chance encounters by members of the body do not constitute meetings, even if the members discuss a matter about which the body has authority to give advice or make recommendations. Gatherings for some purpose other than the business of the body are likewise not meetings as defined by the OMA, even if substantive discussions take place.

However, a prearranged gathering for the purpose of any step of the deliberative process will be considered a meeting. As is the case with decision-making bodies, a meeting of an advisory-only body will include every step of the deliberative and decision-making process, including a work session, investigation, fact-gathering, and simple discussion of matters of public business,[51](#) if the gathering is prearranged for one of those purposes.

### **2. Any number of members can constitute a meeting**

Unlike a decision-making or policy-making body, there is no exception for a gathering of a small number of members of an advisory-only body. A gathering of two or more members of an advisory-only body will be a meeting under the OMA when it is prearranged for the purpose of considering the business of the body.

### **3. Teleconference meetings**

Teleconference meetings are authorized for advisory bodies. The discussion in [Section III.A.3](#) about teleconference meetings also applies to advisory-only bodies.

### **4. Issue: Telephone polling, serial communications, and e-mails**

Because of the way "meeting" is defined, telephone polling, serial communications, and e-mails raise greater concerns for advisory-only bodies than for decision-making bodies. A "meeting" for purposes of an advisory-only body occurs whenever a gathering of *any number* of members is prearranged for the purpose of considering a matter on which it is empowered to



act. *Assuming* that a gathering can occur when no members are actually present together in one location, then every time one member intentionally makes a telephone call, e-mail, or other communication to another member to discuss business, it can be said to be prearranged and a "meeting" occurs. However, the issue still seems open as to whether such communications can constitute a "meeting" when no members are present at a gathering in one location. See the discussion in [Section III.A.4](#) above, particularly concerning the e-mails in *In re 2001 Redistricting Cases*.

### **5. Issue: Social gatherings**

A social gathering that includes members of an advisory body will not be considered a meeting, even if the members discuss matters about which the body has authority to give advice. This is so because a social gathering, by common understanding of that term, would be for social purposes and not prearranged for the purpose of conducting the body's business.

However, convening a "social" gathering for the hidden purpose of conducting the body's business will be viewed as a subterfuge, and a court may conclude that such a "social" gathering is, in fact, a prearranged meeting held in violation of the OMA.

## **IV. PUBLIC PARTICIPATION RIGHTS**

### **A. In General-Public Rights Under OMA**

The only rights of public participation in an open meeting expressly granted by the OMA are the rights to be *present* and to *listen* and, if the meeting is by teleconference, the right to have available for review any agency materials (e.g., the agenda packet) to be considered at the meeting. Surely the public's right to review the agency materials under consideration at live meetings will also be implied.

### **B. The Right To Be Heard**

The right of the public to speak and be heard at an open meeting does not come directly from the OMA. The right to speak, if it exists, must come from another source. In the case of municipal governments, that right originates in AS 29.20.020(a), which says, "The governing body shall provide reasonable opportunity for the public to be heard at regular and special meetings."

The right of the public to speak at school board and committee meetings in municipal school districts comes from the same statute. The council or assembly, as the governing body, is required to provide an opportunity for the public to be heard at meetings of all municipal bodies, which would include municipal school boards, and committees.[52](#) As to non-municipal school districts, the right of the public to speak can only be implied; there is no statute that expressly requires it.

The right of the public to speak at public state agency meetings will depend on specific statutes or regulations affecting the action or agency involved. For example, the general statutory provisions concerning public comments about proposed state regulations require the acceptance of written comments, but it is optional whether to accept oral comments.[53](#) In contrast, the procedures for Local Boundary Commission hearings on local boundary changes require one or more public hearings where the commission must receive public comments from all interested persons.[54](#)

A reasonable opportunity to be heard, however, does not mean a speaker has a right to disrupt a meeting or to speak endlessly. The body may certainly put reasonable limits on the right to speak. Public speaking may be limited to public hearings and other limited opportunities listed on the agenda. Efficiently run meetings often limit public testimony on agenda items to one slot early in the agenda, after which the governing body may proceed through the agenda without public

interruption, limiting debate to members of the body only. The length of time that any individual or group may speak may also be limited.<sup>55</sup> The manner in which a person may speak may also be controlled in order to preserve the decorum of the meeting. Limitations on the content of speech, however, may implicate First Amendment free speech issues, so caution is advised in this area.

### **C. Implied Reasonable Opportunity to Attend**

The right to attend is not often discussed, but it is a significant component implied in the public's right to have a reasonable opportunity to be heard. For example, how reasonable is the public's opportunity to be heard if the meeting is held at a remote location that is difficult or expensive for the public to reach? Telephone conferences for remote public access may be practical and reasonable in some circumstances, such as borough or state-wide meetings, but not practical in other circumstances. A body covered by the OMA does not have the luxury of "getting away" to a remote retreat for "peace and quiet" in order to get its work done. The right of a reasonable opportunity to be heard implies that reasonable access and reasonable accommodations will be made for the public to attend and participate.

## **V. WHAT NOTICE IS REQUIRED?**

### **A. Reasonable Notice-Timeliness**

Generally, the OMA requires that "*reasonable* public notice" be given for all meetings to which it applies.<sup>56</sup> An important element of reasonable public notice is its timeliness. Municipal officials sometimes assume that 24 hours' notice of a meeting is sufficient because AS 29.20.160, and many municipal charters and codes, authorize special meetings on 24 hours' notice to the members. Often this assumption will be wrong. It is entirely possible to comply with this *members'* notice requirement and still violate the OMA *public* notice requirement. To determine what public notice is reasonable, all of the circumstances must be considered.

If the public entity or governmental body has set its own reasonable notice requirements that are more specific than the OMA requirements, they should be followed. Failure to meet notice requirements established by internal guidelines or regulations will be evidence of failure to give reasonable notice, and has led at least one court to a finding the OMA was violated.<sup>57</sup>

One important case for understanding the timeliness component of reasonable notice is *Tunley v. Municipality of Anchorage School District*.<sup>58</sup> In *Tunley* the court interpreted the phrase "maximum reasonable public notice" contained in the Anchorage Municipal Charter. The Anchorage School Board gave five days' notice, published in the local newspaper, of a meeting at which it intended to decide to close two specific elementary schools. There had already been much news coverage of the Board's consideration of school closures, including reference to the two schools in question. However, the court said that in light of the impact the decision would have on the children's and the parents' interest in the maintenance of neighborhood schools, "Five days is not sufficient time for appropriate preparation of opposition concerning an issue of this complexity and importance."<sup>59</sup>

Therefore, the more complex and important an issue is, the more public notice must be given in order to meet the reasonableness standard. Unless a very long period is chosen (three months?), it is impossible to say that any given time period will provide adequate public notice in *all* circumstances. The circumstances surrounding each issue must be judged independently and an appropriate period for reasonable notice chosen.

Applying this standard, under true emergency circumstances the period of reasonable notice may be very short, possibly even no advance public notice, depending on the circumstances and the need for *immediate* action.<sup>60</sup> Whether a true

emergency exists, which would make little or no notice reasonable, is a question that will depend on the facts of each case. In the absence of compelling facts, a court will be inclined to find no emergency exists and require advance notice. However, it would seem possible and reasonable, even under the most dire true emergency circumstances, to at least post the required notice and to call the local news media to notify them of the pending meeting.

No specific guidelines can be given to test how much notice is reasonable, but certain general guidelines may be suggested. For instance, if an item is controversial or complicated, more public notice must be given. If an item is likely to be contested (like the granting of a permit or a lease where there are competitors for the same right), then more, rather than less, public notice should be given. Matters that are truly simple or unimportant may be taken up with less public notice, but never without at least advance public notice of the meeting. Emergency matters may be taken up with less notice, depending on the severity of the need to take prompt action.

### **B. Reasonable Notice-Statutory Minimums**

In addition to meeting the general reasonableness standard, the public notice must meet a number of specific statutory requirements.<sup>61</sup> The notice must always include the date, time, and place of the meeting. If the meeting will be by teleconference, the location of the teleconference facilities must also be stated.

The notice must be posted at the principal office of the public entity or, if the public entity has no principal office, at a place designated by the governmental body. In addition, notice may be given by print and broadcast media. State agencies are also required to post notice of agency meetings on the Alaska Online Public Notice System.<sup>62</sup>

The OMA requires that notice should be provided in a consistent fashion for all meetings. Presumably, if notice is provided in an inconsistent manner, the public may become confused about how to find out about meetings of the body, and the court may find such notice to be unreasonable.

### **C. Reasonable Notice-Agenda Specificity and Clarity**

The question of whether a matter to be considered must be listed specifically on a published or posted agenda presents another facet of the requirement of reasonable public notice. Apparently the court's reasonable notice standard requires that some important, complex, or controversial issues must be specifically identified in the advance notice of the meeting and listed on the agenda.

In *Anchorage Independent Longshore Union Local 1 v. Municipality of Anchorage*,<sup>63</sup> the court again addressed Anchorage's "maximum reasonable public notice" requirement. In this case, the question was whether the municipal port commission's consideration of a terminal use permit application had to be specifically mentioned on the official agenda posted in advance of the meeting. The issue was taken up by the commission under the agenda category described as "items not on the agenda." The Supreme Court noted that the Anchorage public notice requirement is similar to the OMA's "reasonable public notice" standard and stated, "The timing and specificity of 'reasonable notice' is necessarily dependent upon the complexity and importance of the issue involved."<sup>64</sup> The court declined to decide whether the notice was reasonable in that case and instead remanded the matter to the trial court to make factual findings about how complex and important the issuance of that particular permit was. In other words, if the court found the matter was too important or complex to be considered without specifically mentioning it on the agenda, then presumably the court would find that a violation of the OMA had occurred.

It is also important that public notice be given clearly. In *Hickel v. Southeast Conference*<sup>65</sup> confusing public notices and display advertisements were a factor leading the court to conclude that notice of a meeting was not reasonable and,

therefore, the meeting violated the OMA. The advertisements were not clear about whether a "meeting" or a "hearing" was going to occur.<sup>66</sup>

The important point here is that under some circumstances the reasonable notice requirement may be violated by the consideration of complex or important items not specifically and clearly listed on the public notice or the agenda of an otherwise properly called and noticed meeting. Amending the agenda at the beginning of a meeting will not cure a defect of this nature because it will do nothing to provide reasonable and timely advance notice to the public.

#### **D. Notice To Specific Individuals**

Although not an OMA requirement, in some matters notice should be provided to specific persons whose individual rights are at stake in the issue to be considered. For example, participants in a quasi-judicial hearing on a zoning application or an appeal of any kind must receive reasonable notice of the meeting. To satisfy constitutional due process requirements, advance notice must be given to one whose rights stand to be terminated or revoked (e.g., an employment agreement, lease, contract, permit or license.)

#### **E. Notice To Certain Individuals Who Are Subjects Of Executive Sessions**

The topic of executive sessions is discussed in more detail in [Section VI](#) below, but, on the issue of notice, there is a special requirement that applies only to executive sessions called to discuss subjects that may tend to prejudice the reputation and character of a person.<sup>67</sup> A body's right to hold an executive session on such a matter is subject to the superior right of the person in question to demand public consideration instead of an executive session. In *University of Alaska v. Geistauts*<sup>68</sup> the court found the OMA implies an obligation to provide adequate notice of the meeting to the individual whose reputation and character are to be the subject of the executive session. The purpose of the notice is to afford that person the opportunity to demand a public discussion instead of an executive session. Furthermore, in order to adequately protect that right, the individual must be specifically advised of the right to request that the meeting be open to the public. If the person requests an open meeting, an executive session may not be held.

On the other hand, the failure to notify a person of his right to demand that the discussion about him be held publicly was harmless when he had actual notice that his employment would be discussed by the city council, he was invited to attend the executive session but chose not to, and he stated he did not want the matter discussed publicly, *Ramsey v. City of Sand Point*.<sup>69</sup>

#### **F. Notice Of Teleconference Meetings**

If a meeting will be held by teleconference, the meeting notice must state the location of any teleconferencing facilities that will be used. Of course, this means that if a remote location is being used at which the public may gather and participate, notice of such a location must be given.

The Alaska Supreme Court has recognized a distinction between a true teleconference meeting and the situation in which one person, *i.e.*, a citizen, participates in the meeting by telephone. The practice of allowing a citizen to phone in comments to a meeting held at a single location was approved because it had the effect of expanding public participation consistent with the goals of the OMA.<sup>70</sup> No particular notice can be given of the locations from which such calls can be made because they may be made from anywhere. However, if such call-ins are going to be accepted, it would seem reasonable that public notice should be given of that fact, with instructions on how a person may properly place such a call.

## **VI. EXECUTIVE SESSIONS**

It seems that no other facet of the OMA generates more questions than the subject of executive sessions. An executive session is a portion of a public meeting from which the public is excluded because of the nature of the subject matter to be discussed. Implicit in the legislative conclusion that certain subjects qualify for executive session is the judgment that the danger of harm to public or private interests that may result from public discussion of such subjects outweighs the public benefits of a public discussion.

It is important to distinguish an executive session from a private or secret meeting. An executive session must begin and end in a public meeting. The public will be excluded only from the executive session portion of an otherwise public meeting. The body itself will determine who, if anyone, will be invited into the executive session along with the members of the body.

## **A. What Subjects Qualify For Executive Session?**

### **1. In general**

AS 44.62.310(c)(1) describes the subjects that may be discussed in executive session as follows:

- (a) matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the government unit;
- (b) subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion;
- (c) matters which by law, municipal charter, or ordinance are required to be confidential;
- (d) matters involving consideration of government records that by law are not subject to public disclosure.

The court has also held that some attorney-client communications qualify for executive session treatment.[71](#)

It is very interesting to note that a municipality cannot by ordinance or charter narrow the list of exceptions that qualify for executive session. *Walleri v. City of Fairbanks*[72](#) held that the effect of AS 29.20.020 ("meetings of all municipal bodies shall be public as provided in AS 44.62.310") was to preempt municipal enactments that provide for a narrower list of executive session subjects than as provided in the OMA. The ramifications of the court's conclusion that the OMA preempts inconsistent municipal ordinances are yet to be discovered.

### **2. Adverse financial impact**

The first category of eligible subjects, matters having an adverse financial impact, has several limiting qualifiers attached. The statute requires that it be *clear* that *immediate* public knowledge of the discussion will adversely affect government finances. A mere possibility of adverse effect on government finances does not suffice.

One example that appears to qualify under this test is the consideration of offers to settle litigation. A government body cannot candidly discuss settlement offers and potential counter offers publicly without great risk of letting opposing litigants know how much the government is willing to pay or accept in settlement. All opportunities to bargain for a more favorable settlement will be lost when everyone knows what the government's bargaining position and points of weakness are. The only way to discuss settlement offers without harming the public financial interest is in executive session.

However, it is not enough to qualify for an executive session to merely say the matter is one of "pending litigation" or a "financial matter," as is often heard. As a practical matter, for an adverse financial impact executive session to withstand a court challenge, there must be facts in the record to enable the court to conclude it was clear that immediate public knowledge of the particular issue to be discussed would harm the government's financial interests. A court is directed to construe the law narrowly to avoid unnecessary executive sessions,<sup>73</sup> so an informative on-the-record statement of the facts justifying an executive session seems necessary.

### 3. Reputation and character

Subjects that tend to prejudice the reputation and character of any person may be discussed in executive session. The person in question does not have to be a government employee or job applicant, but often it is.

In *City of Kenai v Kenai Peninsula Newspapers, Inc.*,<sup>74</sup> the court reviewed a legal challenge to an executive session held to discuss the applicants for a city manager position. The court said, "Ordinarily an applicant's reputation will not be damaged by a public discussion of his or her qualifications relating to *experience, education and background* or by a comparison of them with those of other candidates."<sup>75</sup> The court recognized an exception, however, for the discussion of *personal characteristics*, especially in the context of comparing several applicants, acknowledging that such discussion would "carry a risk that the applicant's reputation will be compromised."<sup>76</sup>

Our court shed more light on the meaning of this exception in *University of Alaska v. Geistauts*<sup>77</sup> where a university tenure committee held executive sessions to consider whether a professor should be granted tenure status. The court recognized such meetings are appropriate for executive sessions. Such a meeting was "likely to focus on perceived deficiencies in the candidate's qualifications. Tenure committee members may raise concerns for the purpose of discussion which would damage the applicant's reputation if aired publicly."<sup>78</sup> This statement shows not only a concern to protect the individual from damages, but also a realization that an executive session will encourage a full and candid discussion of important concerns that should be addressed.

In a footnote to the *Geistauts* decision, the court discussed this exception in a general employment context, observing that AS 44.62.310(c)(2) was designed to serve the same function as other states' exemption of employment matters from open meeting law requirements. "The reasoning behind the 'personnel matters' exception in other jurisdictions appears to be the avoidance of embarrassment to employees whose strengths and weaknesses will be evaluated."<sup>79</sup>

In the context of considering whether the stated grounds for recall of a school board member sufficiently described misconduct in office or failure to perform prescribed duties, the court stated in *Von Stauffenberg v. Committee For An Honest And Ethical School Board* that "there is no law which precludes public officials from discussing sensitive personnel matters in closed door executive sessions."<sup>80</sup>

It should be remembered, however, that the person whose reputation or character is in issue is entitled to specific notice of the executive session and of the right to demand that the discussion be public. If a demand for a public discussion is made by that person, then an executive session may not be held on that ground.<sup>81</sup>

### 4. Matters required to be kept confidential

The third exception is a catch-all for other subjects that are *required* by law, municipal charter, or ordinance to be kept confidential. Note that this language leaves open the question of whether laws, charters, or ordinances authorizing, but not requiring, confidentiality will satisfy this exception.

In addition to federal and state constitutions and laws, this exception specifically recognizes municipal charters and ordinances as valid sources of law requiring confidentiality. However, many municipalities have few, if any, charter provisions or ordinances requiring confidentiality, even though there are some subjects that would easily qualify for required confidential treatment, such as juvenile and individual student matters, collective bargaining and similar negotiations, settlement negotiations, and certain attorney advice (discussed further below).<sup>82</sup>

There has not been any Supreme Court decision in which the validity of a local ordinance requiring confidentiality has been challenged in the Open Meetings Act context. It is possible such an ordinance might be challenged on the basis that the ordinance unduly restricts the public's right to know about the affairs of the government. Such a challenge might be successful if the court concludes the local government does not "need" the confidentiality when the interest of the public in knowing outweighs the governmental interest in keeping confidentiality. The Supreme Court already uses that balancing test in the public records context to determine the validity of local exemptions from the state law requiring disclosure of records.<sup>83</sup> Because of this possibility, ordinances requiring confidentiality should be based on a legitimate need for confidentiality that outweighs the public's interest in knowing what is going on with the government.

The confidential-by-law category was the basis for the Alaska Supreme Court holding that the common law attorney-client privilege justifies executive session treatment of some attorney-client communications.<sup>84</sup> This attorney-client privilege exception is discussed below in [Section VI.A.6](#). Other common law privileges might also provide a basis for additional executive session treatment under the court's analysis.

There is also the constitutional right of privacy,<sup>85</sup> another "law" that requires confidential treatment of a subject when the individual in question has an expectation of privacy that society recognizes as reasonable. The full extent of the constitutional right of personal privacy is not well defined, and a complete discussion of the issue is beyond the scope of this paper.

## 5. Confidential records

Matters involving government records that are protected from public disclosure by law may also be discussed in executive session. As a general rule, records of public agencies (which include municipalities and school districts<sup>86</sup>) are subject to public disclosure unless the law provides an exception.<sup>87</sup>

A number of confidential records are listed in AS 40.25.120(a), including records pertaining to juveniles (unless disclosure is authorized by law), medical and related public health records, records required to be kept confidential by a federal law or regulation or by state law, and certain records compiled for law enforcement.

Our court has been willing to consider whether municipal ordinances concerning confidential records qualify for common law (i.e., nonstatutory) exceptions from disclosure. The court's analysis focuses on the need for the exception, which requires weighing the public interest in favor of disclosure against the governmental interests and individual privacy interests favoring nondisclosure.<sup>88</sup> However, the government will bear the burden of justifying the exception, and public policy favors public access.<sup>89</sup> Under these constraints, new exceptions to the general rule of public disclosure may be approved by the court, but probably not frequently.

An interesting case now pending in the Alaska Supreme Court, *Fuller v. City of Homer*,<sup>90</sup> should answer the question of whether a city manager is entitled to the same deliberative process privilege for documents that is granted to the governor.<sup>91</sup> If so, this will establish another category of documents that are required by law to be confidential and, therefore, may be discussed in executive session under this exception.

## **6. Attorney-client privilege**

Under limited circumstances communications between a governmental body and its attorney qualify for executive session treatment, according to *Cool Homes, Inc. v. Fairbanks North Star Borough*.<sup>92</sup> This exception is based on the attorney-client privilege, but for Open Meetings Act purposes, the privilege is defined narrowly.

This executive session exception is not available for general legal advice or opinion. It applies only when the revelation of the communication will injure the public interest or there is some other recognized purpose in keeping the communication confidential. It is not even enough that the public body is involved in pending litigation.<sup>93</sup> Rather, the specific communication must be one that the confidentiality rationale for the privilege deems worthy of protection. The court cited a number of examples of attorney-client communications that might qualify for executive sessions: candid discussions of facts and litigation strategies; a conference on a decision to appeal; a conference about settlement; and advice about how a body and its members might avoid legal liability. A discussion generally about the "ins and outs and status" of litigation, and "what has happened in the year . . . as to court findings" did *not* qualify for executive session.<sup>94</sup>

### **B. Procedure For Executive Sessions**

An executive session cannot be an unannounced, secret meeting. Except in very limited circumstances,<sup>95</sup> an executive session is only a part of a public meeting. Several steps must be followed in calling an executive session.

#### **1. Public meeting**

Before an executive session may be held, the meeting must first be convened as a public meeting. In the public meeting, a motion to hold an executive session must be considered and decided by a majority vote of the body. As at any public meeting, the public has a right to attend and, to a certain extent, participate. At least at municipal public meetings, this includes a reasonable opportunity to be heard under AS 29.20.020 during the public portion, but not during the confidential portion of the meeting.<sup>96</sup>

#### **2. Notice**

Because an executive session occurs at a public meeting, reasonable notice of the meeting must be given to the public according to the same requirements for any public meeting.<sup>97</sup> This applies whether the executive session is to be held at a regular or a special meeting. That does not mean, in this author's view, that the public notice must specifically state that an executive session will be held. It is enough if reasonable public notice of the meeting has been given, including any reasonable subject matter notice that might be required. Even if the meeting notice and agenda do not mention the words "executive session," an executive session may be held if the body deems it necessary and the public has sufficient reasonable notice of the meeting and the subject matter.

However, specific advance notice of the executive session is required in at least one circumstance. If it is anticipated in advance that an executive session will be required to discuss a topic that might prejudice the reputation and character of a person, that person must be personally notified of the meeting and the contemplated executive session so the individual may exercise the right to demand a public discussion.<sup>98</sup> If it is not known in advance that such a discussion will occur, it will be necessary to postpone that discussion until the individual in question has been advised of his or her rights.

#### **3. Motion calling for executive session**



The motion calling for an executive session must "clearly and with specificity describe the subject of the proposed executive session without defeating the purpose of addressing the subject in private."<sup>99</sup> A well-stated motion will also identify the legal grounds being relied upon. A mere recitation of the statutory language (e.g., "a matter that would prejudice a person's reputation") may not satisfy the "clearly and with specificity" standard.

In the case where an individual's reputation or character may be at issue, it may be appropriate to name the individual in some cases but not in other cases. For example, when a city council is about to discuss the personal characteristics of a short list of candidates for city manager, there is no likelihood that stating the names of these individuals would cause any harm at all. On the other hand, if the purpose of the executive session is to consider confidential information concerning allegations about a dishonest police officer, it would not be appropriate to say that the purpose of the executive session is "to consider allegations of dishonesty involving Officer Smith." Identifying the individual in these circumstances would entirely defeat the purpose of holding the discussion in private by causing damage to his reputation before the discussion even starts.

Clearly identifying the specific topic and, where possible without causing harm, naming the specific individual under consideration is important for several reasons. If an executive session is challenged, the court will need to know what subject was to be discussed and why it qualified for executive session treatment. Furthermore, it is important to properly describe the subject matter to be discussed in the motion because anything not mentioned in the motion cannot be discussed in the executive session, unless it is auxiliary to the main question.<sup>100</sup> Finally, even though the public may not have a right to hear what is said in executive session, the state's public policy indicates that the public does have a right to know what the session is about and why it is justified.

Because both the public and the court have an interest in knowing why an executive session is warranted, either the motion or the debate preceding the vote on the motion should explain how the matter legally qualifies as a legitimate executive session subject. For example, during debate on the motion for the executive session a member of the body should describe how knowledge of the matter will clearly have an immediate adverse effect on the government finances, or mention the particular law that requires confidentiality. A proper discussion on the record will minimize the chances of a successful legal challenge.

It is inadequate when the motion contains only short-hand phrases, such as "pending litigation" or "attorney-client privilege" or "personnel matter." None of these phrases describes the *subject matter* "clearly and with specificity," nor do they accurately describe subjects that are within the lawfully allowable executive session categories. Further, they fail to give adequate notice to the public or to the courts about what is to be discussed and why it qualifies. The courts are compelled to give a narrow construction to the executive session exceptions so unnecessary executive sessions may be avoided,<sup>101</sup> and such short-hand phrases fail to show that an executive session is necessary.

#### **4. Recording and minutes**

There is no statutory requirement to take minutes or make a recording of the discussions in executive session.<sup>102</sup> However, at least one superior court judge has observed that one reason why he was unable to determine whether an executive session in question was legal was that no recording had been made of the session.<sup>103</sup>

Some public bodies do record executive sessions (the tapes are not released to the public) while others do not. Municipal attorneys and public officials in this state disagree about whether an executive session should be recorded. Until the law is clarified by the legislature or the Supreme Court, it seems likely there will continue to be inconsistency in the practices of various public entities on this issue.

## **C. Limitations On Executive Sessions**

### **1. Only main and auxiliary issues may be discussed**

The discussion in executive session must be limited to those subjects described in the motion calling for the session and those subjects "auxiliary" to the main question.<sup>104</sup> The OMA does not attempt to define "auxiliary," and the Supreme Court has not done so either. According to *Webster's Third New International Dictionary* (1981), "auxiliary" means "functioning in a subsidiary capacity."

Given the strong public policy favoring open meetings and *Webster's* definition, it seems likely the court will require that any auxiliary issues discussed have a fairly close degree of subsidiary relationship to the main question. Thus, the OMA gives the public body only limited flexibility to address subsidiary issues. This still enables the public to have a fair idea about the subjects the governing body is discussing so the public may retain appropriate control over the government it created.<sup>105</sup>

Court interpretations of the OMA suggest that as much of the subject matter as possible should be discussed publicly. It may be that on a given subject some details should be discussed in executive session, while other facets of the same subject matter should be discussed in public session. The Supreme Court pointed to this result in *City of Kenai v. Kenai Peninsula Newspapers, Inc.*<sup>106</sup> when it observed that public discussion of a city manager applicant's experience, education and background would not ordinarily endanger a reputation, while discussion of personal characteristics and habits might very well carry such a risk. The court's ruling authorized executive sessions only for "discussing the personal characteristics of the applicants."<sup>107</sup> The same kind of direction was given in *Cool Homes, Inc. v. Fairbanks North Star Borough*<sup>108</sup> (borough attorney's general status report about litigation does not qualify for executive session, but legal advice about avoiding liability does qualify.) So far, the court has not attempted to explain why these other matters are not "auxiliary to the main question," which would allow them to also be discussed in the executive session.

### **2. Generally, no action may be taken in executive session**

Generally, no action may be taken in executive session.<sup>109</sup> Except as discussed below, the body may only **discuss** matters in executive session, and if any action must be taken on the subject, the body must reconvene in a public session to do so. The taking of "straw votes" in an executive session would probably be held to be a violation of this rule, as it tends to circumvent the policy of the OMA to require governmental body actions to be taken openly.<sup>110</sup> Reconvening in public session to announce a decision made in executive session violates the OMA, unless one of the following exceptions or exemptions applies.

### **3. Exceptions: directions on legal matters and labor negotiations**

As exceptions to the rule that no action may be taken in executive session, the OMA authorizes a public body to give directions in executive session on two kinds of matters. First, the body may direct its attorney about the handling of a specific legal matter. This makes it clear that the attorney may be instructed in executive session about things like negotiating positions and legal strategies for a specific legal matter. Second, direction may be given to a labor negotiator about the handling of pending labor negotiations. This allows the body to instruct the negotiator in executive session about such things as bargaining positions and negotiating points.

### **4. Exemption: quasi-judicial decision-making**

When a governmental body acting quasi-judicially meets solely to make a decision in an adjudicatory proceeding, it is entirely exempt from the OMA.<sup>111</sup> This means the decision-making may be done in private.<sup>112</sup> Logically, this should mean

that it is also permissible to conduct such decision-making in an executive session convened during an otherwise public meeting. Surely it is proper to make a decision in executive session that could lawfully have been made in total privacy. Therefore, a court should approve using an executive session to make a final decision while functioning quasi-judicially in an adjudicatory matter.

## VII. REMEDIES AND PENALTIES FOR VIOLATIONS

Prior to the 1994 amendments, the law declared simply that "action taken contrary to [the Open Meetings Act] is void." The effect of declaring an action void is to treat it as though it had never happened. From time to time, the court found that to be a harsh and impractical remedy,<sup>113</sup> and it struggled to find a way to manipulate the inflexible law to mesh with practical realities.<sup>114</sup>

Major legislative revisions to the remedy portion of the OMA were adopted in 1994. The length of the remedy provisions was increased from one sentence to an entire page, and its complexity increased accordingly. Now the remedy portion of the act provides that an action in violation of the OMA is voidable only after a court carefully considers many factors and concludes the public interest in complying with the OMA outweighs the harm resulting to the public interest and the public entity that would flow from voiding the action. Procedural and other requirements were also introduced.

There is a huge difference in the statutory remedy provisions for violations by decision-making bodies compared with violations by advisory-only bodies. These two types of bodies will be discussed separately.

### A. Decision-Making or Policy-Making Body-Remedies

Not all governmental bodies have the authority to make decisions or policies for the public entity.<sup>115</sup> This part of this paper addresses remedies available for violations of the OMA only when committed by those bodies that do have such authority.

An action taken in violation of the OMA by a decision-making or policy-making body is **voidable**.<sup>116</sup> In other words, a court might declare that the action had no legal effect, but such a declaration is by no means automatic. Many factors must be considered before the court may void the action.

#### 1. When a violation is alleged, a body may attempt an informal cure

A governmental body that has violated or is alleged to have violated the OMA may attempt to cure the violation by holding another meeting that complies with the OMA.<sup>117</sup> At that meeting the body must conduct a "substantial and public reconsideration" of the matters considered at the allegedly improper meeting.

One of the factors a court must consider when it decides whether an action resulting from an improper meeting should be declared void is whether, and to what extent, the body engaged in such public reconsideration. Interestingly, even reconsideration that occurs after a lawsuit is filed will be taken into account by the court. Presumably, if the court determines that a reconsideration was not sufficiently substantial or public, then it may find the attempted cure was inadequate and proceed to consider the appropriate remedy for the violation.

#### 2. Improper action is voidable by court action

The OMA says that "action taken contrary to [the OMA] is voidable."<sup>118</sup> Thus, the court has the power to declare the action void, but it is not required to do so in all cases. A lawsuit to void an action for violation of the OMA must be brought within 180 days after the date of the action. The purpose of this short statute of limitations is apparently to reduce delay and

uncertainty about the finality of governmental actions. Furthermore, in an action to enforce the OMA, the members of the governmental body may not be named in a personal capacity; they may only be named in an official capacity.

According to the OMA, "if the court finds the action is void, the governmental body may discuss and act on the matter at another meeting held in compliance with [the OMA]."<sup>119</sup> Exactly what that means about the status of the voided action between the time of the improper meeting and the reconsideration meeting is yet to be determined by the courts.

### 3. Action is voidable only after a public interest analysis

The OMA says that a court may declare an action void because of an OMA violation only after the court completes a public interest balancing test. Before declaring the action void, the court must find that

considering all the circumstances, the public interest in compliance with [the OMA] outweighs the harm that would be caused to the public interest and to the public entity by voiding the action.<sup>120</sup>

Only if the court finds the good to be accomplished by voiding the action outweighs the harm that it would cause may the court declare the action void. In making that determination, AS 44.62.310(f) requires the court to consider at least the following nine factors:

- (1) the **expense** that may be incurred by the public entity, other governmental bodies, and individuals if the action is voided,
- (2) the **disruption** that may be caused to the affairs of the public entity, other governmental bodies, and individuals if the action is voided,
- (3) the degree to which the public entity, other governmental bodies, and individuals may be exposed to **additional litigation** if the action is voided,
- (4) the extent to which the governing body, in meetings held in compliance with [the OMA], has **previously considered** the subject,
- (5) the amount of **time** that has passed since the action was taken,
- (6) the degree to which the public entity, other governmental bodies, or individuals have come to **rely on** the action,
- (7) whether and to what extent the governmental body has, before or after the lawsuit was filed to void the action, engaged or attempted to engage in the **public reconsideration** of matters originally considered in violation of [the OMA],
- (8) the degree to which violations of [the OMA] were **wilful, flagrant, or obvious**, [and]
- (9) the degree to which the governing body failed to adhere to the **policy** under AS 44.62.312(a).

In *Revelle v. Marston*,<sup>121</sup> a case interpreting the OMA as in effect prior to the 1994 amendments, the court identified other factors to be considered when weighing the public interest in disclosure against the public harm resulting from voiding an action taken in violation of the OMA for purposes of fashioning a remedy:

- whether the goal of maximizing **informed and principled decision-making** has been met,

- whether invalidation is necessary to **deter** future violations,
- whether the goal of encouraging **public participation** and input in the operation of government has been met, and
- the strength of the link or closeness, *i.e.*, the **nexus** between the violation of the OMA and the challenged action.[122](#)

Even though most of the *Revelle* factors are not stated in the 1994 amendments, it is quite possible the court will continue to apply these factors to cases brought after the 1994 amendments, for at least two reasons. First, these factors derive from the public policy behind the OMA, which remains unchanged. Second, the list of factors in the 1994 amendments is not exclusive - the court is directed by the OMA to consider "all of the circumstances," including "at least" the factors identified in the statute. These additional factors based on the policy supporting the OMA may still be appropriate considerations.

The only Supreme Court case to date dealing with the remedy provisions enacted in 1994 summarily affirmed a superior court decision that no remedy was appropriate for a redistricting board's *assumed* OMA violation (using e-mails to privately decide where to hold required public hearings). The Supreme Court agreed that the superior court properly applied the factors set out in AS 44.62.310(f) in concluding the public harm that would result from voiding the entire 2001 redistricting plan outweighed the public interest in compliance with the OMA.[123](#)

### **B. Advisory-Only Body-Remedies**

The discussion in this part of this paper applies only to those advisory-only governmental bodies that have no authority to make decisions or policy for the public entity.[124](#)

Concerning advisory-only bodies, the OMA says simply that subsection (f), describing the remedy of voiding actions of decision-making bodies, "does not apply."[125](#) The act fails to say what remedies, if any, do apply. However, because, by definition, an advisory-only body cannot make decisions or policies, there will be no significant decision or policy to void.

Of more interest here is the question of whether a violation of the OMA by an advisory-only body can lead a court to declare void a subsequent action taken by a decision-making or policy-making body in reliance on the advice of the advisory-only body. Under the act prior to the 1994 amendments it is apparent that in some circumstances subsequent actions taken by the public entity in reliance on such advice from an advisory-only body could be voided.[126](#) However, when the public entity's decision in another case was arrived at independently from the advisory body's advice, there was substantial opportunity for public input despite the violations, and the damage that would result from voiding the action was great, the court was reluctant to void the action.[127](#) Thus, even before the 1994 amendments the court was considering all the circumstances and weighing the public benefit against the public harm.[128](#) Therefore, a decision-making body's reliance on procedurally defective advice of an advisory-only body might or might not result in voiding the action. Whether the Supreme Court will continue to follow this line of analysis in cases arising after 1994 remains to be decided.

### **C. Remedies Fashioned By The Courts-Damages**

If the court declares an action void, as the pre-1994 OMA prescribed for all violations, then the court may attempt to fashion a remedy that attempts to approximate the status quo at the time of the violation.[129](#) The courts have indicated considerable willingness to be flexible in fashioning specific remedies. While open meetings laws are "not primarily intended as vehicles for individuals displeased with governmental action to obtain reversals of substantive decisions,"[130](#) the Supreme Court has nevertheless approved an award of damages to an individual harmed by an OMA violation. In employment cases, for example, the court ordered reinstatement with back pay and reconsideration of a tenure application in one case,[131](#) but in different circumstances held that reinstatement without back pay might be the proper remedy, depending on further analysis of the nexus between the OMA violation and the employee's termination.[132](#)

#### **D. Injunctive Relief**

Although not mentioned in the OMA, the Supreme Court has also noted that an injunction may be issued forbidding future violations of the act. "This brings to bear the coercive judicial power in subsequent cases, in addition to the remedies otherwise provided by the statute."<sup>133</sup>

#### **E. Recall of Elected Officials**

An elected official's violation of the OMA constitutes failure to perform the prescribed duties of office,<sup>134</sup> one of the lawful grounds for recall of an elected official. The mere allegation of facts sufficient to establish a violation of the OMA is adequate ground to subject elected officials to a recall election under AS 29.26.250 (municipal officials, including municipal school board members) and AS 14.08.081 (regional school board members).<sup>135</sup>

#### **F. Attorney's Fees**

In many cases a person who brings a law suit alleging an OMA violation will be found to be a public interest litigant.<sup>136</sup> If the public interest litigant prevails, all allowable costs and actual, reasonable attorney's fees will be awarded against the public entity.<sup>137</sup> On the other hand, it is generally an abuse of discretion for a court to award costs and attorney's fees against a losing public interest litigant who raises an issue in good faith.<sup>138</sup>

It appears that an award of actual attorney's fees might also be an appropriate remedy for some non-public interest litigants. In discussing remedies for an OMA violation arising prior to the 1994 amendments, *Revelle v. Marston* suggests that in some circumstances the OMA's remedial goal of deterrence might warrant the remedy of an award of actual costs and attorney's fees to a harmed individual, even when invalidation of the improper action is not in the public interest and circumstances do not warrant an award of back pay for the individual's employment termination.<sup>139</sup>

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## APPENDIX

### Alaska Open Meetings Act

(Current as of October 2002)

#### **Sec. 44.62.310. Government meetings public.**

(a) All meetings of a governmental body of a public entity of the state are open to the public except as otherwise provided by this section or another provision of law. Attendance and participation at meetings by members of the public or by members of a governmental body may be by teleconferencing. Agency materials that are to be considered at the meeting shall be made available at teleconference locations if practicable. Except when voice votes are authorized, the vote shall be conducted in such a manner that the public may know the vote of each person entitled to vote. The vote at a meeting held by teleconference shall be taken by roll call. This section does not apply to any votes required to be taken to organize a governmental body described in this subsection.

(b) If permitted subjects are to be discussed at a meeting in executive session, the meeting must first be convened as a public meeting and the question of holding an executive session to discuss matters that are listed in (c) of this section shall be determined by a majority vote of the governmental body. The motion to convene in executive session must clearly and with specificity describe the subject of the proposed executive session without defeating the purpose of addressing the subject in private. Subjects may not be considered at the executive session except those mentioned in the motion calling for the executive session unless auxiliary to the main question. Action may not be taken at an executive session, except to give direction to an attorney or labor negotiator regarding the handling of a specific legal matter or pending labor negotiations.

(c) The following subjects may be considered in an executive session:

- (1) matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity;
- (2) subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion;
- (3) matters which by law, municipal charter, or ordinance are required to be confidential;
- (4) matters involving consideration of government records that by law are not subject to public disclosure.

(d) This section does not apply to

- (1) a governmental body performing a judicial or quasi-judicial function when holding a meeting solely to make a decision in an adjudicatory proceeding;
- (2) juries;
- (3) parole or pardon boards;
- (4) meetings of a hospital medical staff;

(5) meetings of the governmental body or any committee of a hospital when holding a meeting solely to act upon matters of professional qualifications, privileges or discipline;

(6) staff meetings or other gatherings of the employees of a public entity, including meetings of an employee group established by policy of the Board of Regents of the University of Alaska or held while acting in an advisory capacity to the Board of Regents; or

(7) meetings held for the purpose of participating in or attending a gathering of a national, state, or regional organization of which the public entity, governmental body, or member of the governmental body is a member, but only if no action is taken and no business of the governmental body is conducted at the meetings.

(e) Reasonable public notice shall be given for all meetings required to be open under this section. The notice must include the date, time, and place of the meeting and, if the meeting is by teleconference, the location of any teleconferencing facilities that will be used. Subject to posting notice of a meeting on the Alaska Online Public Notice System as required by AS 44.62.175(a), the notice may be given by using print or broadcast media. The notice shall be posted at the principal office of the public entity or, if the public entity has no principal office, at a place designated by the governmental body. The governmental body shall provide notice in a consistent fashion for all its meetings.

(f) Action taken contrary to this section is voidable. A lawsuit to void an action taken in violation of this section must be filed in superior court within 180 days after the date of the action. A member of a governmental body may not be named in an action to enforce this section in the member's personal capacity. A governmental body that violates or is alleged to have violated this section may cure the violation or alleged violation by holding another meeting in compliance with notice and other requirements of this section and conducting a substantial and public reconsideration of the matters considered at the original meeting. If the court finds that an action is void, the governmental body may discuss and act on the matter at another meeting held in compliance with this section. A court may hold that an action taken at a meeting held in violation of this section is void only if the court finds that, considering all of the circumstances, the public interest in compliance with this section outweighs the harm that would be caused to the public interest and to the public entity by voiding the action. In making this determination, the court shall consider at least the following:

(1) the expense that may be incurred by the public entity, other governmental bodies, and individuals if the action is voided;

(2) the disruption that may be caused to the affairs of the public entity, other governmental bodies, and individuals if the action is voided;

(3) the degree to which the public entity, other governmental bodies, and individuals may be exposed to additional litigation if the action is voided;

(4) the extent to which the governing body, in meetings held in compliance with this section, has previously considered the subject;

(5) the amount of time that has passed since the action was taken;

(6) the degree to which the public entity, other governmental bodies, or individuals have come to rely on the action;



(7) whether and to what extent the governmental body has, before or after the lawsuit was filed to void the action, engaged in or attempted to engage in the public reconsideration of matters originally considered in violation of this section;

(8) the degree to which violations of this section were wilful, flagrant, or obvious;

(9) the degree to which the governing body failed to adhere to the policy under [AS 44.62.312\(a\)](#).

(g) Subsection (f) of this section does not apply to a governmental body that has only authority to advise or make recommendations to a public entity and has no authority to establish policies or make decisions for the public entity.

(h) In this section,

(1) "governmental body" means an assembly, council, board, commission, committee, or other similar body of a public entity with the authority to establish policies or make decisions for the public entity or with the authority to advise or make recommendations to the public entity; "governmental body" includes the members of a subcommittee or other subordinate unit of a governmental body if the subordinate unit consists of two or more members;

(2) "meeting" means a gathering of members of a governmental body when

(A) more than three members or a majority of the members, whichever is less, are present, a matter upon which the governmental body is empowered to act is considered by the members collectively, and the governmental body has the authority to establish policies or make decisions for a public entity; or

(B) the gathering is prearranged for the purpose of considering a matter upon which the governmental body is empowered to act and the governmental body has only authority to advise or make recommendations for a public entity but has no authority to establish policies or make decisions for the public entity;

(3) "public entity" means an entity of the state or of a political subdivision of the state including an agency, a board or commission, the University of Alaska, a public authority or corporation, a municipality, a school district, and other governmental units of the state or a political subdivision of the state; it does not include the court system or the legislative branch of state government. (§ 1 art VI (ch 1) ch 143 SLA 1959; am § 1 ch 48 SLA 1966; am § 1 ch 78 SLA 1968; am § 1 ch 7 SLA 1969; am §§ 1, 2 ch 98 SLA 1972; am § 2 ch 100 SLA 1972; am § 1 ch 189 SLA 1976; am §§ 2, 3 ch 54 SLA 1985; am § 2 ch 201 SLA 1990; am § 7 ch 74 SLA 1991; am §§ 2-8 ch 69 SLA 1994; am § 7 ch 54 SLA 2000)

**Sec. 44.62.312. State policy regarding meetings.**

(a) It is the policy of the state that

(1) the governmental units mentioned in AS 44.62.310(a) exist to aid in the conduct of the people's business;

(2) it is the intent of the law that actions of those units be taken openly and that their deliberations be conducted openly;

(3) the people of this state do not yield their sovereignty to the agencies that serve them;

(4) the people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know;

(5) the people's right to remain informed shall be protected so that they may retain control over the instruments they have created;

(6) the use of teleconferencing under this chapter is for the convenience of the parties, the public, and the governmental units conducting the meetings.

(b) AS 44.62.310(c) and (d) shall be construed narrowly in order to effectuate the policy stated in (a) of this section and to avoid exemptions from open meeting requirements and unnecessary executive sessions. (§ 3 ch 98 SLA 1972; am § 4 ch 54 SLA 1985; am § 9 ch 69 SLA 1994)

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## Footnotes

1 *Horowitz v. Alaska Bar Ass'n*, 609 P.2d 39 (Alaska 1980).

2 [AS 44.62.310\(a\)](#).

3 [AS 44.62.312\(a\)](#).

4 [AS 44.62.312\(b\)](#).

5 [AS 44.62.310\(h\)\(3\)](#).

6 [AS 44.62.310\(h\)\(1\)](#).

7 AS 29.20.020(b).

8 See [Section III](#) below.

9 See [Section IV](#) below.

10 *University of Alaska v. Geistauts*, 666 P.2d 424 (Alaska 1983).

11 *Brookwood Area Homeowners Ass'n v. Municipality of Anchorage*, 702 P.2d 1317, 1323 n.6 (Alaska 1985).

12 *Hammond v. North Slope Borough*, 645 P.2d 750 (Alaska 1982).

13 *Horowitz v. Alaska Bar Ass'n*, 609 P.2d 39 (Alaska 1980).

14 AS 08.08.100.

15 AS 08.08.075.

16 *Brookwood Area Homeowners Ass'n v. Municipality of Anchorage*, 702 P.2d 1317, 1323 n.7 (Alaska 1985).

17 *Krohn v. State, Dept. of Fish and Game*, 938 P.2d 1019 (Alaska 1997).

18 [AS 44.62.310\(d\)\(6\)](#).

19 *KILA, Inc. v. State*, 876 P.2d 1102 (Alaska 1994).

20 [AS 44.62.310\(d\)\(1\)](#).

21 *Griswold v. City of Homer*, No. S-10321, slip opinion at 18 (Alaska, September 20, 2002).

22 [AS 44.62.310\(a\)](#); and see *Malone v. Meekins*, 650 P.2d 351 (Alaska 1982).

23 [AS 44.62.310\(d\)\(7\)](#).

24 [AS 44.62.310\(d\)\(5\)](#).

25 *Abood v. League of Women Voters*, 743 P.2d 333 (Alaska 1987).

26 Section 10, chapter 69 SLA 1994 (Temporary and Special Acts).

27 AS 42.40.920.

28 AS 42.40.150(b).

29 See [Section V](#) below.

30 Compare AS 42.40.170(b) with [AS 44.62.310\(c\)](#).

31 See [Section VI](#) below.

32 [AS 44.62.310\(h\)\(2\)\(A\)](#).

33 *Brookwood Area Homeowners Ass'n v. Municipality of Anchorage*, 702 P.2d 1317, 1323 (Alaska 1985).

34 [AS 44.62.310\(a\)](#).

35 *Hickel v. Southeast Conference*, 868 P.2d 919 (Alaska 1994).

36 *Cahill v. City and Borough of Juneau*, Case No. 1JU-81-1048 Civil (Alaska Super. Ct., Nov. 10, 1982) (Memorandum of Decision and Order). See also, *Stockton Newspapers, Inc. v. Members of the Redevelopment Agency of the City of Stockton*, 171 Cal. App. 3d 95, 214 Cal. Rptr. 561 (1985).

37 868 P.2d 919 (Alaska 1994).

38 *Brookwood Area Homeowners Ass'n v. Municipality of Anchorage*, 702 P.2d 1317, 1323 n.6. This comment by the Court was not necessary to its decision, and could be considered *dicta*. Nevertheless, it reflected the attitude of the Court when interpreting the law before the 1994 amendments.

39 [AS 44.62.310\(h\)\(2\)\(A\)](#), defining "meeting" for a policy-making or decision-making body.

40 *In re 2001 Redistricting Cases*, Case No. 3AN-01-8914 Civil (Alaska Super. Ct., February 1, 2002) (Memorandum and Order, Part V.A.1.) This memorandum and order is available at <http://www.alaskabar.org/opinions/ACF4D1D.htm>.

41 *In re 2001 Redistricting Cases*, 44 P.3d 141, 147 (Alaska 2002).

42 *In re 2001 Redistricting Cases*, Case No. 3AN-01-8914 Civil (Alaska Super. Ct., February 1, 2002) (Memorandum and Order, Part V.A.1.)

43 *In re 2001 Redistricting Cases*, 44 P.3d 141, 147 (Alaska 2002) ("We further conclude that the superior court did not err by failing to find additional violations of the Act.")

44 *Brookwood Area Homeowners Ass'n v. Municipality of Anchorage*, 702 P.2d 1317, 1323 n.7 (Alaska 1985).

45 *E.g.*, AS 29.20.230(b).

46 See AS 29.20.130; AS 29.20.230(a); AS 29.20.240(a); AS 29.20.250(b); and AS 29.20.280(b).

47 See AS 29.20.160(a); AS 29.20.220; and AS 29.20.250.

48 AS 29.20.250(b).

49 This comment assumes that serial communications can constitute a "meeting" when there is no gathering where members of the governing body are present, but that is still an open question. See AS [44.62.310\(h\)\(2\)\(A\)](#) and the discussion in [part III.A.3](#) above.

50 [AS 44.62.310\(h\)\(2\)\(B\)](#).

51 *Brookwood Area Homeowners Ass'n v. Municipality of Anchorage*, 702 P.2d 1317, 1323 (Alaska 1985).

52 [AS 44.62.310](#), AS 14.12.010, and AS 29.20.300.

53 AS 44.62.210(a).

54 3 AAC 110.550-.560.

55 *E.g.*, not more than five minutes per person at Local Boundary Commission hearings. 3 AAC 110.560(b).

56 [AS 44.62.310\(e\)](#).

57 *Hickel v. Southeast Conference*, 868 P.2d 919 (Alaska 1994).

58 631 P.2d 67 (Alaska 1981).

59 *Id.* at 81.

60 See *Taylor v. Van Brocklin*, Case No. 3CO-90-46 Civil (Alaska Super. Ct., July 25, 1991) (Findings of Fact and Conclusions of Law and Order).

61 [AS 44.62.310\(e\)](#).

62 AS 44.62.175(a)(2) and [AS 44.62.310\(e\)](#).

63 672 P.2d 891 (Alaska 1983).

64 *Id.* at 895.

65 868 P.2d 919 (Alaska 1994).

66 *Id.* at 929, n.15.

67 [AS 44.62.310\(c\)\(2\)](#).

68 666 P.2d 424 (Alaska 1983).

69 936 P.2d 126 (Alaska 1997).

70 *Hickel v. Southeast Conference*, 868 P.2d 919 (Alaska 1994). The court did not consider the practice perfect, however, and stated it would have been more meaningful had the citizen callers been provided with the materials under consideration.

71 *Cool Homes, Inc. v. Fairbanks North Star Borough*, 860 P.2d 1248 (Alaska 1993), discussed in [Section VII.A.6](#) below.

72 964 P.2d 463 (Alaska 1998).

73 [AS 44.62.312\(b\)](#).

74 642 P.2d 1313 (Alaska 1982).

75 *Id.* at 1326. (Emphasis added.)

76 *Id.*

77 666 P.2d 424 (Alaska 1983).

78 *Id.* at 429.

79 *Id.* at 429, n.7.

80 903 P.2d 1055, 1061 n.15 (Alaska 1995).

81 See [Section V.E](#) above.

82 See, e.g., AS 42.40.170 for a list of executive sessions subjects authorized for the board of the Alaska Railroad Corporation.

83 *Municipality of Anchorage v. Anchorage Daily News*, 794 P.2d 584 (Alaska 1990); *City of Kenai v. Kenai Peninsula Newspapers*, 642 P.2d 1316 (Alaska 1982).

84 *Cool Homes, Inc. v. Fairbanks North Star Borough*, 860 P.2d 1248 (Alaska 1993).

85 Alaska Const., Art. I, Sec. 22.

86 AS 40.25.220(2); and *Anchorage School District v. Anchorage Daily News*, 779 P.2d 1191 (Alaska 1989).

87 AS 40.25.110(a) and AS 40.25.120.

88 *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, 642 P.2d 1316 (Alaska 1982).

89 *Municipality of Anchorage v. Anchorage Daily News*, 794 P.2d 584 (Alaska 1990).

90 Supreme Court No. S-10079, argued on December 11, 2001.

91 *E.g., Gwich'in Steering Committee v. State*, 10 P.3d 572 (Alaska 2000).

92 860 P.2d 1248 (Alaska 1993).

93 From the *Cool Homes* opinion it is not clear if the court intends to limit the scope of the attorney-client privilege exception to pending litigation. The case involved pending litigation, and the opinion does recognize that some other states do limit the exception to pending litigation, but the specific communications the court found justified the executive session, *i.e.*, how to avoid threatened legal liability, may be just as worthy of protection when litigation is not pending, but is merely threatened or anticipated. Other non-litigation matters are also generally deemed worthy of protection by the attorney-client privilege, such as strategy sessions and candid discussions of the facts and issues concerning negotiations in commercial transactions. The *Cool Homes* decision dealt only with litigation, and made no comment about non-litigation contexts, so the privilege's application in non-litigation contexts remains unresolved. It is clear, however, that mere involvement in pending litigation will not justify having all communications about that litigation in executive session.

94 *Id.* at 1259, 1261-1262.

95 See [Section II.D.3](#) above.

96 *Griswold v. City of Homer*, No. S-10321, slip opinion at 18 (Alaska, September 20, 2002).

97 See [Section V](#) above.

98 See [Section V.E](#) above.

99 [AS 44.62.310\(b\)](#).

100 [AS 44.62.310\(b\)](#); see also *Cool Homes, Inc., v. Fairbanks North Star Borough*, 860 P.2d 1248, at 1259 n.18 (Alaska 1993).

101 [AS 44.62.312\(b\)](#).

102 AS 29.20.160(e) requires only that a journal of official proceedings be kept.

103 *Pioneer Printing Co. v. Skannes*, 1KE-86-494 Civil (Alaska Super. Ct., Dec. 19, 1986) (Memorandum of Decision).

104 [AS 44.62.310\(b\)](#).

105 [AS 44.62.312\(a\)](#).

106 642 P.2d 1316 (Alaska 1982).

107 *Id.* at 1326.

108 860 P.2d 1248 (Alaska 1993).

109 [AS 44.62.310\(b\)](#).

110 [AS 44.62.312\(a\)\(2\)](#).

111 [AS 44.62.310\(d\)\(1\)](#).

112 See [Section II.D.3](#) above.

113 The court noted that the rule declaring actions void is "generally short, mechanistic, and inadequate to deal with the difficulties involved." *Alaska Community College Federation of Teachers v. University of Alaska*, 677 P.2d 886, 890 n.8 (Alaska 1984), quoting Comment, *Invalidation as a Remedy for Open Meeting Law Violations*, 55 Or. L. Rev. 519, 524 & n.25 (1976).

114 See, e.g., *Hammond v. North Slope Borough*, 645 P.2d 750 (Alaska 1982); and *Alaska Community College Federation of Teachers v. University of Alaska*, 677 P.2d 886 (Alaska 1984).

115 The distinction between decision or policy-making bodies and advisory-only bodies is discussed in [Section II.C](#) above.

116 [AS 44.62.310\(f\)](#).

117 *Id.*

118 *Id.*

119 *Id.*

120 *Id.*

121 898 P.2d 917 (Alaska 1995).

122 *Id.* at 924.

123 *In re 2001 Redistricting Cases*, 44 P.3d 141 (Alaska 2002), affirming *In re 2001 Redistricting Cases*, Case No. 3AN-01-8914 Civil (Alaska Super. Ct., February 1, 2002) (Memorandum and Order, Part V.A.1.) (available at <http://www.alaskabar.org/opinions/ACF4D1D.htm>.)

124 The distinction between decision-making or policy-making bodies and advisory-only bodies is discussed in [Section II.C](#) above.

125 [AS 44.62.310\(g\)](#).

126 E.g., *Revelle v. Marston*, 898 P.2d 917 (Alaska 1995).



127 *E.g., Hammond v. North Slope Borough*, 645 P.2d 750 (Alaska 1982).

128 Also see *Alaska Community College Federation of Teachers v. University of Alaska*, 677 P.2d 886 (Alaska 1984).

129 *Id.*

130 *Id.* at 891.

131 *University of Alaska v. Geistauts*, 666 P.2d 424 (Alaska 1983).

132 *E.g., Revelle v. Marston*, 898 P.2d 917 (Alaska 1995).

133 *Alaska Community College Federation of Teachers v. University of Alaska*, 677 P.2d 886, 889 n.5 (Alaska 1984).

134 *Meiners v. Bering Strait School District*, 687 P.2d 287 (Alaska 1984).

135 *Von Stauffenberg v. Committee For An Honest And Ethical School Board*, 903 P.2d 1055 (Alaska 1995), affirmed that a violation of the OMA is grounds for recall, but held that the recall petition in that case did not allege facts sufficient to establish a violation of the act.

136 *E.g., Brookwood Area Homeowners Ass'n. v. Municipality of Anchorage*, 702 P.2d 1317 (Alaska 1985).

137 *E.g., Hickel v. Southeast Conference*, 868 P.2d 919 (Alaska 1994), in which the superior court's award of costs and attorney's fees totaled \$966,567.33 to be paid by the state to five public interest litigants.

138 *Gilbert v. State*, 526 P.2d 1131, 1136 (Alaska 1974).

139 *Revelle v. Marston*, 898 P.2d 917, 924-925 (Alaska 1995).

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## APPENDIX

### Alaska Open Meetings Act

(Current as of October 2002)

#### **Sec. 44.62.310. Government meetings public.**

(a) All meetings of a governmental body of a public entity of the state are open to the public except as otherwise provided by this section or another provision of law. Attendance and participation at meetings by members of the public or by members of a governmental body may be by teleconferencing. Agency materials that are to be considered at the meeting shall be made available at teleconference locations if practicable. Except when voice votes are authorized, the vote shall be conducted in such a manner that the public may know the vote of each person entitled to vote. The vote at a meeting held by teleconference shall be taken by roll call. This section does not apply to any votes required to be taken to organize a governmental body described in this subsection.

(b) If permitted subjects are to be discussed at a meeting in executive session, the meeting must first be convened as a public meeting and the question of holding an executive session to discuss matters that are listed in (c) of this section shall be determined by a majority vote of the governmental body. The motion to convene in executive session must clearly and with specificity describe the subject of the proposed executive session without defeating the purpose of addressing the subject in private. Subjects may not be considered at the executive session except those mentioned in the motion calling for the executive session unless auxiliary to the main question. Action may not be taken at an executive session, except to give direction to an attorney or labor negotiator regarding the handling of a specific legal matter or pending labor negotiations.

(c) The following subjects may be considered in an executive session:

- (1) matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity;
- (2) subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion;
- (3) matters which by law, municipal charter, or ordinance are required to be confidential;
- (4) matters involving consideration of government records that by law are not subject to public disclosure.

(d) This section does not apply to

- (1) a governmental body performing a judicial or quasi-judicial function when holding a meeting solely to make a decision in an adjudicatory proceeding;
- (2) juries;
- (3) parole or pardon boards;
- (4) meetings of a hospital medical staff;

(7) whether and to what extent the governmental body has, before or after the lawsuit was filed to void the action, engaged in or attempted to engage in the public reconsideration of matters originally considered in violation of this section;

(8) the degree to which violations of this section were wilful, flagrant, or obvious;

(9) the degree to which the governing body failed to adhere to the policy under [AS 44.62.312\(a\)](#).

(g) Subsection (f) of this section does not apply to a governmental body that has only authority to advise or make recommendations to a public entity and has no authority to establish policies or make decisions for the public entity.

(h) In this section,

(1) "governmental body" means an assembly, council, board, commission, committee, or other similar body of a public entity with the authority to establish policies or make decisions for the public entity or with the authority to advise or make recommendations to the public entity; "governmental body" includes the members of a subcommittee or other subordinate unit of a governmental body if the subordinate unit consists of two or more members;

(2) "meeting" means a gathering of members of a governmental body when

(A) more than three members or a majority of the members, whichever is less, are present, a matter upon which the governmental body is empowered to act is considered by the members collectively, and the governmental body has the authority to establish policies or make decisions for a public entity; or

(B) the gathering is prearranged for the purpose of considering a matter upon which the governmental body is empowered to act and the governmental body has only authority to advise or make recommendations for a public entity but has no authority to establish policies or make decisions for the public entity;

(3) "public entity" means an entity of the state or of a political subdivision of the state including an agency, a board or commission, the University of Alaska, a public authority or corporation, a municipality, a school district, and other governmental units of the state or a political subdivision of the state; it does not include the court system or the legislative branch of state government. (§ 1 art VI (ch 1) ch 143 SLA 1959; am § 1 ch 48 SLA 1966; am § 1 ch 78 SLA 1968; am § 1 ch 7 SLA 1969; am §§ 1, 2 ch 98 SLA 1972; am § 2 ch 100 SLA 1972; am § 1 ch 189 SLA 1976; am §§ 2, 3 ch 54 SLA 1985; am § 2 ch 201 SLA 1990; am § 7 ch 74 SLA 1991; am §§ 2-8 ch 69 SLA 1994; am § 7 ch 54 SLA 2000)

**Sec. 44.62.312. State policy regarding meetings.**

(a) It is the policy of the state that

(1) the governmental units mentioned in AS 44.62.310(a) exist to aid in the conduct of the people's business;

(2) it is the intent of the law that actions of those units be taken openly and that their deliberations be conducted openly;

(3) the people of this state do not yield their sovereignty to the agencies that serve them;

(4) the people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know;

(5) the people's right to remain informed shall be protected so that they may retain control over the instruments they have created;

(6) the use of teleconferencing under this chapter is for the convenience of the parties, the public, and the governmental units conducting the meetings.

(b) AS 44.62.310(c) and (d) shall be construed narrowly in order to effectuate the policy stated in (a) of this section and to avoid exemptions from open meeting requirements and unnecessary executive sessions. (§ 3 ch 98 SLA 1972; am § 4 ch 54 SLA 1985; am § 9 ch 69 SLA 1994)

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May 24, 2023

Shaan Seet Inc.  
Attn: President/General Manager and Board of Directors  
PO Box 690  
Craig, AK 99921

Dear Ed and SSI Board of Directors,

At its regular meeting on May 18, 2023 the Craig City Council asked me to respond to the recent series of letters and invoice sent to the City of Craig.

1. April 28, 2023 letter RE: Lot 2A and Lot 4, JT Brown Subdivision. Thank you for your comments regarding the proposed lease and sale of lots in the industrial park to Ken Quigley. At the council's April 6, 2023 regular meeting the council approved Ordinances 754 and 755 authorizing the City Administrator to negotiate these actions with Mr. Quigley. Those negotiations are currently underway.

The city is aware of the split estate status of these properties and the ownership of all subsurface rights. The properties in question are long developed with no remaining surface resources for harvest.

We have reviewed the ANCSA 14(c)3 settlement agreement for the lands and the deed issued to the city and find that there are no restrictions on the sale or lease of these properties and no reversionary clauses that pertain to these properties.

When the final lease and/or sale documents are prepared the issue will go back to the city council for final approval.

2. May 5, 2023 letter RE: Port St. Nicholas Road Maintenance. I have attached a copy of the current work plan and the maintenance report for the most recent fiscal year per your request in the letter. As you may recall from the discussions adopting the enacting ordinance for the user fee there was a great deal of difference in how much maintenance that various users wanted to see on the road and the related cost of that maintenance. As in the previous years, the maintenance plan works to strike a balance between the level of maintenance and the cost of that maintenance.

If additional maintenance is desired, it would be appropriate to ask the Craig City Council to direct staff to include additional maintenance in the maintenance plan for the next year. With council direction, staff can include additional maintenance and bill according to CMC 12.10.

We have reviewed the ANCSA 14(c)3 settlement agreement for the easement and the deed issued to the city and find that there are specific maintenance requirements attached to the granting of the easement and no reversionary clauses that pertain to these easements.

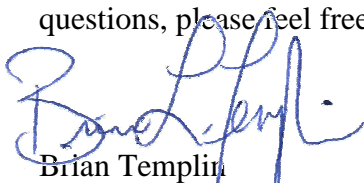
3. May 8, 2023 Invoice for labor and equipment costs related to the 2022 Port St. Nicholas Road landslides. Please find a check in the amount of \$12,211.16 for the invoice. The city is grateful to Shaan Seet for your assistance returning the PSN Road to safe and working order following the slides.
4. May 10 letter RE: Ballpark Easement Agreement. Thank you for bringing this to my attention. I have asked our parks and facilities manager to inspect the gate and get it repaired and secured as soon as possible. I will be happy to let you know when we have completed that work.

In addition to these items that you have sent, we still need to discuss the rock wall and blind corner at the intersection of Main Street and Fourth Street. We have been trying to schedule a meeting with you for several weeks now but have not been successful in sitting down to resolve the issue. We have had some complaints about near accidents due to the limited visibility at the corner.

As you have been made aware by our planning director, the Craig Municipal Code does not allow for this restricted visibility within 20 feet of an intersection. We would like to meet and discuss the easiest way to resolve the blind corner with the least impact to your project. If we are unable to come to an agreement on how to resolve it by May 31, 2023, the city may have to pursue enforcement action to compel Shaan Seet to make changes to the rock wall to bring it in compliance. We hope that we can resolve the issue without any enforcement action. Please let me know if there is a time and day we can meet to discuss it.

As you pointed out in your letter on April 28<sup>th</sup>, many of these are complicated and multi-faceted issues. It may help to have a meeting with you and your board of directors to discuss these issues/letters. Please let us know when we might be able to schedule a meeting to discuss these, and other issues of mutual interest to the city and Shaan Seet.

Please forward a copy of this letter to your board of directors and if you or any board members have any questions, please feel free to call, email, or stop by city hall.



Brian Templin  
Craig City Administrator

## **Port St. Nicholas Road Annual Maintenance Report for Fiscal year 2022**

This annual maintenance report is prepared in accordance with Craig Municipal Code 12.10 Port St. Nicholas Road Maintenance and Improvement and Road Maintenance and Improvement Fee- Extraterritorial, which requires the Public Works Department to prepare an annual maintenance report. The report includes a description of all capital and maintenance activities performed within the road corridor outside the municipal boundaries during the course of the reporting period. The report also includes an accounting of all fees collected and all expenses incurred during the reporting period.

### **1. Grading the Gravel Portion**

Grading is accomplished with a CAT 160M2 machine. The city public works crew logged Seventy-eight operating hours for grading and material hauling on PSN road.

### **2. Culvert Maintenance**

Culvert maintenance is accomplished utilizing rented excavators, Sterling dump truck, Top kick dump truck, and backhoe. Twenty-two operating hours were logged by public works crews.

### **3. Asphalt Maintenance**

No asphalt maintenance was logged for the fiscal year 2022. Four operating hours were logged by public works crews for street sweeping.

### **4. Snow removal and Sanding**

Sanding and snow removal utilize the Sterling dump truck, the grader, and sand. Ninety operating hours were logged by City crew. Sixty yards of sand was applied to PSN road from end of city limits to end of pavement during the winter months.

### **5. Striping**

No striping maintenance was logged for the fiscal year 2022.

### **6. Bridge Maintenance**

Bridge maintenance is accomplished using a sweeper, weed trimming tools, and any supplies/material associated with bridge repair/maintenance. Three operating hours were logged by City crew.

### **7. Guard Rail Maintenance**

No guard rail maintenance was logged for the fiscal year 2022.

### **8. Shoulder Brushing/ Tree Removal**

Brushing and tree removal are accomplished utilizing a brusher (rental unit), Sterling dump truck, and the CAT 420E backhoe. No operating hours were logged by City crew.

**9. Landslide Mitigation**

Landslide mitigation was accomplished utilizing rented excavators, Sterling dump truck, Top kick dump truck, and backhoe. No operating hours were logged by public works crews.

**10. Landslide Mitigation Additional Costs**

There were no additional costs for landslide mitigation to report for fiscal year 2022.

**Port St. Nicholas Road Annual Maintenance Report 2022  
Itemized Cost Tables**

| <b>1. Grading the Gravel Portion</b> |       |          |          |                    |
|--------------------------------------|-------|----------|----------|--------------------|
| Equipment, Labor, and Material       | Units | Quantity | Rate     | Total              |
| Motor Grader                         | Hours | 31       | \$157.31 | \$4,876.61         |
| Sterling Dump Truck                  | Hours | 20       | \$132.39 | \$2,647.80         |
| International dump truck             | Hours | 11       | \$163.93 | \$1,803.23         |
| Top Kick Dump Truck                  | Hours | 8        | \$98.43  | \$787.44           |
| Backhoe                              | Hours | 8        | \$97.20  | \$777.60           |
| D1                                   | Yrds  | 30       | \$28.00  | \$840.00           |
| 1.5" minus                           | Tons  | 125      | \$19.50  | \$2,437.50         |
| <b>Total</b>                         |       |          |          | <b>\$14,170.18</b> |

| <b>2. Culvert Maintenance</b>  |       |          |          |                   |
|--------------------------------|-------|----------|----------|-------------------|
| Equipment, Labor, and Material | Units | Quantity | Rate     | Total             |
| Backhoe                        | Hours | 11       | \$97.20  | \$1,069.20        |
| Sterling Dump Truck            | Hours | 11       | \$132.39 | \$1,456.29        |
| Top kick Dump Truck            | Hours | 0        | \$98.43  | \$0.00            |
| Excavator Rental               | Day   | 0        | \$836.00 | \$0.00            |
| Excavator operations           | Hours | 0        | \$41.94  | \$0.00            |
| 1.5" Minus                     | Tons  | 0        | \$18.50  | \$0.00            |
| Pit Run                        | Tons  | 0        | \$10.00  | \$0.00            |
| 3" Jaw Run                     | Tons  | 0        | \$13.50  | \$0.00            |
| Corrugated Poly Pipe           | Feet  | 0        | \$28.94  | \$0.00            |
| <b>Total</b>                   |       |          |          | <b>\$2,525.49</b> |



| <b>3. Asphalt Maintenance</b> |       |          |          |                 |
|-------------------------------|-------|----------|----------|-----------------|
| Equipment and Labor           | Units | Quantity | Rate     | Total           |
| Street Sweeper                | Hours | 4        | \$113.68 | \$454.72        |
| Sterling Dump Truck           | Hours | 0        | \$132.39 | \$0.00          |
| Backhoe                       | Hours | 0        | \$97.20  | \$0.00          |
| Roller                        | Hours | 0        | \$76.18  | \$0.00          |
| Hot Mix                       | Tons  | 0        | \$90.00  | \$0.00          |
| <b>Total</b>                  |       |          |          | <b>\$454.72</b> |

| <b>4. Snow Removal and Sanding</b> |       |          |          |                    |
|------------------------------------|-------|----------|----------|--------------------|
| Equipment, Labor, and Material     | Units | Quantity | Rate     | Total              |
| Sterling Dump Truck                | Hours | 10       | \$132.39 | \$1,323.90         |
| Motor Grader                       | Hours | 67       | \$157.31 | \$10,539.77        |
| Sand                               | Yrds  | 60       | \$48.00  | \$2,880.00         |
| <b>Total</b>                       |       |          |          | <b>\$14,743.67</b> |

**Port St. Nicholas Road Annual Maintenance Report 2022  
Itemized Cost Tables**

| <b>5. Striping</b>             |       |          |            |               |
|--------------------------------|-------|----------|------------|---------------|
| Equipment, Labor, and Material | Units | Quantity | Rate       | Total         |
| Contracted                     | Mile  | 0        | \$4,937.50 | \$0.00        |
| <b>Total</b>                   |       |          |            | <b>\$0.00</b> |

| <b>6. Bridge Maintenance</b>   |       |          |          |                 |
|--------------------------------|-------|----------|----------|-----------------|
| Equipment, Labor, and Material | Units | Quantity | Rate     | Total           |
| Brush Removal                  | Hours | 2        | \$109.00 | \$218.00        |
| Expansion Joint Restoration    | Hours | 0        | \$41.94  | \$0.00          |
| Sweeper                        | Hours | 1        | \$113.68 | \$113.68        |
| <b>Total</b>                   |       |          |          | <b>\$331.68</b> |

| <b>7. Guard Rail Maintenance</b> |       |          |          |        |
|----------------------------------|-------|----------|----------|--------|
| Equipment, Labor, and Material   | Units | Quantity | Rate     | Total  |
| Railing                          | Feet  | 0        | \$40.00  | \$0.00 |
| Sterling Dump Truck              | Hours | 0        | \$132.39 | \$0.00 |
| Backhoe                          | Hours | 0        | \$97.20  | \$0.00 |

|       |  |  |  |               |
|-------|--|--|--|---------------|
| Total |  |  |  | <b>\$0.00</b> |
|-------|--|--|--|---------------|

| <b>8. Shoulder Brushing and Tree Removal</b> |       |          |          |               |
|--|-------|----------|----------|---------------|
| Equipment and Labor                          | Units | Quantity | Rate     | Total         |
| Sterling Dump Truck                          | Hours | 0        | \$132.39 | \$0.00        |
| Backhoe                                      | Hours | 0        | \$97.20  | \$0.00        |
| Brusher                                      | Hours | 0        | \$45.00  | \$0.00        |
| Total  |       |          |          | <b>\$0.00</b> |

| <b>9. Landslide Mitigation</b> |       |          |          |               |
|--------------------------------|-------|----------|----------|---------------|
| Equipment and Labor            | Units | Quantity | Rate     | Total         |
| Sterling Dump Truck            | Hours | 0        | \$132.39 | \$0.00        |
| Top kick Dump Truck            | Hours | 0        | \$98.43  | \$0.00        |
| Backhoe                        | Hours | 0        | \$97.20  | \$0.00        |
| Excavator                      | Hours | 0        | \$41.94  | \$0.00        |
| Total                          |       |          |          | <b>\$0.00</b> |

| <b>10. Landslide Mitigation Additional Costs</b> |  |               |
|--|--|---------------|
| Contracted Labor                                 |  | \$0.00        |
| Materials and supplies                           |  | \$0.00        |
| Equipment Lease                                  |  | \$0.00        |
| Total  |  | <b>\$0.00</b> |

## Port St. Nicholas Road Annual Maintenance Report 2022

### Itemized Cost Tables

| <b>Summary</b>                                 |                    |
|--|--------------------|
| 1. Grading the Gravel Portion                  | \$14,170.18        |
| 2. Culvert Maintenance                         | \$2525.49          |
| 3. Asphalt Maintenance                         | \$454.72           |
| 4. Snow Removal and Sanding                    | \$14,743.67        |
| 5. Striping                                    | \$0.00             |
| 6. Bridge Maintenance                          | \$331.68           |
| 7. Guard Rail Maintenance                      | \$0.00             |
| 8. Shoulder Brushing and Tree Removal          | \$0.00             |
| 9. Landslide Mitigation                        | \$0.00             |
| 10. Landslide Mitigation Additional Costs      | \$0.00             |
| Alternate funding received for PSN Maintenance | (\$0.00)           |
| Total  | <b>\$32,225.74</b> |

- ❖ The total collected Port Saint Nicholas maintenance road fees for Fiscal Year 2021 was: **twelve thousand three hundred and eighty-six dollars, and eighty-eight cents.** (\$12,386.88)

#### Per Lot Cost Allocation

Per Section 12.10.020 of the Craig Municipal Code, the annual road maintenance and improvement fee is set at 45 % of costs reported in the annual maintenance report, divided by the number of lots and tracts subject to the fee; provided that the aggregate dollar amount of the fee not exceed \$150.00 per lot or tract in any given year.

Total road costs: \$32,225.74 @ 45% = \$14,501.58

Total lots within road corridor: 202

Per lot cost: \$14,501.58/202 = \$71.79

Maximum per lot fee: \$150.00

Per 12.10.040 of the Craig Municipal Code, this annual maintenance report is subject to a 30-day public review and comment period. Comments are due to the City of Craig by Thursday, October 21, 2021. Comments may be hand-delivered, delivered via email to [info@craigak.com](mailto:info@craigak.com), sent to PO Box 725 Craig, AK 99921, or delivered at Craig City Council meetings scheduled for Thursday, October 21, 2021.

For more information, contact Craig City Hall at 826-3275.

City of Craig

Annual Plan of Work Fiscal Year 2023 – Port St. Nicholas Road

September 13, 2022

This plan of work is prepared in compliance with Section 12.10.040.B of the Craig Municipal Code. The plan estimates the work tasks and the capital and operational costs for the Port St. Nicholas Road as defined at 12.10.090 of the CMC.

Section I – Description of Work Tasks & Estimated Costs

**Task 1: Grading Gravel Surface**

Grading needs to be performed a minimum of four times and spot grading as needed for the calendar year of 2022-23. The Public Works Department has estimated a minimum of 82 operation hours, and 150 yards of D1 road material to accomplish basic grading operations.

| Equipment & Labor | Units | Quantity | Rate     | Total       |
|-------------------|-------|----------|----------|-------------|
| Motor Grader      | HR    | 32       | \$157.31 | \$5,033.92  |
| Dump Truck        | HR    | 20       | \$163.93 | \$3,278.60  |
| Dump Truck        | HR    | 10       | \$98.43  | \$984.30    |
| Backhoe           | HR    | 20       | \$97.20  | \$1,944.00  |
| D1                | YRD   | 150      | \$28.00  | \$4,200.00  |
|                   |       |          |          |             |
| Total             |       |          |          | \$15,440.82 |

**Task 2: Culvert Maintenance**

Culvert cleaning and drainage ditch debris cleanup as needed, approximately 60 hours.

| Equipment & Labor | Units | Quantity | Rates    | Total      |
|-------------------|-------|----------|----------|------------|
| Backhoe           | HR    | 20       | \$97.20  | \$1,944.00 |
| Dump Truck        | HR    | 20       | \$163.93 | \$3,278.60 |
| 1.5" Minus        | TON   | 15       | \$20.50  | \$307.50   |
| D1                | YRD   | 10       | \$28.00  | \$280.00   |
| Pit Run           | TON   | 0        | \$12.75  | 0          |
| 3" Jaw Run        | TON   | 0        | \$17.00  | 0          |
| Corrugated Pipe   | FT    | 0        | \$28.94  | 0          |
| Total             |       |          |          | \$5,810.10 |

**Task 3: Asphalt Maintenance**

No specific asphalt maintenance work is planned outside of City limits for the period

**Task 4: Snow Removal and Sanding**

This plan estimates two cubic yards of material to sand 1.5 miles of paved road. Sanding may be performed up to twice a day depending on road conditions. Estimates are based on the last two-year winters which were above the average of 10 snow days for Southeast Alaska.

| Equipment & Labor | Units | Quantity | Rate     | Total       |
|-------------------|-------|----------|----------|-------------|
| Dump Truck        | HR    | 10       | \$163.93 | \$1,639.30  |
| Motor Grader      | HR    | 60       | \$157.31 | \$9,438.60  |
| Sand              | YRD   | 60       | \$48.00  | \$2,880.00  |
| Total             |       |          |          | \$13,957.90 |

**Task 5: Striping**

Port Saint Nicholas Road is scheduled for striping after July 1, 2023, but given the current condition of the striping the Public Works Department is working to get a quote for the City Council to review in hopes of striping before the new fiscal year. The Public Works Department is anticipating a minimum of \$29,000.00.

**Task 6: Bridge Maintenance**

There are two minor maintenance tasks to be performed in the calendar year of 2022.

- Remove gravel and debris from the shoulders of the deck to allow water drainage
- cut brush and trees around and under bridge.

| Equipment& Labor | Units | Quantity | Rate     | Total    |
|------------------|-------|----------|----------|----------|
| Brush Removal    | HR    | 1        | \$109.00 | \$109.00 |
| Sweeper          | HR    | 1        | \$113.68 | \$113.68 |
| Total            |       |          |          | \$222.68 |

**Task 7: Guard Rail Maintenance**

No maintenance service associated with this infrastructure component for the calendar year 2022-23.

**Task 8: Shoulder Brushing**

Estimate clearing production rate is twenty operation hours per mile. Use of a brusher is incorporated into the production rate.

| Equipment & Labor | Units | Quantity | Rate     | Total      |
|-------------------|-------|----------|----------|------------|
| Brushing          | HR    | 72       | \$122.65 | \$8,830.80 |

Section II – Budget & Allocation of Costs Among Lots

The table below shows the sum total used to estimate the fee for the work described in this report.

| Task  | Description            | Cost        |
|-------|------------------------|-------------|
| 1     | Grading                | \$15,440.82 |
| 2     | Culvert Maintenance    | \$5,810.10  |
| 3     | Asphalt Maintenance    | \$0         |
| 4     | Snow Removal & Sanding | \$13,957.90 |
| 5     | Striping               | \$29,000.00 |
| 6     | Bridge Maintenance     | \$222.68    |
| 7     | Guardrail Maintenance  | \$0         |
| 8     | Shoulder Brushing      | \$8,830.80  |
| Total |                        | \$73,262.30 |

Section 12.10.020 of the CMC calls for applying 45 percent of costs among the lots subject to the annual road maintenance and improvement fee, with a maximum of \$150.00 per lot. Applying the cost allocation found at CMC 12.10.020, the projected cost for the work period will reach the \$150.00 per lot maximum, as shown in the table below, if striping is to occur during fiscal year 2023.

| Estimated Subject Lots | Estimated Costs | Cost Per Lot @ 45% | Maximum Fee Per Lot |
|------------------------|-----------------|--------------------|---------------------|
| 202                    | \$73,262.30     | \$163.21           | \$150.00            |

Section III – Summary

Per CMC 12.10.040.B, this Annual Plan of Work estimates the range and costs of work tasks, as well as the number of lots subject to the road maintenance fee. Actual costs and number of subject lots will be reported to the Craig City Council in a subsequent Annual Maintenance Report required at CMC 12.10.040.A.

Section IV – Public Review and Comment

Per CMC 12.10.040.B, this Annual Plan of Work is subject to public review and comment for 30 days, at which time the city council will consider all comments received during the public notice period. Comments are due to the City of Craig by ( ). Comments may be hand-delivered, delivered via email to [info@craigak.com](mailto:info@craigak.com), sent to PO Box 725 Craig, AK 99921, or delivered at Craig City Council meetings scheduled for ( ).

For more information, contact Craig City Hall at 826-3275.







# CITY OF CRAIG MEMORANDUM

To: Mayor and City Council  
From: Samantha Wilson, City Planner  
Date: May 24, 2023  
RE: Ordinance 758 Rezoning Proposed Tract C-1, USS 1430 from mixed zoning to Marine Industrial and proposed Lot 4A, Block 28 from mixed zoning to Residential – High I–  
Second Reading

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Robert and Jeanne Anderson have applied to rezone a 3,813 ft<sup>2</sup> parcel from Tract C, USS 1430 and a 2,758 ft<sup>2</sup> parcel from Lot 4, Block 28, USS 1430 as part of their efforts to replat the two lots. The proposed replat will produce Tract C-1, which will be Marine Industrial, and Lot 4A which will be High-Density Residential-I. The majority of each lot/tract already have their respective zoning, the parcels being swapped from the proposed replat are the only areas that will need to be rezoned. A residential structure/personal boat garage is planned on Lot 4A where the replat will widen the lot to the west. No plans have been reported for Tract C-1, the Marine Industrial lot. At this time there is little development on either parcel.

The proposed rezone was reviewed and approved by the Planning Commission at the April 27<sup>th</sup> meeting. PC Resolution 616-23 was approved, recommending the City Council approve the proposed rezone. The preliminary plat has been reviewed and approved with requested changes via PC Resolution 612-23. A final plat will need to be reviewed and approved by the planning commission with the plat signed by officials and sent off to the recorder's office before the proposed rezone would take effect.

The first reading of Ordinance 758 was passed by the Craig City Council on May 18.

Recommendation: Review and approve Ordinance 758.



**CITY OF CRAIG  
ORDINANCE No. 758**

REZONING PROPOSED TRACT C-1 FROM MIXED ZONING TO MARINE INDUSTRIAL AND PROPOSED LOT 4A, BLOCK 28, USS 1430 FROM MIXED ZONING TO HIGH DENSITY I (RH-I).

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CRAIG, ALASKA:

Section 1. Classification. This is a non-code ordinance.

Section 2. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

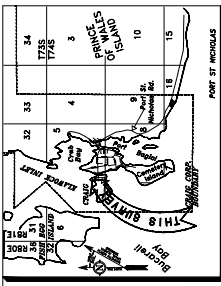
Section 3. Effective Date. This ordinance shall be effective upon approval and recording of the proposed replat.

Section 4. Action. This ordinance amends the official zoning map by rezoning a 3,813 ft<sup>2</sup> parcel from Tract C, USS 1430, (Currently Plat 94-33, Ketchikan Recorder's Office) from Marine Industrial to High Density Residential-I Zoning and a 2,758 ft<sup>2</sup> parcel from Lot 4, Block 28, USS 1430, (Currently Plat V1-37, Ketchikan Recorder's Office) from High Density Residential-I Zoning to Marine Industrial.

PASSED AND APPROVED ON \_\_\_\_\_, 2023

\_\_\_\_\_  
MAYOR TIM O'CONNOR

ATTEST \_\_\_\_\_  
KECIEA WEATHERWAX, CITY CLERK



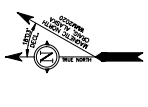
SCALE 1"=20'  
 THIS DRAWING MAY BE REDUCED, VERIFY SCALE BEFORE USING

1 METERS = 3.2808333 U.S. SURVEY FEET  
 1 U.S. ACRE = 0.4047 HECTARES

SHEET 1 OF 1  
 R. ANDERSON BOAT SHOP  
 1430 EIGHTH STREET  
 ANCHORAGE, ALASKA 99501  
 PHONE: (907) 252-7947  
 FAX: (907) 252-3441  
 CRAIG OFFICE  
 1430 EIGHTH STREET, SUITE 300  
 ANCHORAGE, ALASKA 99501  
 PHONE: (907) 860-2204  
 CERTIFICATE OF AUTHORIZATION # C276

R. ANDERSON BOAT SHOP  
 A SUBDIVISION OF  
 U.S.S. TRACTS AND TRACT C OF  
 PLAT 94-33  
 CREATING LOTS 4A, AND TRACT C-1  
 R. ANDERSON BOAT SHOP REPLAT  
 CONTAINING 1.59 ACRES MORE OR LESS

LOCATED WITHIN  
 U.S. SURVEY 1430  
 KETCHIKAN RECORDING DISTRICT  
 FIRST STATE OF ALASKA  
 SURVEYED BY: MAT  
 DATE: 2022  
 DRAWN BY: CGP  
 DATE: FEB 2023  
 SCALE: 1"=20'  
 CHECKED: CGP  
 RAM PROJECT NO: 222600



ATS 212  
 NORTH SHELTER COVE

**TAX STATEMENT**  
 I HEREBY CERTIFY THAT ALL CITY TAXES, STATE TAXES, FEES, LIENS AND OTHER CHARGES REQUIRED BY LAW TO BE PAID ON THE ABOVE DESCRIBED PROPERTY ARE PAID.

DATE: \_\_\_\_\_ CITY CLERK: \_\_\_\_\_

**CERTIFICATE OF IMPROVEMENTS**  
 I HEREBY CERTIFY THAT NO IMPROVEMENTS ARE REQUIRED FOR THE VACATION, REPLAT, OR RECONSTRUCTION OF THE ABOVE DESCRIBED PROPERTY.

DATE: \_\_\_\_\_ PUBLIC WORKS DIRECTOR: \_\_\_\_\_  
 DATE: \_\_\_\_\_ CITY PLANNING OFFICIAL: \_\_\_\_\_

**CERTIFICATE OF APPROVAL BY THE PLANNING COMMISSION**  
 I HEREBY CERTIFY THAT THE SUBDIVISION PLAT SHOWN HEREON HAS BEEN FOUND TO COMPLY WITH THE CITY LAND DEVELOPMENT CODE, SUBDIVISION ORDINANCE.

DATE: \_\_\_\_\_ CITY PLANNING OFFICIAL: \_\_\_\_\_  
 DATE: \_\_\_\_\_ PRESIDING OFFICER - PLANNING COMMISSION: \_\_\_\_\_  
 DATE: \_\_\_\_\_ PLANNING COMMISSION MEMBER: \_\_\_\_\_

**CERTIFICATE OF OWNERSHIP AND DEDICATION**  
 I HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON AND THAT I HEREBY ADOPT THIS PLAN OF SUBDIVISION WITH MY FREE CONSENT AND DEDICATE ALL STREETS, ALLEYS, WALKS, PARKS AND OTHER OPEN SPACES TO PUBLIC OR PRIVATE USE AS NOTED.

DATE: \_\_\_\_\_ ROBERT F. ANDERSON

**NOTARY'S ACKNOWLEDGMENT**  
 I, ROBERT F. ANDERSON, OF THE COUNTY OF ANCHORAGE, STATE OF ALASKA, DO HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON AND THAT I HEREBY ADOPT THIS PLAN OF SUBDIVISION WITH MY FREE CONSENT AND DEDICATE ALL STREETS, ALLEYS, WALKS, PARKS AND OTHER OPEN SPACES TO PUBLIC OR PRIVATE USE AS NOTED.

DATE: \_\_\_\_\_ JENNIE M. ANDERSON

**NOTARY'S ACKNOWLEDGMENT**  
 I, JENNIE M. ANDERSON, OF THE COUNTY OF ANCHORAGE, STATE OF ALASKA, DO HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON AND THAT I HEREBY ADOPT THIS PLAN OF SUBDIVISION WITH MY FREE CONSENT AND DEDICATE ALL STREETS, ALLEYS, WALKS, PARKS AND OTHER OPEN SPACES TO PUBLIC OR PRIVATE USE AS NOTED.

DATE: \_\_\_\_\_

**CERTIFICATE OF OWNERSHIP AND DEDICATION**  
 I HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON AND THAT I HEREBY ADOPT THIS PLAN OF SUBDIVISION WITH MY FREE CONSENT AND DEDICATE ALL STREETS, ALLEYS, WALKS, PARKS AND OTHER OPEN SPACES TO PUBLIC OR PRIVATE USE AS NOTED.

DATE: \_\_\_\_\_

**NOTARY'S ACKNOWLEDGMENT**  
 I, \_\_\_\_\_, OF THE COUNTY OF ANCHORAGE, STATE OF ALASKA, DO HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON AND THAT I HEREBY ADOPT THIS PLAN OF SUBDIVISION WITH MY FREE CONSENT AND DEDICATE ALL STREETS, ALLEYS, WALKS, PARKS AND OTHER OPEN SPACES TO PUBLIC OR PRIVATE USE AS NOTED.

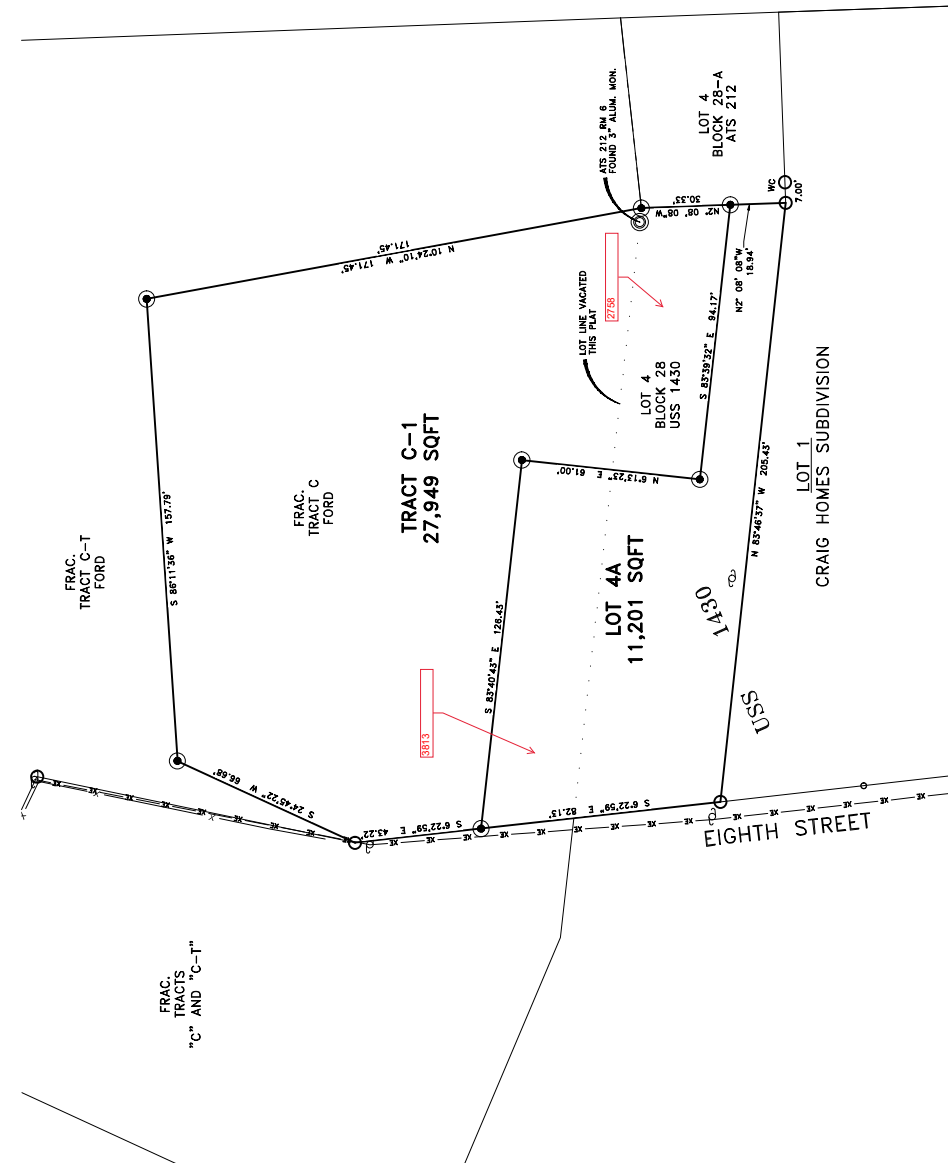
DATE: \_\_\_\_\_

**NOTARY'S ACKNOWLEDGMENT**  
 I, \_\_\_\_\_, OF THE COUNTY OF ANCHORAGE, STATE OF ALASKA, DO HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON AND THAT I HEREBY ADOPT THIS PLAN OF SUBDIVISION WITH MY FREE CONSENT AND DEDICATE ALL STREETS, ALLEYS, WALKS, PARKS AND OTHER OPEN SPACES TO PUBLIC OR PRIVATE USE AS NOTED.

DATE: \_\_\_\_\_

**LEGEND**

- ORIGINAL BULK BRASS CAP
- SECONDARY MONUMENT SET THIS SURVEY
- SECONDARY MONUMENT RECOVERED
- ACCESS & UTILITY EASEMENT INDICATED BY THIS PLAT
- SURVEYED
- XX MEASURED DATA
- RECORD DATA
- EXISTING OVERHEAD ELECTRICAL
- EXISTING UNDERGROUND SEWER LINE
- EXISTING UNDERGROUND WATER LINE



DATE: \_\_\_\_\_  
 CHRISTOPHER G. PRIBLINC, PLS # 103532

**CITY OF CRAIG  
MEMORANDUM**

To: Mayor and City Council  
From: Brian Templin, City Administrator  
Date: May 24, 2023  
RE: Ordinance 759 First Reading – FY24 Budget Water and Sewer Utility Rate  
Update – Second Reading and Consideration

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In 2022/2023 the council approved staff to apply for Alaska DEC loans for updates to the SCADA system (\$125,000) and for the wastewater treatment plant roof replacement (\$400,000). The FY24 Budget (Budget Ordinance 756 has been submitted to the council for first reading) shows an increase in the base water and sewer rates to cover the overhead on these capital projects (see the increase in projected water and wastewater revenue in the draft budget). The annual loan payments for the SCADA loan are budgeted at \$3,500 per year and the wastewater plant roof payments are budgeted at \$20,000 per year. Both loans will likely be for a 20 year period.

Broken down by the number of bills sent out throughout the year this amounts to \$0.50 per month added to water base rates and \$2.85 per month added to sewer base rates.

**Recommendation:** Adopt Ordinance 759, Adopting Utility Rates for Municipal Water and Wastewater Services as shown on Schedules B and C of the ordinance.



**ORDINANCE NO. 759**

**ADOPTING UTILITIES RATES FOR MUNICIPAL WATER AND  
WASTEWATER SERVICES**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CRAIG, ALASKA:

Section 1. Classification. This is a non-code ordinance.

Section 2. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. Effective Date. This ordinance becomes effective July 1, 2023.

Section 4. Repeal. This ordinance repeals all previous municipal water, wastewater, and garbage collection services rate-setting ordinances.

Section 5. Action. (a) Schedule "B" Wastewater Service Rates; and Schedule "C" Water Rates, are hereby adopted and incorporated by reference in Craig Municipal Code Sections 8.04.040, 15.16.010 and 15.48.010.

APPROVED \_\_\_\_\_

\_\_\_\_\_  
MAYOR TIM O'CONNOR

ATTEST \_\_\_\_\_  
KECIA WEATHERWAX, CITY CLERK

**SCHEDULE "B" SEWER RATES**

I. UNMETERED SERVICE

One equivalent dwelling unit (EDU) shall be \$66.40.

Processing, industrial, cold storage, and electrical generation plant rates shall be set by individual agreement approved by the City Council and shall be structured to follow the \$66.40 per EDU for wastes discharged into the sewerage system.

II. METERED SERVICE

| Customer Type     | Billing & Collecting | Meter & Services | Total Meter Charges | Rate per 1,000 gallons | Debt   | Total Base Rate |
|-------------------|----------------------|------------------|---------------------|------------------------|--------|-----------------|
| General           | \$6.88               | \$7.53           | \$14.41             | \$5.91                 | \$2.85 | <b>\$23.17</b>  |
| Mobile Home Parks | \$48.21              | \$357.48         | \$405.69            | \$6.22                 | \$2.85 | <b>\$414.76</b> |



**SCHEDULE "C" WATER RATES**

**I. UNMETERED SERVICE**

**Section A.**

| <b>USER TYPE</b>        | <b>MONTHLY RATE</b> |
|-------------------------|---------------------|
| Single family residence | \$53.68             |

**Section B.**

As referenced in Section 15.40.080 of the Craig Municipal Code, the city does not charge for standby water service on fire protection systems, metered or unmetered.

**II. METERED SERVICE**

Effective January 1, 1994, all commercial users and mobile home parks as defined in Title 18, Craig Land Development Code will be required to install metered water service. Exceptions to this provision will be on a case-by-case basis.

**Section A**

**Within City Limits Rate:**

Except as provided below in Section B, the monthly rates per meter are shown in the table below.

| Meter Size | Billing & Collecting | Meter & Services | Total Meter Charges | Rate per 1,000 gallons | Debt   | Total Base Rate |
|------------|----------------------|------------------|---------------------|------------------------|--------|-----------------|
| ¾"         | \$2.87               | \$6.31           | \$9.18              | \$4.13                 | \$0.50 | <b>\$13.81</b>  |
| 1"         | \$2.87               | \$11.36          | \$14.23             | \$4.13                 | \$0.50 | <b>\$18.86</b>  |
| 2"         | \$2.87               | \$13.26          | \$16.13             | \$4.13                 | \$0.50 | <b>\$20.76</b>  |
| 3"         | \$2.87               | \$17.68          | \$20.55             | \$4.13                 | \$0.50 | <b>\$25.18</b>  |
| 4"         | \$2.87               | \$25.26          | \$28.13             | \$4.13                 | \$0.50 | <b>\$32.76</b>  |
| 6"         | \$2.87               | \$30.95          | \$33.82             | \$4.13                 | \$0.50 | <b>\$38.45</b>  |

**Outside City Limits Rate:**

| Meter Size | Billing & Collecting | Meter & Services | Total Meter Charges | Rate per 1,000 gallons | Debt   | Total Base Rate |
|------------|----------------------|------------------|---------------------|------------------------|--------|-----------------|
| ¾"         | \$3.47               | \$12.37          | \$15.84             | \$13.22                | \$0.50 | <b>\$29.56</b>  |
| 1"         | \$3.47               | \$22.27          | \$25.74             | \$13.22                | \$0.50 | <b>\$39.46</b>  |
| 2"         | \$3.47               | \$25.98          | \$29.45             | \$13.22                | \$0.50 | <b>\$43.17</b>  |
| 3"         | \$3.47               | \$34.64          | \$38.11             | \$13.22                | \$0.50 | <b>\$51.83</b>  |
| 4"         | \$3.47               | \$49.49          | \$52.96             | \$13.22                | \$0.50 | <b>\$66.68</b>  |
| 6"         | \$3.47               | \$60.62          | \$64.09             | \$13.22                | \$0.50 | <b>\$77.82</b>  |

**Section B.**

Seafood processing plants that exceed one million (1,000,000) gallons monthly will be charged \$4.13 per thousand for the first one million gallons and \$3.98 per 1000 gallons for the gallons over one million.

Where monthly water usage does not exceed one million gallons, the rate established in Section A of "II METERED SERVICE" shall apply.



**CITY OF CRAIG  
MEMORANDUM**

To: Craig City Council  
From: Brian Templin, City Administrator  
Date: May 24, 2023  
RE: Meeting with CTA President and Council

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Earlier this year the council requested that staff arrange a joint workshop between the Craig City Council and the CTA Council. After working with CTA we had set a meeting for May 24<sup>th</sup>. CTA informed us that they did not want to open the initial meeting between the two council to the public.

I informed the CTA that under the Alaska Open Meetings Act, any meeting where we reasonably expect more than three city council members to be in attendance must be open to the public. As the council is aware, there are a handful of exceptions to the Open Meetings Act, but those exemptions do not apply in this case.

CTA responded and suggested a meeting of a smaller group of council members in order to comply with the Open Meetings Act.

If the council is interested in a small group of council members and staff participating in a closed meeting with the CTA council we suggest the following group:

- Craig Mayor
- Craig City Administrator
- Three Council Members (determined by the council)

One question that came up in our discussions related to the meeting was whether Millie Schoonover could attend the meeting only as a CTA Council Member. We have not found any exception that allows someone to attend and not be included in the total number of council members for purposes of the Open Meetings Act. Since Millie sits on both councils the city council should be aware that if she attends, she must be counted as one of the council members.

The intent of this smaller group meeting would be to allow some council members to bring information back to the full council for discussion and any further actions.

Recommendation: The council should designate no more than three council members to attend a meeting with the CTA council. Once we have a group designated we will work with CTA to set a time and date that works for both councils. The council should also discuss any items that they want the group to take to CTA for discussion at the meeting.

Recommended Motion: Move to designate council members \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ to attend a meeting with CTA to discuss items of mutual interest.