



**City Council Minutes
February 2, 2016 ~ 5:00PM**

**Regular Meeting
City Hall, Delta Junction, Alaska**

The regular meeting of the Delta Junction City Council was held on Tuesday, February 2, 2016 at City Hall. Mayor Pete Hallgren called the meeting to order at 5:00pm.

City Council members present: Mayor Pete Hallgren, Mayor Pro tem JW Musgrove, Lou Heinbockel
Freda Degnan, Sebastian Saarloos, Audrey Brown, William Brennan

City employees present: City Administrator Mary Leith, City Clerk Pat White

Approximately 30 members from the community were present during Ordinance 2016-03 discussion and five remained thereafter. The meeting was broadcast over KDHS 95.5 FM.

AMENDMENTS ~ APPROVAL OF AGENDA

Heinbockel moved to approve the February 2, 2016 agenda; Brennan seconded.

Hallgren explained receipt of written communication from a resident who cannot attend the public hearing portion of tonight's discussion about banning marijuana establishments inside the city limits.

Musgrove said he put Don Quarberg's name on the roster and he volunteered to read his letter.

Motion passed by unanimous consent.

AMENDMENTS ~ APPROVAL OF MINUTES FROM PREVIOUS MEETING

Musgrove moved to approve the January 19, 2016 and January 26, 2016 minutes as presented; Heinbockel seconded.

Motion passed unanimously on a roll call vote.

REQUEST TO SPEAK / Public Hearing

Division of Mining, Land & Water and DOT – Gravel Pit Inside City Limits

[A letter, dated December 8, 2015, from Mandy Willingham, Department of Natural Resources (DNR), was discussed at the December 15, 2015 City Council meeting. It explained expansion of the Delta Townsite Pit at Mile 265 Richardson Highway, increasing it from 2.043 acres to 29.6 acres. The proposed expansion site would also include a material sale contract for 500,000 cubic yards of material over a ten-year period.]

Hallgren referenced City Code of Ordinances §4.45 that prohibits construction of gravel pits inside the city limits and explained difficulty in identifying the City's southern boundary, which is believed to meet the military reservation. He also said the existing gravel pit that is to be expanded appears to be located in the middle of a platted city street.

Mandy Willingham, Natural Resource Specialist with the Alaska Department of Natural Resources (DNR), explained the process of collecting information to respond to the Department of Transportation (DOT) application to expand the boundaries of their material site that is an old federal site that pre-existed Statehood and is now totally depleted. The proposal could result in expansion or it could require limiting hours to eliminate noise pollution or strategies to prevent dust problems. Willingham distributed handouts that showed the site location, immediately south of Delta Industrial. The expansion area is west and north of the existing pit between Jarvis Creek and the Richardson Highway. An easement and 100-foot buffer of standing trees runs along the entire road corridor.

Dawn Grossmann said young people gravitate toward mischief, i.e. fires, fireworks, four-wheeling and the no-gravel-pit ordinance was adopted to lessen the potential of kids getting hurt. She said the proposed expansion area is also a buffer against flooding should the Jarvis Creek become a raging river. Grossmann questioned the condition cells would be left in on an on-going basis because 30 acres was a dangerously large sized area to maintain.

Willingham said rehab plans generally require slopes that are left shallow and uncovered. Understanding the dust issues in Delta, the overburden, trees and vegetation, could be reserved for cover once the cells are developed. Geotextile is another cover option.

Al Edgren said pits can be utilized as a firewood resource and made available to the public. He agreed with Grossmann about preserving the buffer of trees and not lowering the terrain, both critical to keep Jarvis Creek from entering the community, unless there are plans to armor the bank with riprap or something.

Heinbockel said, the City Code of Ordinances is pretty simple, “no more deep holes in our town.” The code was adopted as a direct result of a massive hole left in the ground next to Bergstad’s Trailer Court 30+ years ago when a private contractor sold gravel to realign a seven-mile section of the Alaska Highway. Heinbockel said expanding the existing DOT gravel pit to 30 acres is too large.

Musgrove referred to the Code of Ordinances and questioned how the City Council could take action (§4.45.010 - It is unlawful for any person to construct a gravel pit within the city limits and §4.45.020 – A gravel pit is any hole in the ground that measures fifty feet or more from any one side to another).

Hallgren said it is possible to invoke the ordinance to support the State in using the resources on their own land.

Dennis Bishop, Tok Superintendent with the Department of Transportation (DOT), said the proposed 29.6-acre expansion would never be wide open; each portion would be reclaimed when a new area is opened. He explained that the intention for the pit is for maintenance and operations, not for use on major construction projects. It is also to lock in material for future projects. All roads in and out of Delta are in excellent condition, so no major road projects are expected in the near future. Bishop said the pit is conveniently close to their maintenance shop, but because it is depleted, they would need to haul material ten miles, requiring either a dump truck and/or loader, which is cost prohibitive. Should the proposed expansion take place, hiring a private contractor to crush rock would be necessary only once or twice during the ten-year contract. He added that the Richardson Highway between Delta and Fort Greely could be a divided, two lane road within the next 20 years.

Discussion followed regarding establishing boundaries on cell development (defining reclamation plans to possibly five acres because one acre is too small for equipment to maneuver), ownership of riverbeds, other potential gravel pits in the Delta area, extending the public comment period to March 4, submitting comments (amanda.willingham@alaska.gov), and discussing the topic again at the February 16 Council meeting along with resolving the City’s southern boundaries.

NEW BUSINESS

Second Reading, Public Hearing, and Adoption of Ordinance 2016-03, An Ordinance Exercising the Right of the City Under AS 17.38.110(a) to Prohibit Commercial Marijuana Sales within the Limits of the City of Delta Junction, Alaska and Enacting a New Section in the City Code of Ordinances

Saarloos moved to enter into the public hearing and second reading of Ordinance 2016-03; Musgrove and Brennan seconded. Motion carried.

Musgrove reported he had no connection to correspondence submitted by Don Quarberg, but offered to read on Quarberg’s behalf. He read, “I support Ordinance 2016-03 for the following reasons: 1) At the general election on November 4, 2014 the voters within the City of Delta Junction (precinct 09-608) voted against Ballot Measure 2 (to legalize recreational marijuana). 2) At the general election on November 4, 2014 the voters of the Big Delta Precinct (09-600) voted not to support Ballot Measure 2 (to legalize recreational marijuana). Ordinance 2016-03 is supported in total by both of these precincts. The voters of precinct 09-600 have demonstrated that they support a prohibition on marijuana operations within the City of Delta Junction. Voters of precinct 09-600 also voted that they not support marijuana operations in the 10 mile buffer around the City of Delta Junction.”

Cliff Henry said he is against selling marijuana in the City limits “because 1) of the message it sends to the children in our community and 2) it is a drug and it creates harm to the body, both physically and mentally.”

Maureen Henry explained a scenario four years ago in which she passed an oncoming driver who was obviously impaired. An ER nurse at Fairbanks Memorial Hospital told her that half of the hospital staff would not be needed if it were not for drugs and alcohol. Henry said statistics and information online show that marijuana impairs and alters the mind, can cause cancer, addiction, and can be a stepping stone to other drugs. She said that legalizing marijuana was a grave mistake, particularly because young people are so vulnerable.

Sherman Stebbins asked if the City Council had seen a resolution that was generated from the school district.

Hallgren said the Delta-Greely School Board’s resolution pertained to safety of children. (The February 19, 2015 resolution supported actions to prevent exposing students to prohibited drugs.)

Stebbins said he was surprised during the January 26 public hearing to hear “marijuana is good for you” and that there were no deaths related to marijuana. He read descriptions of news articles that he researched on the Internet:

- Psychotic man destroys hotel room and leaps off balcony to his death. Cause - pot overdose from marijuana edible.
- Man pulls out gun and kills wife while she is on the phone with 911 after he consumed edible marijuana.
- Marijuana triggers death of two men in Germany – Fatal complications from marijuana exposure.
- Young man kills himself after eating edible pot.
- Young man stabbed himself 20 times after overdosing on pot.

- Young man falls to his death attempting to climb side of apartment building. Doctors confirm high level of THC.
- Young man's suicide note before taking his life, "Sorry for what I've done. I wasn't thinking the night I smoked myself out."
- Erin Marcove, pot activist from Denver, committed suicide after her three-year old grandchild fails to respond the morning after consuming a pot-laced cookie. The child did recover after an ER visit and hospital stay.
- Man tells police after smothering child, "I was up late, smoking weed, playing video games, and trying to take a nap."
- British woman dies from cardiac arrest triggered by cannabis toxicity, moderate to high levels of THC.

Stebbins said an overdose does not always result in death, but it can range from mania or hysteria to coma or death. Forty-six cities in Washington State and 70 cities in Colorado banned marijuana sales and commercial operations. Some cities are in moratorium, waiting for more information. Sixty-nine cities and 18 counties in Oregon have banned pot industry. He said marijuana sales are not going to generate a large windfall of money upon the State coffers because Alaska does not have the population (750,000) compared to Colorado (5.5 million). Alaska's budget is \$15 billion compared to Colorado's, \$30 billion. Projected revenue from marijuana in Alaska could peak at \$24 million, whereas Colorado's most recent collection was over \$100 million. Tourism in Alaska in 2014 was roughly two million people. Tourism in Colorado was 65 million in the same year with over 20 million at their ski resorts. Stebbins touched on statistics from Colorado about increased homeless people and increased DUI arrests and he referred to the Rocky Mountain High Intensity Drug Trafficking Area (HIDTA) website for more information about how the marijuana industry has affected Colorado. He said what someone does in the privacy of their home is protected, but he felt Delta is not ready for commercial marijuana businesses.

Paul Gerber referred to Stebbins' comments about marijuana-related deaths and said it is impossible to conduct a postmortem test on cannabis. He reported Bonneville, Washington was the first city in the United States to open its own government-owned dispensary. There was a lot of opposition when it was initially proposed, but within two months the business broke even. It was expected to take one and a half to three years. Revenue was expected to be \$250,000, about 20% of their yearly budget, but they now expect to raise twice that figure every month. Gerber said Mayor Don Stevens' biggest supporter was once the most adamantly opposed to marijuana. The average resident is 50 years old. Gerber explained Bonneville's problem with lack of parking because of the boom to its economy, inability to transport marijuana through Canada, Europeans visiting Denali Park, and marijuana businesses in Glitter Gulch expected to average \$200,000 in revenue each month. He asked the Council to not deny businesses ability to thrive inside and outside of the city limits.

Charles Lester said he had no personal experience regarding Stebbins' testimony, he believed there is a lot of falsity to what is found on the Internet, no one wants their kids around drugs, "reefer madness" was propaganda, and many states and doctors have changed their opinions about recreational and medical marijuana. He said marijuana needs to be regulated like alcohol or any other drug, but not outlawed. If it is not regulated, it will remain a safety issue for kids and susceptible to the black market. He asked the City Council to consider zoning or to at least postpone making a decision because he did not doubt that the State of Alaska would impose the ten-mile rule.

Rhonda Swearingen said there is no question that marijuana is a drug, but it is legal, even though it has an attached stigma. Whether it is good or bad and its side-effects are not the issue. What is bought and sold now will not likely stop should the City ban marijuana, but leaving the State to determine the boundaries is not acceptable. She asked to allow marijuana businesses and quality control and she said there is great potential for monetary gain by taxing marijuana sales and there is no reason it cannot be treated the same as alcohol.

Barbara Parker asked the Council to support prohibition of marijuana because "it sends a message to our children that we are concerned for their health and well-being." She said marijuana is still considered a gateway drug, it has neurological implications, and should sales be permitted, it will allow advertising and signs. Parker said she does not want to see the signs that will make marijuana highly visible. She does not want to see it normalized.

Michael Stephens said he supported the prohibition and, as a parent and a youth leader, he sees a lot of struggles. He said, "While addressing the future growth of this community, we need to address what will restrict that growth." He spoke about his first-hand knowledge of the effects of marijuana while attending the university in Colorado, his belief that projected income will be minuscule, secondhand smoke from marijuana worse than smoke from cigarettes, and he suggested finding a better way to grow than to expose kids to drugs.

Tim Huebscher said prohibition does not work and Delta has always had a drug problem. Above-board businesses will harm the black market and quality control is needed on marijuana that is sold locally. He questioned enforcement; whether the City would create it or continue to rely on Alaska State Troopers. He said marijuana is legal and "this is the opportunity to grab the bull by the horns and lead the way." He asked to lay down rules, permit responsible store owners and professional storefronts, control it, and put the disgusting people who get kids hooked on meth out of business. Huebscher suggested requiring security guards and security cameras, to be proactive, and to stop ignoring the issue because it will not make it go away.

Al Edgren said he supported the ordinance as it is written and believed the State of Alaska will recognize it and Council concerns about extending authority beyond the City boundaries. It is in conflict with Alaska laws, but there will likely be other communities in Alaska that will have similar circumstances. Time is needed to watch how it unfolds statewide and the City Council can revisit the issue at any time. He questioned permitting marijuana licenses on a site-specific basis, i.e. liquor licenses, because the City has no ability to enforce zoning regulations.

Heinbockel moved to close the public hearing portion of Ordinance 2016-03; Brennan and Musgrove seconded.

Heinbockel moved to adopt Ordinance 2016-03 as presented; Musgrove seconded.

Hallgren called for a recess at 6:33pm and reconvened the meeting at 6:36pm.

Brown read the last paragraph in the ordinance, "... the City of Delta Junction does not intend to impose its ordinances upon the unincorporated area outside of its boundaries" and said she believed it is not right to vote on something that will affect people in the ten-mile radius when they cannot vote.

Saarloos said he researched banning marijuana and helped draft the ordinance, but he felt a ratification measure needed to be added so City residents could vote on it before it is enacted. Should the ordinance pass, the public has the option to request a referendum election to possibly repeal it, similar to what is presently happening in Wasilla. Saarloos said he would not support Ordinance 2016-03 otherwise. He said zoning would offer a compromise and he suggested one mile from City Hall, one mile or one and a half miles from the Nistler - Richardson intersection; wherever a marijuana store can establish outside of the downtown area, yet inside the city limits and the unorganized borough. Saarloos added that there has been no rash of marijuana-related incidents since marijuana was legalized in Alaska in 2014.

Degnan said Council members represent the general public, including those who live outside the city limits. She appreciated everyone's opinions, but took offense to being called evil and uneducated (January 26, 2016 special meeting). She said the City Council must make the best decision for the community and the marijuana issue has not been easy. She supported regulating marijuana, but she did not support locating marijuana storefronts in downtown Delta Junction.

Heinbockel said the people of Alaska voted for Ballot Measure 2 to legalize marijuana (November 4, 2014) and at the same time they voted to allow municipal governments to either govern or outlaw marijuana businesses. He said he would vote to adopt the ordinance as it is written even though it will not change the status quo, local marijuana presence as it has been for the past 50 years. He explained enforcing marijuana rules during his career with the local school district and Alaska's history in which marijuana was made legal twice and reversed both times by its people. He said, "We, the people of Alaska and Colorado and Washington State are violating Federal Statutes!" Referencing the 91-9 % vote to not incorporate as a borough (August 21, 2007) and recent public comments promising to raise revenue off marijuana sales via taxes, he said the only people benefiting would be the black market because they will sell it cheaper.

Musgrove said the City Council's responsibility is to respond primarily to the residents that live inside the City of Delta Junction. Residents outside the City's border in the ten-mile zone need to address the State of Alaska. He said he doubted the City would ever regulate, tax, zone, or hire policemen because of inability to institute a tax and manage it.

Saarloos said the State of Alaska Marijuana Control Board would serve as the enforcement because they would approve or deny individual marijuana license applications per zoning regulations, should the City establish any.

Brennan said he had issues with the D.A.R.E. (Drug Awareness Resistance Education) program teaching children that marijuana was a drug and it was illegal two years ago, but now it is "okay" and that legalization of marijuana was a State law, not a Federal law. The State of Alaska has given local governments the ability to govern marijuana, but it is not economically viable for Delta Junction to tax, control, monitor, or enforce regulations. He said he supported banning marijuana, but favored mitigating the ten-mile rule, if possible, to not extend the City's authority beyond its boundaries.

Hallgren said he based his opinion to support Ordinance 2016-03 on how local residents voted on the November 4, 2014 initiative (60-40% in the City's precinct and 56-44% in rural Deltana's). Area residents voted heavily against legalizing marijuana and he intended to honor that vote. He said he had no desire to extend the ban beyond the city limits, but that regulation is controlled by the State of Alaska. The major employers in the Delta community are Fort Greely and CRTC (Cold Region Test Center). He read excerpts about marijuana usage from the October 16, 2015 edition of Arctic Warrior, a U.S. Army Alaska newspaper:

- "... it's still illegal to use, possess, grow, manufacture or distribute the drug on any military installation. Service members must understand the U.S. Armed Forces have a zero-tolerance policy on illegal drugs and that using or possessing marijuana on or off base is illegal."

- "Article 112a of the Uniform Code of Military Justice remains unchanged for all service members, including Reservists. Article 112a specifically prohibits service members from using, possessing, manufacturing, or distributing marijuana under any circumstances, in any location, at any time, regardless of state or local laws. Article 112a further prohibits the introduction of marijuana (along with all other controlled substances) into an installation, vessel, vehicle, or aircraft ..."

- "... the most common questions are: Now that marijuana is legal in Alaska, how does that apply to dependents or service members off-base? Can we smoke marijuana in on-base quarters? And if a dependent or guest uses marijuana off-base, and then comes on base, is that OK?"

- “Commanders may take disciplinary action against service members for violating Article 112a regardless of the legality of the behavior in the location in which the behavior occurs.”
 - “Service members, family members, employees, contractors and visitors should not try to use the new Alaska State law as an excuse for bringing or using marijuana (on federal property).”
 - “Dependents, employees, contractors, and visitors will be subject to prosecution for marijuana-related offenses that occur on federal property, including in on-base quarters. Regarding the question of military dependents and guests using marijuana off base and then coming on the installation, it’s illegal to drive under the influence of marijuana. If dependents or guests choose to use marijuana, it’s in their system, if they drive on federal property, they can be charged with driving under the influence in U.S. Federal Court.”
- Hallgren said anyone on Fort Greely is subject to random drug testing, which would be prosecuted under federal law. He is not interested in putting off a decision, particularly because it has been a Council topic for several months. Zoning would be difficult to enforce, if not impossible, taxes and regulations will generate costs to implement, the City Council has no say about the ten-mile State of Alaska legislation, so the worst case scenario would require marijuana customers to drive a minimum of ten miles to locate a licensed marijuana facility.

Discussion followed regarding no Council support to amend the motion (to add language to the ordinance to include an election, leaving the decision to City voters to ban or not ban marijuana establishments inside the city limits).

Motion passed on a roll call vote with five in favor (Heinbockel, Degnan, Brennan, Musgrove, Hallgren) and two opposed (Saarloos, Brown).

Musgrove expressed appreciation for all the effort to research, provide information, and obtain public input, all of which were helpful in the decision making.

Hallgren noted that area residents who provided testimony were deliberately not asked whether they resided inside or outside the city boundaries.

Stebbins thanked the Council for voting to ban marijuana within the City limits. He explained the referendum process, which is explained in the Alaska Statutes (AS 29.26), should the public want to challenge the Council’s decision.

Edgren said tonight’s vote to ban marijuana was difficult and it will probably resurface in many communities. He suggested looking at police records and medical issues to gain more facts as time passes.

Musgrove asked to reinforce not smoking in city-owned vehicles.

Heinbockel said it was difficult to vote on banning marijuana and he hoped to not have to address the issue again.

Saarloos said he viewed Ballot Measure 2 and banning marijuana inside the City limits as two different issues and he disagreed with the vote, but appreciated the public comments.

Brennan encouraged those who disagree with the City Council’s decision to overturn it. He said, “Fortunately in America it is your right and privilege, so execute it.”

Airport Fee Policy

Musgrove explained that local pilots created an ad hoc group, Delta Pilots Advisory Committee, 25+ years ago as a way to help the City keep the airport open. Over time the situation at the airport changed and, instead of a Council member and several area pilots, the committee now consists of only himself and Jack Morris. The Delta Pilots contribute \$4,000 each year toward airport insurance liability (\$8,000 on a two-year cycle). Referring to the *City of Delta Junction Airport Fees* draft, Musgrove said rates are what the Delta Pilots currently collect from airport users. He asked the City Council to adopt the draft as a standard policy and to modify it periodically, preferably during the annual budget cycle.

Discussion followed regarding the fee schedule for tie downs and boundary crossings similar to guidelines set out by the Alaska Administrative Code, occasional need for electrical use, but not 24/7, the City taking on the duties of collecting user fees, and airport insurance costing approximately \$5,000 annually.

Heinbockel moved to adopt the *City of Delta Junction Airport Fees* as presented; Saarloos seconded.

Motion passed unanimously on a roll call vote.

Musgrove said the Delta Pilots will coordinate efforts with Prestwich in transitioning the duties and they will continue to plow and pack snow on the runway, put up traffic cones, mow grass, etc.

Heinbockel said the airport is a low budget item and he preferred to not charge airport users anything. He said he appreciates what the Delta Pilots have done because there was a time when the City could not afford the insurance.

Musgrove reported a representative from the State of Alaska told him that the State recovers about 20% of operating costs for airports that are similar to the size of Delta’s.

City Purchases over \$1,000

CK# 218200 to Med-Tech Resource Inc. in the amount of \$1,028.10 for ambulance supplies

CK# 218201 to Bob’s Services in the amount of \$2,585.80 for vibrator for sander on new plow truck

Saarloos moved to approve check numbers 218200 and 218201; Brennan seconded.

Discussion followed regarding sand needing shaken, so it does not clog up (218201) and using the existing sander on a newer pickup truck when it is purchased with leftover grant monies.

Motion passed unanimously on a roll call vote.

REPORTS

Emergency Services – Freda Degnan reported all three fire departments responded to a recent fire on Souhrada Road.

Airport – JW Musgrove reported the airport is currently in good condition and Jack Morris is purchasing new wind socks and traffic cones to use at the airport.

City Administrator – Mary Leith reported:

- Federal PILT for the upcoming fiscal year will be \$987,000, which is the same as FY2016. State Revenue Sharing will be \$98,000, which is about \$43,000 less than the current fiscal year.

Hallgren reported Revenue Sharing is expected to be gone within two years if the State does not continue to fund it.

- City boilers were inspected on January 28. All facility boilers passed inspection except the one at the ice rink.

- A local business requested purchasing landfill boulders for 5¢ per pound and they are willing to provide equipment to load and transport. The current rate is 10¢, even though no one is presently interested in buying rocks.

Discussion followed regarding the last sale (2007/2008), charging \$150/hour or \$50 minimum to load rocks with landfill equipment and operator, and giving rocks away to nonprofit groups.

Hallgren said he would like to change the existing policy to permit any commercial business to purchase boulders for 5¢ per pound.

Heinbockel moved to reduce costs for commercial entities to purchase boulders for 5¢ per pound plus \$150/hour, \$50 minimum, for loading by City equipment and operator; Brown seconded.

Motion passed unanimously on a roll call vote.

Brennan asked to draft a waiver or release of liability for City employees to load boulders onto private vehicles.

Finance – Mary Leith reported audit reports will arrive before the next City Council meeting.

School District – William Brennan reported:

- Public testimony on Senate Bill 128 (Permanent Fund Dividends) is scheduled a half hour after the next School Board meeting begins on February 4.

- The Dean Cummings Basketball Tournament January 28/29 at the Delta-Greely School was well attended.

Discussion followed regarding the School District partnering with Fort Greely to manage tournament activities, Hallgren authorizing the Chamber to put an ice sculptor in front of City Hall, and potential health risks created from parking overflow in back of the school on North Clearwater and congestion during Catholic Church services on Deborah Street.

Personnel – JW Musgrove asked to review the drug policy in the personnel handbook (Employee Policy Plan), specifically the section about drugs in the workplace because of heightened awareness about marijuana.

Public Works – Lou Heinbockel reported he, Hallgren, and Leith were pleasantly surprised when they visited the landfill operation on Friday.

ADJOURNMENT

Musgrove moved to adjourn at 8:12pm; Degnan seconded. Motion carried.

Pat White, City Clerk

Approved: February 16, 2016