



Kenai City Council - Regular Meeting

December 15, 2021 – 6:00 PM

Kenai City Council Chambers

210 Fidalgo Avenue, Kenai, Alaska

****Telephonic/Virtual Information on Page 4****

www.kenai.city

Agenda

A. CALL TO ORDER

1. Pledge of Allegiance
2. Roll Call
3. Agenda Approval
4. Consent Agenda (*Public comment limited to three (3) minutes) per speaker; thirty (30) minutes aggregated*)

All items listed with an asterisk () are considered to be routine and non-controversial by the council and will be approved by one motion. There will be no separate discussion of these items unless a council member so requests, in which case the item will be removed from the consent agenda and considered in its normal sequence on the agenda as part of the General Orders.

B. SCHEDULED PUBLIC COMMENTS

(Public comment limited to ten (10) minutes per speaker)

C. UNSCHEDULED PUBLIC COMMENTS

(Public comment limited to three (3) minutes per speaker; thirty (30) minutes aggregated)

D. PUBLIC HEARINGS

- 1. Ordinance No. 3256-2021** - Increasing Estimated Revenues and Appropriations in the Airport Improvements Capital Project Funds, Authorizing the Acceptance of a Grant from the Federal Aviation Administration for the Kenai Municipal Airport Sand Storage Facility Construction Phase II, and Authorizing a Budget Transfer in the Airport Improvements Capital Project Fund – Kenai Municipal Airport Sand Storage Facility Project to Facilitate the Return of Funds Advanced from the Airport Special Revenue Fund. (Administration)
- 2. Ordinance No. 3257-2021** - Accepting and Appropriating a Collection Equity Award from the Network of the National Library of Medicine Region 5 for the Purchase of Health and Wellness Titles for the Kenai Community Library Collection. (Council Members Knackstedt and Pettey)
- 3. Ordinance No. 3258-2021** - Accepting and Appropriating Funding from the State of Alaska Department of Health and Social Services, Division of Public Health, for the Healthy and Equitable Communities Program, and Authorizing the City Manager to Execute a Memorandum of Agreement for this Funding. (Administration)

- 4. Ordinance No. 3259-2021** - Increasing Estimated Revenues and Appropriations in the General and Municipal Roadway Improvement Capital Project Funds, and Increasing a Purchase Order to Foster's Construction for the 2021 Bryson Ave Bluff Erosion Repair Project. (Administration)
- 5. Ordinance No. 3260-2021** - Amending Kenai Municipal Code 13.40.010-Definitions, to Maintain Current Regulations on Off-Road Vehicle Use in Kenai After January 1, 2022. (Council Member Knackstedt)
- 6. Resolution No. 2021-71** - Amending the Employee Classification Plan to Change the Range of the Parks and Recreation Director. (Administration)

E. MINUTES

- 1.** *Regular Meeting of December 1, 2021. (City Clerk)

F. UNFINISHED BUSINESS

- 1. Resolution No. 2021-64** - Awarding an Agreement for the Kenai Waterfront Redevelopment Assessment and Feasibility Study. (Administration) *[Clerk's Note: At the November 3, 2021 Meeting, this item was Postponed to this meeting; a motion to enact is on the floor.]*

G. NEW BUSINESS

- 1. *Action/Approval** - Bills to be Ratified. (Administration)
- 2. *Ordinance No. 3261-2021** - Accepting and Appropriating a Grant from the Institute of Museum and Library Services through the Department of Education and Early Development, Division of Library, Archives & Museums for the Purchase of a Hold Locker. (Administration)
- 3. *Ordinance No. 3262-2021** - Accepting and Appropriating a Grant from the Institute of Museum and Library Services Passed Through the Department of Education and Early Development, Division of Library, Archives & Museums for the Purchase of Steam Kit Shelving, Library Materials, and Other Items. (Administration)
- 4. *Ordinance No. 3263-2021** - Increasing Estimated Revenues and Appropriations in the General Fund – Police Department and Accepting Grants from the United States Department of Justice and Alaska Municipal League Joint Insurance Association (AMLJIA) for the Purchase of Ballistic Vests. (Administration)
- 5. *Ordinance No. 3264-2021** - Accepting and Appropriating Asset Forfeiture Funds Provided to the City of Kenai through the State of Alaska Department of Public Safety. (Administration)
- 6. *Ordinance No. 3265-2021** - Increasing Estimated Revenue and Appropriations in the General Fund and the Parks Improvement Capital Project Fund for Additional Kenai Dog Park Funding. (Vice Mayor Glendening and Council Members Winger and Baisden)

- 7. Action/Approval** - Special Use Permit to American Red Cross of Alaska for General Office Space. (Administration)
- 8. Action/Approval** - Council Confirmation of Mayoral Nominations to the City's Commissions and Committee. (Mayor Gabriel)
- 9. Action/Approval** - Confirmation of Mayoral Nominations for Appointment to the Planning and Zoning Commission. (Mayor Gabriel)
- 10. Action/Approval** - City Participation in UCIDA Lawsuit. (Mayor Gabriel)

H. COMMISSION / COMMITTEE REPORTS

- 1.** Council on Aging
- 2.** Airport Commission
- 3.** Harbor Commission
- 4.** Parks and Recreation Commission
- 5.** Planning and Zoning Commission
- 6.** Beautification Committee
- 7.** Mini-Grant Steering Committee

I. REPORT OF THE MAYOR

J. ADMINISTRATION REPORTS

- 1.** City Manager
- 2.** City Attorney
- 3.** City Clerk

K. ADDITIONAL PUBLIC COMMENT

- 1.** Citizens Comments (*Public comment limited to five (5) minutes per speaker*)
- 2.** Council Comments

L. EXECUTIVE SESSION

M. PENDING ITEMS

N. ADJOURNMENT

O. INFORMATION ITEMS

- 1.** Purchase Orders Between \$2,500 and \$15,000

- [2.](#) Letter from the Alaska Association of Municipal Clerks
- [3.](#) CIRCAC Director's Report
- [4.](#) Thank you letter to GLM
- [5.](#) Thank you letter to Pioneers of Alaska

The agenda and supporting documents are posted on the City's website at www.kenai.city. Copies of resolutions and ordinances are available at the City Clerk's Office or outside the Council Chamber prior to the meeting. For additional information, please contact the City Clerk's Office at 907-283-8231.

Join Zoom Meeting

<https://us02web.zoom.us/j/88570636586>

Meeting ID: 885 7063 6586 **Passcode:** 773916

OR

Dial In: (253) 215-8782 or (301) 715-8592

Meeting ID: 885 7063 6586 **Passcode:** 773916



Sponsored by: Administration

CITY OF KENAI

ORDINANCE NO. 3256-2021

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, INCREASING ESTIMATED REVENUES AND APPROPRIATIONS IN THE AIRPORT IMPROVEMENTS CAPITAL PROJECT FUNDS, AUTHORIZING THE ACCEPTANCE OF A GRANT FROM THE FEDERAL AVIATION ADMINISTRATION FOR THE KENAI MUNICIPAL AIRPORT SAND STORAGE FACILITY CONSTRUCTION PHASE II, AND AUTHORIZING A BUDGET TRANSFER IN THE AIRPORT IMPROVEMENTS CAPITAL PROJECT FUND – KENAI MUNICIPAL AIRPORT SAND STORAGE FACILITY PROJECT TO FACILITATE THE RETURN OF FUNDS ADVANCED FROM THE AIRPORT SPECIAL REVENUE FUND.

WHEREAS, Resolution 2020-79 approved on the 16th day of September, 2020 previously authorized the City Manager to accept a Federal Aviation Administration grant for Phase I construction of the Kenai Municipal Airport Sand Storage Facility; and,

WHEREAS, via Ordinance 3155-2020 Substitute the City of Kenai accepted and appropriated grant 3-02-0142-064-2020 from the Federal Aviation Administration totaling \$1,954,101 on the 24th day of September, 2020 for Phase I of the Kenai Municipal Airport Sand Storage Facility; and,

WHEREAS, Ordinance 3155-2020 Substitute included advance funding from the Airport Special Revenue Fund in the amount of \$729,931 which when combined with \$265,681 of advance funding for project design brings the total project advance funding to \$995,612; and,

WHEREAS, the City of Kenai has received grant offer 03-02-0142-065-2021 from the Federal Aviation Administration totaling \$881,161 for Phase II of the Kenai Municipal Airport Sand Storage Facility; and,

WHEREAS, authorization of a budget transfer to move previously advanced funds from construction to the Airport Special Revenue fund is needed to return previously advanced funds; and,

WHEREAS, acceptance of the Phase II grant, a budget transfer to facilitate the return of advanced funds and this appropriation is in the best interest of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, as follows:

Section 1. That the City Manager is authorized to accept grant funding of \$881,161.00 from the Federal Aviation Administration.

Section 2. That the revenues and appropriations be increased as follows:

Airport Improvement Capital Project Fund:	
Increase Estimated Revenues – Federal Grants	<u>\$881,161</u>
Increase Appropriations –	
Kenai Municipal Airport Sand Storage Facility – Construction	<u>\$881,161</u>

Section 3. That the following budget revision is authorized:

Airport Improvement Capital Project Fund:	
Decrease Expenditures - Kenai Municipal Airport Sand Storage Facility – Construction	<u>\$881,161</u>
Increase Expenditures – Transfer to Airport Special Revenue Fund	<u>\$881,161</u>

Section 4. Severability: That if any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision, or application.


Section 5. Effective Date: That pursuant to KMC 1.15.070(f), this ordinance shall take effect immediately upon enactment.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 15th day of December, 2021.

BRIAN GABRIEL SR., MAYOR

ATTEST:

Jamie Heinz, MMC, City Clerk

Approved by Finance: 

Introduced: December 1, 2021
Enacted: December 15, 2021
Effective: December 15, 2021



MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
THROUGH: Paul Ostrander, City Manager
FROM: Eland Conway, Airport Manager
DATE: November 22, 2021
SUBJECT: Ordinance No. 3256-2021

The purpose of this memo is to request Council's approval to:

1. Increase estimated revenues and appropriations in the Airport Improvements Capital Projects Fund,
2. Accept a grant from the Federal Aviation Administration (FAA) to cover project costs associated with Phase II of the Kenai Municipal Airport (ENA) Sand Storage Facility,
3. Authorize a budget transfer from the Airport Improvements Capital Projects Fund to the Airport Special Revenue Fund.

At the FAA's request the ENA Sand Storage Facility was divided into two (2) continuous phases. Phase I allowed the FAA to appropriate grant 03-02-0142-064-2020 in September 2020, **\$1,954,101** of the **\$2,835,262** project, within the Federal Government's fiscal year 2020 (October 2019 to September 2020).

In May of 2021 the FAA appropriated grant 03-02-0142-065-2021, the remaining **\$881,161** of the **\$2,835,262** project.

In order to expedite and streamline the project, Council authorized two budget transfers totaling **\$995,612** from the Airport Special Revenue Fund to forward fund **\$995,612** of the **\$2,835,262**, including **\$114,451** in contingencies.

Ordinance No. 3256-2021 appropriates the **\$881,161** FAA Grant 03-02-0142-065-2021 to the Airport Improvements Capital Project Fund and returns **\$881,161** of the forward funded **\$995,612**. The remaining **\$114,451** contingency remains in the Airport Improvements Capital Project Fund.

Any contingency funds used may be eligible for FAA reimbursement at 93.75% to 100%. Any remaining contingency funds will remain in the Airport Improvements Capital Projects Fund for future ENA capital projects or be returned to the Airport Special Revenue Fund.

Council's support is respectfully requested.

FAA Grant 03-02-0142-064-2020	\$	1,954,101
ENA Special Revenue Fund-ADVANCE (HDL Engineers Contract Administration Services)		265,681
ENA Special Revenue Fund-ADVANCE (Project Balance + \$114,451 Contingency)		729,931
FAA Grant 03-02-0142-065-2021		881,161
ENA Special Revenue Fund-RETURN		(881,161)
<hr/>		
Sand Storage Project Balance		
(Total Grants + \$114,451 Contingency)	\$	2,949,713
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Sponsored by: Council Members Knackstedt and Pettey

CITY OF KENAI

ORDINANCE NO. 3257-2021

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, ACCEPTING AND APPROPRIATING A COLLECTION EQUITY AWARD FROM THE NETWORK OF THE NATIONAL LIBRARY OF MEDICINE REGION 5 FOR THE PURCHASE OF HEALTH AND WELLNESS TITLES FOR THE KENAI COMMUNITY LIBRARY COLLECTION.

WHEREAS, the City of Kenai received a Collection Equity Award from the Network of the National Library of Medicine Region 5 for the purchase of health and wellness materials for the library collection; and,

WHEREAS, the funds will be used to purchase materials in a variety of formats to support the health information needs of the residents of Kenai and surrounding communities; and,

WHEREAS, there will be a focus on purchasing materials for underrepresented groups based on census data and informal community conversations; and,

WHEREAS, it is in the best interest of the City of Kenai to appropriate these grant funds for the purpose intended.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, as follows:

Section 1. That the City Manager is authorized to accept a grant from the Network of the National Library of Medicine in the amount of \$1,500 for the purchase of library books and to execute grant agreements and to expend the grant funds to fulfill the purpose and intent of this Ordinance.

Section 2. That the estimated revenues and appropriations be increased as follows:

General Fund:

Increase Estimated Revenues – Federal Grants, Library	<u>\$1,500</u>
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Increase Appropriations – Library--Books	<u>\$1,500</u>
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Section 3. Severability: That if any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or application thereof to other persons or circumstances.

Ordinance No. 3257-2021
Page 2 of 2

The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision, or application.


Section 4. Effective Date: That pursuant to KMC 1.15.070(f), this ordinance shall take effect immediately upon enactment.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 15th day of December, 2021.

BRIAN GABRIEL SR., MAYOR

ATTEST:

Jamie Heinz, MMC, City Clerk

Approved by Finance: 

Introduced: December 1, 2021
Enacted: December 15, 2021
Effective: December 15, 2021



KENAI

City of Kenai | 210 Fidalgo Ave, Kenai, AK 99611-7794 | 907.283.7535 | www.kenai.city

MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
FROM: Council Members Knackstedt and Pettet
DATE: November 12, 2021
SUBJECT: **Ordinance No. 3257-2021 – Collection Equity Award from the Network of the National Library of Medicine, Region 5**

The Kenai Community Library has been selected to receive a \$1,500 award from the Network of the National Library of Medicine for the purchase of health and wellness titles. Per the American Library Association collection development guidelines, health and wellness publications are considered obsolete and in need of replacement after five-years. Many of the existing titles exceed five years of age. This grant will assist the library in refreshing outdated information, and bringing the Health Section up to date with new titles.

We request your support in accepting this grant for our community library, and to show your appreciation for our Library Director.

Excerpts from the Kenai Community Library Policies:

“The library supports the Library Bill of Rights of the American Library Association Freedom to Read statement. The Library’s mandate is to provide the public access to information on all sides of an issue.”

“Books and/or other library material selection are and shall be vested in the librarian.”

“... censorship is a purely individual matter and declares that while anyone is free to reject for himself books of which he does not approve, he cannot exercise this right of censorship to restrict the freedom to read to others.”



MEMORANDUM

TO: Mayor Brian Gabriel and Council Members

THROUGH: Paul Ostrander, City Manager

FROM: Katja Wolfe, Library Director

DATE: November 12, 2021

SUBJECT: **Ordinance 3257-2021-- Collection Equity Outreach Award from the Network of the National Library of Medicine, Region 5**

The Library has been selected to receive a Collection Equity Outreach Award from the Network of the National Library of Medicine (NNLM). The NNLM’s mission is “to advance the progress of medicine and improve the public health by providing all U.S. health professionals with equal access to biomedical information and improving the public’s access to information to enable them to make informed decisions about their health” (<https://nnlm.gov/>). The mission of the Kenai Community Library is to provide a comfortable and friendly environment, whether that is in-person or virtually, for our visitors of all ages and abilities to pursue opportunities of life-long learning, relax and read current materials, receive knowledgeable assistance and answers to questions, find professionally selected materials in all formats for personal enjoyment, enjoy programs or performances, and have access to technological resources. In other words, our mission and status as a community organization position us well as a key contributor to community health and health literacy by providing reliable and current health information and training staff to answer consumer health reference questions with confidence and skill. However, a significant portion of our health-related materials is 5 years or older. Unlike hospital or medical library special collections, our collection must provide wide range of information to the general public, from students to parents to seniors, and to people of all backgrounds. Keeping our health section updated and reliable does require significant funds, and this award will help us reach our goal faster.

Per the award, the amount of \$1,500 will be used for the purchase of health and wellness titles in various formats (e.g., print, audio, digital books, and DVDs) for all age groups. Library staff trained in collection development will select items on both physical and mental health and wellbeing from well-reviewed popular science, reference, and graphic medicine titles. Review sources include professional library journals such as School Library Journal, Library Journal, and Booklist. Topics will include self-care and mental health, healthy habits, dealing and living with chronic stress and chronic diseases, caregiver support, suicide, prevention, traditional knowledge, complementary and non-Western medicine (like, acupuncture and herbal remedies), reference books on Medicaid and Medicare, health literacy (i.e., how to find and use health information to make informed healthcare decisions), items on specific conditions (i.e., breast cancer and dementia), women’s health, and men’s health.

We aim to serve as a resource for reliable health information and to help reduce health disparities in our community by making health information freely available and accessible. Health literacy is a 21st century skill that is crucial to understanding health information and making knowledgeable health-related decisions. The award will help us expand our efforts to refresh and replenish our health section with new and updated titles.

Your consideration is appreciated.



OCT 21 Back By Popular Demand: Collection Equity Award

Posted by [Michele Spatz](#) on [October 21st, 2021](#) Posted in: [Blog](#), [Funding](#), [News from](#)

[NNLM Region 5](#)

Tags: [Funding](#), [NNLM Region 5](#)

Collection Equity Award

Background/Purpose

The National Network of Libraries of Medicine Region 5 under cooperative agreement with the U.S. National Library of Medicine (NLM), announces the availability of funding through its Collection Equity Awards to fund collection development that amplifies diverse voices writing on health/medical topics or that include a health or medical issue as an integral narrative theme. Such collection development efforts are important to ensure equitable access to health information and promote health literacy and support programmatic outreach in under-resourced communities.

The Awards are designed to help build collections that are reflective of voices of the communities served which may be revealed through different genres such as graphic medicine, fiction, nonfiction, memoirs, Young Adult, manuscripts (published and unpublished), oral histories and film. Expanding diverse voices in libraries (all types), public health agencies, academic programs, or community organizations ensures collection equity and supports health literacy by illuminating health issues either common, or conversely, unique to underserved populations in the region.

Specifically, the Collection Equity Award seeks to address one or more of the following aims from the NNLM Region 5 cooperative agreement and supports NLM's mission to provide U.S. researchers, health professionals, public health workforce, educators, and the public with equal access to biomedical and health information resources and data.

- Advance health equity through national and regional partnerships and initiatives to ensure a variety of members and the public will have equal access to biomedical, health, and public health information and data.
- Administer funding awards to support a highly trained workforce for biomedical and health information resources and data, improve health literacy, and increase health equity through information.

Eligibility

Applicants must be from institutions that are members of NNLM Region 5. Membership is free and open to institutions interested in improving equitable access to health information. To verify your membership, find out your NNLM ID or to apply for membership, contact Outreach and Access Coordinator Emily Hamstra via email: ehamstra@uw.edu.

Funds from this award must be used for purchase of materials and resources from any genre that amplify diverse voices writing on health/medical topics or that include a health or medical issue as an integral narrative theme.

Funding

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Funding Period: December 17, 2021 – April 30, 2022

Amount: \$1,500

Number of Awards Available: Minimum of 6

Application

Step 1: Send an email stating your intent to apply by 5:00 p.m. Pacific Time on **November 12, 2021** to nnlm@uw.edu. Include the name of your library/organization and your intent to apply for the Collection Equity Award.

Step 2: [Download this Application Form](#) and submit the completed Application Form to nnlm@uw.edu by the **Application Deadline:** 5:00 p.m. Pacific Time, **December 10, 2021**

Note:

- Applications submitted by 5:00pm Pacific Time, December 10, 2021, will receive first consideration.
- The NNLM Region 5 staff will acknowledge your application when received, and notification of awards will be given by December 17, 2021.

Budget Guidelines:

- Award is \$1,500. A lump sum payment will be issued upon submission of a completed invoice. The invoice template will be provided by Region 5 staff.

Evaluation of Applications

Applications will be reviewed by: NNLM Region 5 staff.

Reviewers will score applications based on the following categories and criteria.

1. SIGNIFICANCE (60 points): The proposal:
 1. clearly defines the target populations it is meant to serve; and
 2. provides evidence of need.
2. PROJECT PLAN (20 points): The project plan:
 1. demonstrates potential to increase access to biomedical and health information for defined target populations; and
 2. describes an effective publicity/promotion strategy.
3. EVALUATION (20 points): The evaluation plan is clear and uses sound methodology.

REPORTING: The applicant agrees to the reporting requirement. This is an inclusion/exclusion criterion. Applicants lacking this element will be disqualified.

Additional Information

Reporting:

A final report is required no later than May 27, 2022, which consists of a bibliography of the resources purchased. The citation format will be provided to awardees.

NIH Acknowledgement:

Any resource developed with project funds must include an acknowledgment of NIH grant support and a disclaimer stating the following:

"Developed resources reported in this [publications, press releases, internet sites] are supported by the National Library of Medicine (NLM), National Institutes of Health (NIH) under cooperative agreement number UG4LM013725. The content is solely the responsibility of the authors and does not necessarily represent the official views of the National Institutes of Health."

Need additional information or help?

Michele Spatz, Outreach and Engagement Coordinator, NNLM Region 5, nnlm@uw.edu

Telephone: 206-543-8262

- [News From NNLM PNR](#) (517)
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ABOUT MICHELE SPATZ

Michele is the NNLM Region 5 Outreach and Engagement Coordinator. She has extensive experience providing consumer health information and a passion for health literacy. Michele truly believes, "Because of you, Libraries Transform.®"

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From: [Henry Knackstedt](#)
To: [Jamie Heinz](#)
Subject: Fw: Regarding the Kenai Community Library
Date: Tuesday, October 26, 2021 6:34:14 AM

Please include this email when the Ordinance is reintroduced on December 1st.

Henry

From: Maria Allison <mllaalaska1764@gmail.com>
Sent: Monday, October 25, 2021 4:06:41 PM
To: Henry Knackstedt
Subject: Regarding the Kenai Community Library

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear Kenai City Council Members, Today we were dismayed to read that some members of the Kenai City Council believe that they should choose the books that are ordered by the Kenai City Library. As members of our community for 43 years, we have been extremely impressed by the Kenai Library, and their wonderful collection of books. A library is not only a place to check out books, but a storehouse of the fiction, non-fiction, science, art, music, children's and grown-up's books of the world. It is full of information of all kinds. By providing free access to newspapers, magazines and books from everywhere, it allows all of us to learn and improve our minds. It is up to us to be the ones who decide what books to check out. It is up to the library to provide everything available to us.

No city council nor other governmental agency should determine what books should be placed in the library. Free access to all information is what the library is about. Librarians have always been major defenders of intellectual freedom, long before most people even knew what it was. This means that they are watchdogs on topics like free speech, copyright, privacy, and the right to know what governments and corporations are doing. They and their associations lobby for these rights and fight alongside other citizens to preserve them.

Libraries provide a free education to all. No matter what our income level is, we are all allowed to check out books and do our own research. It is "green" in that the books are shared, not read once and thrown away. It is one of the best resources for community information. It is a place where people of all ages can practice lifelong learning.

Please recognize the importance of a community library and our community's need to have access to all books. Libraries' collections should not be determined by a politically motivated group such as elected officials, but by librarians who are trained in this field.

Sincerely, Maria and Thomas Allison

From: [Dave Peck](#)
To: [City Council](#)
Subject: Library material grant for health care materials 3248-2021
Date: Tuesday, October 26, 2021 5:15:41 PM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear City Council members:

I attended the last city council meeting and gave public testimony as well as submitted a previous letter on this matter.

After watching/attending the proceedings I want to clarify my objections to this ordinance. It is not the nature of the materials that might be ordered that I was worried about as much as the terms/purpose of the grant, be it from the State of Alaska or a federal agency.

If it is the representation of the city or the granting agency that the grant is necessary or will be used to (1) attain equity for (2) under-represented groups in the community, in order to qualify for the money, then I would urge the city council not to authorize the funding. That's because of the nature of using "equity" as a social goal as I described in my previous letter. As a Kenai resident I object to that concept. Underserved is another phrase that leads one to believe we have people in the community who are purposely ignored who need more social justice to thrive. This ties in directly to equity. And once you accept equity as legitimate (even in a small way as in this case) the sky is the limit.

I don't object to the materials. I object to the reasoning the city is providing to qualify for the grant. I hope this makes sense.

Respectfully,
Dave Peck
705 Sycamore St
Kenai

From: [Brian G. Gabriel, Sr.](#)
To: [Jamie Heinz](#)
Subject: Fwd: Approval of Library grant
Date: Thursday, October 28, 2021 1:49:36 PM
Attachments: [Library Bill of Rights.pdf](#)
[Freedom to Read.pdf](#)

Jamie,

Please include this comment in the packet for the first meeting in December.

Thanks, Brian

Sent from my iPhone

Begin forwarded message:

From: Michael Christian <barbmike2@icloud.com>
Date: October 28, 2021 at 10:56:22 AM AKDT
To: "Brian G. Gabriel, Sr." <bgabriel@kenai.city>
Subject: Approval of Library grant

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

First of all, thank you for the hours you spend working on the City Council. I am writing not to criticize recent events, but to provide arguments in favor of the division of civic duties and the preservation of public access to a wide range of information.

I was dismayed with the pressure placed on the Council and Librarian Katja Wolfe to delay the approval of the National Library of Medicine grant until Ms. Wolfe provides a list of intended purchases. This action deeply involves the Council and one member of the community in the specialized work assigned a city employee: the considered acquisition of up-to-date and varied books, periodicals, and databases that allow the public to research a subject and make informed choices.

I would like to offer several arguments in support of our librarian and the freedom of information that libraries are intended to provide:

1. The ethics of library science preclude the type of one-sided expansion that the community member seems to fear. Ms. Wolfe's job requires her to know not only what is already available in her own library but what can be accessed through interlibrary loans from Alaska's community libraries, the UA Consortium

Library, and the libraries of the other forty-nine states. Few individuals outside of librarians possess this specialized knowledge or know how to apply it.

2. The City Council has not previously vetted library acquisitions. Since the ethical selection of reliable and balanced information requires considerable time and expertise, the City hires a full-time, qualified librarian. I doubt that the Council would sincerely want to add that full-time burden to their workload. Likewise, few individuals in the community could or would do this work.
3. Rather than second guess Ms. Wolfe's dedication to her job, the community and the Council should commend her for seeking and winning a grant. Having pursued grants myself, I appreciate the amount of budgetary and background research required for applications. Also, the grant, once awarded, demands even more time in records and justifications for the final report to the grantor. In this respect, the grant itself becomes a form of supervision.
4. Since the growth of social media and self-publishing houses that allow the dissemination of personal opinion and untested data, Americans have become inundated with information that may not be reliable or ethical. On the other hand, as I know from personal experience, juried periodicals and respected publishing houses ask experts in the field to vigorously examine submissions before publication can be offered. I would suggest this is especially true of medical publishing.
5. Before implying a librarian has nefarious intentions, an accuser should thoroughly research a chosen subject to identify whether shortfalls or biases actually exist.
6. I personally think Katja Wolfe deserves an apology for such an ethical affront from anyone with fewer library credentials, less experience, and less knowledge of our interlinked library than she has. Her treatment at the recent meeting was offensive in the extreme.

I hope these observations are helpful to you. I have attached information that may not be widely known among community members.

Respectfully,

Barbara Christian

410 Rogers Road

Kenai, AK 99611

907-283-3219

Supplements:

1. Katja Wolfe holds both a Masters of Library and Information Services and a Masters in Public Health.
2. Library Bill of Rights (below)
3. Freedom to Read Statement (attached)

Library Bill of Rights

The American Library Association affirms that all libraries are forums for information and ideas, and that the following basic policies should guide their services.

- I. Books and other library resources should be provided for the interest, information, and enlightenment of all people of the community the library serves. Materials should not be excluded because of the origin, background, or views of those contributing to their creation.
- II. Libraries should provide materials and information presenting all points of view on current and historical issues. Materials should not be proscribed or removed because of partisan or doctrinal disapproval.
- III. Libraries should challenge censorship in the fulfillment of their responsibility to provide information and enlightenment.
- IV. Libraries should cooperate with all persons and groups concerned with resisting abridgment of free expression and free access to ideas.
- V. A person's right to use a library should not be denied or abridged because of origin, age, background, or views.
- VI. Libraries which make exhibit spaces and meeting rooms available to the public they serve should make such facilities available on an equitable basis, regardless of the beliefs or affiliations of individuals or groups requesting their use.
- VII. All people, regardless of origin, age, background, or views, possess a right to privacy and confidentiality in their library use. Libraries should advocate for, educate about, and protect people's privacy, safeguarding all library use data, including personally identifiable information.

Adopted June 19, 1939, by the ALA Council; amended October 14, 1944; June 18, 1948; February 2, 1961; June 27, 1967; January 23, 1980; January 29, 2019.

Inclusion of "age" reaffirmed January 23, 1996.

Although the Articles of the *Library Bill of Rights* are unambiguous statements of basic principles that should govern the service of all libraries, questions do arise concerning application of these principles to specific library practices. See the documents designated by the Intellectual Freedom Committee as Interpretations of the Library Bill of Rights (<http://www.ala.org/advocacy/intfreedom/librarybill/interpretations>).

The Freedom to Read Statement

The freedom to read is essential to our democracy. It is continuously under attack. Private groups and public authorities in various parts of the country are working to remove or limit access to reading materials, to censor content in schools, to label "controversial" views, to distribute lists of "objectionable" books or authors, and to purge libraries. These actions apparently rise from a view that our national tradition of free expression is no longer valid; that censorship and suppression are needed to counter threats to safety or national security, as well as to avoid the subversion of politics and the corruption of morals. We, as individuals devoted to reading and as librarians and publishers responsible for disseminating ideas, wish to assert the public interest in the preservation of the freedom to read.

Most attempts at suppression rest on a denial of the fundamental premise of democracy: that the ordinary individual, by exercising critical judgment, will select the good and reject the bad. We trust Americans to recognize propaganda and misinformation, and to make their own decisions about what they read and believe. We do not believe they are prepared to sacrifice their heritage of a free press in order to be "protected" against what others think may be bad for them. We believe they still favor free enterprise in ideas and expression.

These efforts at suppression are related to a larger pattern of pressures being brought against education, the press, art and images, films, broadcast media, and the Internet. The problem is not only one of actual censorship. The shadow of fear cast by these pressures leads, we suspect, to an even larger voluntary curtailment of expression by those who seek to avoid controversy or unwelcome scrutiny by government officials.

Such pressure toward conformity is perhaps natural to a time of accelerated change. And yet suppression is never more dangerous than in such a time of social tension. Freedom has given the United States the elasticity to endure strain. Freedom keeps open the path of novel and creative solutions, and enables change to come by choice. Every silencing of a heresy, every enforcement of an orthodoxy, diminishes the toughness and resilience of our society and leaves it the less able to deal with controversy and difference.

Now as always in our history, reading is among our greatest freedoms. The freedom to read and write is almost the only means for making generally available ideas or manners of expression that can initially command only a small audience. The written word is the natural medium for the new idea and the untried voice from which come the original contributions to social growth. It is essential to the extended discussion that serious thought requires, and to the accumulation of knowledge and ideas into organized collections.

We believe that free communication is essential to the preservation of a free society and a creative culture. We believe that these pressures toward conformity present the danger of limiting the range and variety of inquiry and expression on which our democracy and our culture depend. We believe that every American community must jealously guard the freedom to publish and to circulate, in order to preserve its own freedom to read. We believe that publishers and librarians have a profound responsibility to give validity to that freedom to read by making it possible for the readers to choose freely from a variety of offerings.

The freedom to read is guaranteed by the Constitution. Those with faith in free people will stand firm on these constitutional guarantees of essential rights and will exercise the responsibilities that accompany these rights.

We therefore affirm these propositions:

1. *It is in the public interest for publishers and librarians to make available the widest diversity of views and expressions, including those that are unorthodox, unpopular, or considered dangerous by the majority.*

Creative thought is by definition new, and what is new is different. The bearer of every new thought is a rebel until that idea is refined and tested. Totalitarian systems attempt to maintain themselves in power by the ruthless suppression of any concept that challenges the established orthodoxy. The power of a democratic system to adapt to change is vastly strengthened by the freedom of its citizens to choose widely from among conflicting opinions offered freely to them. To stifle every nonconformist idea at birth would mark the end of the democratic process. Furthermore, only through the constant activity of weighing and selecting can the democratic mind attain the strength demanded by times like these. We need to know not only what we believe but why we believe it.

2. *Publishers, librarians, and booksellers do not need to endorse every idea or presentation they make available. It would conflict with the public interest for them to establish their own political, moral, or aesthetic views as a standard for determining what should be published or circulated.*

Publishers and librarians serve the educational process by helping to make available knowledge and ideas required for the growth of the mind and the increase of learning. They do not foster education by imposing as mentors the patterns of their own thought. The people should have the freedom to read and consider a broader range of ideas than those that may be held by any single librarian or publisher or government or church. It is wrong that what one can read should be confined to what another thinks proper.

3. *It is contrary to the public interest for publishers or librarians to bar access to writings on the basis of the personal history or political affiliations of the author.*

No art or literature can flourish if it is to be measured by the political views or private lives of its creators. No society of free people can flourish that draws up lists of writers to whom it will not listen, whatever they may have to say.

4. *There is no place in our society for efforts to coerce the taste of others, to confine adults to the reading matter deemed suitable for adolescents, or to inhibit the efforts of writers to achieve artistic expression.*

To some, much of modern expression is shocking. But is not much of life itself shocking? We cut off literature at the source if we prevent writers from dealing with the stuff of life. Parents and teachers have a responsibility to prepare the young to meet the diversity of experiences in life to which they will be exposed, as they have a responsibility to help them learn to think critically for themselves. These are affirmative responsibilities, not to be discharged simply by preventing them from reading works for which they are not yet prepared. In these matters values differ, and values cannot be legislated; nor can machinery be devised that will suit the demands of one group without limiting the freedom of others.

5. *It is not in the public interest to force a reader to accept the prejudgment of a label characterizing any expression or its author as subversive or dangerous.*

The ideal of labeling presupposes the existence of individuals or groups with wisdom to determine by authority what is good or bad for others. It presupposes that individuals must be directed in making up their minds about the ideas they examine. But Americans do not need others to do their thinking for them.

6. *It is the responsibility of publishers and librarians, as guardians of the people's freedom to read, to contest encroachments upon that freedom by individuals or groups seeking to impose their own standards or tastes upon the community at large; and by the government whenever it seeks to reduce or deny public access to public information.*

It is inevitable in the give and take of the democratic process that the political, the moral, or the aesthetic concepts of an individual or group will occasionally collide with those of another individual or group. In a free society individuals are free to determine for themselves what they wish to read, and each group is free to determine what it will recommend to its freely associated members. But no group has the right to take the law into its own hands, and to impose its own concept of politics or morality upon other members of a democratic society. Freedom is no freedom if it is accorded only to the accepted and the inoffensive. Further, democratic societies are more safe, free, and creative when the free flow of public information is not restricted by governmental prerogative or self-censorship.

7. *It is the responsibility of publishers and librarians to give full meaning to the freedom to read by providing books that enrich the quality and diversity of thought and expression. By the exercise of this affirmative responsibility, they can demonstrate that the answer to a "bad" book is a good one, the answer to a "bad" idea is a good one.*

The freedom to read is of little consequence when the reader cannot obtain matter fit for that reader's purpose. What is needed is not only the absence of restraint, but the positive provision of opportunity for the people to read the best that has been thought and said. Books are the major channel by which the intellectual inheritance is handed down, and the principal means of its testing and growth. The defense of the freedom to read requires of all publishers and librarians the utmost of their faculties, and deserves of all Americans the fullest of their support.

We state these propositions neither lightly nor as easy generalizations. We here stake out a lofty claim for the value of the written word. We do so because we believe that it is possessed of enormous variety and usefulness, worthy of cherishing and keeping free. We realize that the application of these propositions may mean the dissemination of ideas and manners of expression that are repugnant to many persons. We do not state these propositions in the comfortable belief that what people read is unimportant. We believe rather that what people read is deeply important; that ideas can be dangerous; but that the suppression of ideas is fatal to a democratic society. Freedom itself is a dangerous way of life, but it is ours.

This statement was originally issued in May of 1953 by the Westchester Conference of the American Library Association and the American Book Publishers Council, which in 1970 consolidated with the American Educational Publishers Institute to become the Association of American Publishers.

Adopted June 25, 1953, by the ALA Council and the AAP Freedom to Read Committee; amended January 28, 1972; January 16, 1991; July 12, 2000; June 30, 2004.

A Joint Statement by:

American Library Association (/)

Association of American Publishers (<http://www.publishers.org/>)

Subsequently endorsed by:

American Booksellers for Free Expression (<http://www.bookweb.org/abfe>)

The Association of American University Presses (<http://www.aaupnet.org/>)

The Children's Book Council (<http://www.cbcbooks.org/>)

Freedom to Read Foundation (<http://www.ftrf.org>)

National Association of College Stores (<http://www.nacs.org/>)

National Coalition Against Censorship (<http://www.ncac.org/>)

National Council of Teachers of English (<http://www.ncte.org/>)

The Thomas Jefferson Center for the Protection of Free Expression

From: [Amy Murrell Haunold](#)
To: [City Council](#)
Subject: Regarding censorship of Library materials.
Date: Wednesday, November 3, 2021 4:11:17 PM

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To the city council'

Please be aware of my displeasure at hearing this council is attempting to violate my 1st Amendment US Constitutional rights. I highly disapprove of your egregious overreach of your duties in this matter. It is not a 'slippery slope' as described in the newspaper. It's a blatant violation of my rights and the rights of every citizen in this city. You do not decide what I can or can not read. I do.

If any council member thinks this suppression of the free exchange of ideas, whether verbal or written, is within their duties as a city council member, they are sadly uninformed of the basis of our Constitution and is not fit for public office. I urge you to dismiss them. If not, perhaps they should read up on the US Constitution. There are some good books on it, assuming they have a library card.

Regards,
Amy Murrell-Haunold
23 year Kenai resident
43 year Alaskan resident
Natural born American

From: [Genova Brookes Boyd](#)
To: [City Council](#)
Subject: Support for Ordinance No. 3248-2021
Date: Wednesday, November 10, 2021 1:25:45 PM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

To Whom it May Concern,

I am writing to offer my whole hearted support for **Ordinance No. 3248-2021: Accepting and Appropriating a Collection Equity Award from the Network of the National Library of Medicine (NNLM) Region 5 for the purchase of Health and Wellness titles for the Kenai Community Library Collection.**

Libraries are at the forefront of providing free and equitable access to information to members of the community. In this vein, the Kenai Community Library Director, Ms. Katja Wolfe, and her professional staff, are tasked with creating an equitable and relevant Library collection, and are very well qualified and experienced to do so. This grant is an opportunity to provide the Kenai Library with a robust collection in the form of several titles which serve many diverse members of its community.

In Support of this Ordinance, I would like to respond to several comments made during the Kenai City Council meeting (October 20, 2021) as follows:

With regard to comments made by Ms. Sharon Efta of Kenai; Librarianship does not endorse the “rubber stamping” of any titles purchased for a Library “without knowing anything about them.” Director Wolfe and her professional staff have been employed as honorable representatives of their profession and should be trusted to select titles for the Library that best represent the community’s needs.

With regard to comments made by Mr. Dave Peck of Kenai that “equity causes division” and that titles chosen under the auspices of this grant may not serve underrepresented communities in Kenai; I would like to point out that the Library seeks to acquire consumer health titles, titles on stress relief, self-care, mental health, healthy habits, chronic conditions, dealing and living with chronic stress, caregiver support resources, suicide prevention, traditional medicine, traditional knowledge, non-western medical research, reference resources regarding Medicare and Medicaid, titles on health literacy, items on specific conditions such as ADHD and Cancer, etc., and resources for men’s health and women’s health. Perhaps Mr. Peck and other concerned constituents could suggest which traditionally underrepresented groups are not covered by this extensive list of topics.

With regard to a general misunderstanding (especially expressed by Ms. Christine Hutchison of Kenai) that grant money provided by the NNLM was federally funded, I would like to acknowledge the calm clarity provided by Councillor Pettey, who did indeed correctly state that the grant money provided is not from federal funding. Nevertheless, even federal funding provided to Libraries is not (as previously quoted by Ms. Efta) a “rubber stamp” on any acquisitions requested. Acquisitions are still subject to a rigorous overview and processing by qualified and experienced Librarians and professionals who have comprehensive understanding of community needs and the expectations of their profession.

Ms. Hutchison suggested that there were already titles in the Library which cover the aforementioned topics and that new titles were not necessary for the Library’s collection. However, Ms. Hutchison did not demonstrate understanding of the scope of the existing collections or the recurring collection needs of the Library; any possible lack of equitability or diversity of existing sources; recent developments in the key research areas; or the condition of the current materials. Ms. Hutchison then suggested that there should be an inventory of existing Library materials to prevent overlap between existing titles and new acquisitions. I would like to point her, and any others concerned, to the Library catalog which is available to the public for comparative overview at any time. It is also worth mentioning that Libraries often purchase multiple copies of titles to provide equitable access to resources that are in demand.

The one correct statement of note, (which Ms. Hutchison did consider), was related to the fundraising capacity of the Library and its community. I hope that the response of the Kenai community in raising several thousand additional dollars through a GoFundMe in support of acquiring titles on the aforementioned topics, sends a clear sign to Ms. Hutchison and the Council regarding the “consensus” of its local community on this matter. It seems that the community has strong opinions regarding the City Council’s screening of books made available at the Library.

I was particularly concerned with comments made by Councillor Winger who suggested that the NNLM provided information resources primarily devoted to the topic of the COVID-19 pandemic and nothing more of relevance to specific health related subjects as requested by the Library. I would like to refer Councillor Winger back to the NNLM website which hosts information on several relevant topics, specifically: health literacy; digital health literacy; consumer health; Diversity Equity and Inclusion in medicine and health; community health and wellness, specific health conditions and concerns (including heart diseases, substance abuse disorders and inherited diseases, amongst others); mental health; nutrition; and medical financial assistance. Included amongst many resources are also resources on COVID, for which I for one am grateful, since we happen to be in the midst of a pandemic.

I was amused by the following **Ordinance 3249-2021** for the American Library Association 'NASA at my Library' Program Initiative funding, which was voted in unanimously. Apparently, a detailed list of resources and services was not required for this approval. No Councillor or constituent seemed to have concerns with the intended purpose of NASA or its status as a federally funded organization. There was little doubt that NASA's content was adequate enough to implement STEM programming, and it appears that trust is restored to the Library to see this initiative through. How ironic.

I would like to conclude with a final appeal to the Council to allow this Ordinance to pass and to approve the funding to the Kenai Library. Health and Wellness resources are much needed in the Kenai community and beyond.

I'd also like to add appreciative words for Mayor Gabriel, Councillor Pettey and Councillor Glendening who showed consistent support of the Library and respect for the advanced qualifications and experience of its Director and her professional staff. Their advocacy for Intellectual Freedom and their support for Librarians as informed advocates for information access is commendable.

Yours Sincerely,

Genova Brookes Boyd
Collection Development and Engagement Library/ Prof. Library Science
University of Alaska, Fairbanks.

The views, information, or opinions expressed in this letter are solely those of the individual and do not necessarily represent those of University of Alaska, Fairbanks and its employees.

From: [Henry Knackstedt](#)
To: [Jamie Heinz](#)
Cc: [Glense Pettey](#)
Subject: Fw: Library grant list delay
Date: Friday, November 12, 2021 6:07:52 PM

Jamie

Please include with the library resolution

Henry

From: Lorrene Forbes <ml4bsalaska@gmail.com>
Sent: Friday, November 12, 2021 5:03:02 PM
To: Henry Knackstedt
Subject: Library grant list delay

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear Mr. Knackstedt,

I'm way behind but I appreciate your speaking up for the library director and staff in the purchase of new books for the collection. You hire people with the education and credentials and let them do their job. Locating grant opportunities, applying and using these extra funds is a valid and appreciated part of their job.

I have been a member of the Friends of the Library, my husband served on the board when the new library was first built, I served several terms on the Library Commission and we have been regular users since we moved here in 1971. I have never seen administration or Council provide oversight of collection additions. Our librarians monitor book usage, client needs and requests, whatever indicators to help keep the collection up-to-date. They order according to standards developed for libraries to serve all members.

We do not need the knee jerk reaction to the word "equity" in the grant title to have community and Council members wanting ordering oversight and censorship. Looking at what is happening around the country and even in our school district demonstrates what a "slippery slope" it can be. I noticed when viewing the meeting no one ironically objected to accepting the NASA grant.

The Council has no need to duplicate the work of our library staff as they have their own defined job which is to accept the grant and move on and not waste time. I will be my own censor for myself and family.

I'm sorry the Council felt they had to put a knot in the library's use of grant money. I appreciate your speaking honestly and reasonably.

Thank you.

Lorrene Forbes
612 Cedar Drive

Sent from my iPad

From: [Brian G. Gabriel, Sr.](#)
To: [Jamie Heinz](#)
Cc: [Meghan Thibodeau](#)
Subject: Fwd: kenai city council action on library grant
Date: Thursday, November 18, 2021 8:58:33 AM

Jamie,
Please include the attached correspondence in our December 1st meeting packet.

Thanks,
Brian

Sent from my iPhone

Begin forwarded message:

From: "Brian G. Gabriel, Sr." <bgabriel@kenai.city>
Date: November 18, 2021 at 8:56:58 AM AKST
To: karen jensen <kljensen64@gmail.com>
Subject: Re: kenai city council action on library grant

Karen,

Since this item was postponed at the meeting before new Council Members took their seats, it will be re-introduced at our first meeting in December. I will ask our clerk to include your comments in our packet.

Thanks for reaching out,
Brian

Sent from my iPhone

On Nov 18, 2021, at 7:57 AM, karen jensen
<kljensen64@gmail.com> wrote:

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especially from unknown senders.

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

From: karen jensen <kljensen64@gmail.com>
Date: Thu, Nov 18, 2021 at 7:54 AM
Subject: kenai city council action on library grant
To: <city_council@kenai.city>

Dear Kenai City Council Members:

Greetings. I am the Director of Libraries at the University of Alaska Fairbanks, and also a member of the National Network Libraries of Medicine (NNLM) Region 5 Executive Committee. Let me be crystal clear that the **opinions expressed here are mine alone and I am not speaking as an official representative of either organization**, but I offer that information because it indicates to some extent, my background and knowledge on the subject of library collection grants, and in particular, the NNLM library grant award that was rejected by the Kenai City Council. I'm writing to you today to express my concerns over the Council action that was taken against the Kenai library's NNLM grant award.

Libraries of all types currently face strained budgets and we do all we can to seek other funding sources, so that we can provide the best service and resources to our library patrons. This is not unusual or objectionable in any way, and in fact is an expectation. The funds are carefully considered, the grant applications are read in detail, so that we know what we are obligated to do and what we must report on each award. Professional librarians such as your Kenai City Library Director, are qualified to both make these grant applications, and make subject and title selections for their collections using those funds. It is completely objectionable for anyone outside of the library to dictate specific titles or approve individual resources, without the professional background to understand collection development policies, procedures, and the scope of the collection, as well as the information needs of all local residents. Consider thanking your librarian for the excellent work she is doing to extend limited local funds.

The National Library of Medicine (NLM) and the National Network of Libraries of Medicine (NNLM) have existed for decades. The NLM created the most critical biomedical scientific database out there - PubMed (Medline). The NNLM's mission is to ensure that accurate and current medical and health information is available to everyone. This small grant is part of that effort.

Listen to your experts who have served your community for a long time, before taking action. They know what they're doing, and listening to them before responding will give you a chance to learn how government works. Your job as a council is to support that government activity and provide wise council, not to tear it apart.

Thank you for your time.
Sincerely,

Karen Jensen
Fairbanks, Alaska
kljensen64@gmail.com



FRIENDS OF THE KENAI COMMUNITY LIBRARY
P.O. BOX 656
KENAI, AK 99611

Kenai City Council
210 Fidalgo Ave.
Kenai, AK 99611

November 22, 2021

Subject: Friends of the Kenai Community Library Letter of Support for the "Library Collection Equity Wellness Titles" Ordinance.

Dear Council Members,

We, the Friends of the Kenai Community Library Board of Directors, submit this letter in support of the "Library Collection Equity Wellness Titles" Ordinance: "Accepting and Appropriating a Collection Equity Award from the Network of the National Library of Medicine Region 5 for the Purchase of Health and Wellness Titles for the Kenai Community Library Collection."

As many of you know, the Friends of the Kenai Community Library is a private, 501(c)(3), non-profit organization. Our mission is "to conduct activities that promote literacy and reading by creating an awareness of services provided by the Kenai Community Library." We likewise operate "to support superior library service[s] in the community" through "advocacy [for] public and private support of library growth and improvement, encouragement of volunteer involvement in library programs, and acquisition of funds to supplement the library's core annual budget."

In keeping with our mission, we ask the Council to adopt the "Library Collection Equity Wellness Titles" Ordinance. We also implore the Council to refrain from reviewing the titles of books/resources to be purchased with the Ordinance's awarded grant funds. Conditioning the Ordinance's adoption upon such a review is both improper and dangerous.

As a matter of importance, we fully acknowledge the Council's prerogative and duty to evaluate the propriety of accepting grant funds awarded to the City. Similarly, we fully support the democratic process of open dialogue and debate within a transparent community forum when it comes to deciding whether the Council ought to accept grant funds awarded to the City. However, we believe the Council would be going too far by predicating its adoption of the "Library Collection Equity Wellness Titles" Ordinance upon a meritorious review of the books/resources to be purchased.

First, requiring the Library Director to divulge a prospective list of titles as a condition of accepting the Ordinance's awarded grant funds is not only unprecedented, but unwarranted. The discretionary authority to oversee library collection development and maintenance is vested in the Kenai Library Director. Library collection development and maintenance is one of the Kenai Library Director's essential duties and responsibilities. To our knowledge, the Council has never sought to second-guess or otherwise interfere directly with the Kenai Library Director's discretionary authority in this manner. There is no reason to do so now.

Second, we affirm that the Kenai Library Director enjoys a presumption of regularity when it comes to the execution of the discretionary authority entrusted to her. This presumption also extends to the execution of her essential duties for purposes of overseeing library collection development and maintenance. This means that, absent evidence to the contrary, the Kenai Library Director is presumed to execute her discretionary authority and responsibilities properly. To our knowledge, no fact or allegation has been levied against the Kenai Library Director so as to rebut this presumption. Furthermore, no fact or allegation exists so as to call into question the Kenai Library Director's ability to exercise her discretionary authority and responsibilities properly when it comes to purchasing materials in accordance with this particular Ordinance's awarded grant funds. The Kenai Library Director should be permitted to perform the duties entrusted to her.

Third, we implore the Council to reflect upon the harmful implications that would stem from a decision to review a list of titles. Such action would be unfairly arbitrary. This is true both in a general sense and in a specific sense.

Generally, the Council's decision to do this would be unfairly arbitrary because no good reason has been articulated to justify second-guessing the Kenai Library Director's discretionary authority and responsibilities regarding the materials to be purchased. Why does the Council feel it cannot trust the Kenai Library Director to execute her duties faithfully with respect to this Ordinance's awarded grant funds? What cause or reason has been put forth to question the Kenai Library Director's ability to fulfill her duties and obligations when it comes to obtaining additional resources for our Community Library? How does the nature, topic, or purpose of this Ordinance's awarded grant funds in any way cast doubt or suspicion upon the Kenai Library Director's ability to execute the duties and responsibilities entrusted to her when it comes to library collection development and maintenance? There are no good answers to these questions, and so a decision by the Council to review a list of titles as a condition of adopting the Ordinance would be unfairly arbitrary.

Specifically, the Council's decision to do this would be unfairly arbitrary as applied because this would mean that the "Library Collection Equity Wellness Titles" Ordinance is being singled-out and scrutinized for its subject-matter. During the City Council Meeting held on October 20, 2021, it was requested that the Kenai Library Director provide a list of titles to be purchased with the Ordinance (then designated as Ordinance No. 3248-2021), thereby conditioning the Ordinance's adoption upon review of the prospective titles to be purchased. Then, turning to the very next ordinance on the Council's Agenda; namely, Ordinance No. 3249-2021 -

“Accepting and Appropriating Funding from the American Library Association for the Kenai Community Library’s Participation in the NASA@ My Library Programming Initiative,” the Council announced its unquestioning support for the awarded grant funds and promptly adopted Ordinance No. 3249-2021. In so doing, the Council approved the earmarking of \$500 from the NASA@ My Library Programming Initiative’s funds for the acquisition of library books.

Why does the Council believe it is necessary to review a list of titles to be purchased with the grant money awarded under the “Library Collection Equity Wellness Titles” Ordinance, when no such review of prospective titles was required before passing Ordinance No. 3249-2021? Why is the acquisition of library materials about NASA and planetary science something that can be entrusted to the discretion of the Kenai Library Director without Council oversight or review, but not when it comes to the acquisition of library materials about health, wellness, and medicine? Pursuing such conduct is demonstrably arbitrary because it would result in disparate treatment of the “Library Collection Equity Wellness Titles” Ordinance, and it is plain that such disparate treatment would be founded upon a partisan-based, normative evaluation of the subject-matter associated with the materials to be purchased. This is wrong.

Fourth, a decision by the Council to review a list of titles as a condition of adopting the “Library Collection Equity Wellness Titles” Ordinance would run contrary to the principles governing library collection development and maintenance as enshrined within the Kenai Municipal Code. Under the Municipal Code’s list of Kenai Community Library Policies, the book selection sub-policy’s preamble recognizes “the pluralistic nature of this community and the varied backgrounds and the needs of the citizens,” such that the “[s]election of books and/or other library materials shall be made on the basis of their value of interest, information, and enlightenment of all the people of the community.” With the authority to select books and/or other library materials being “vested in the librarian[,]” the book selection policy goes on to declare that “[n]o book and/or library material shall be excluded because of the race, nationality[,] or the political or social views of the author.” In this same vein, the policy declares that “censorship is a purely individual matter . . . and that while anyone is free to reject for himself books of which he does not approve, he cannot exercise this right of censorship to restrict the freedom to read to others.” The policy continues by declaring its defense of “the principles of the freedom to read . . . and that whenever censorship is involved[,] no book and/or library material shall be removed from the library save under the orders of a court of competent jurisdiction.” The book selection policy then concludes by adopting and incorporating by reference “The Library Bill of Rights” and “The Freedom to Read Statement adopted by the American Library Association.” We encourage the Council to review these enumerated policies within the Kenai Municipal Code, and – in accordance with these enumerated policies – refrain from reviewing titles of prospective materials prior to adopting the “Library Collection Equity Wellness Titles” Ordinance.

Fifth, and finally, we support a Kenai Community Library that is robust, diverse, and multi-faceted when it comes to the information, materials, and resources made available to the public. This is best in keeping with providing a forum for the free and unfettered marketplace of ideas, while simultaneously providing information to the public free of partisan oversight and prejudicial limitation. The Council's apparent plan to engage in a conditional, review-based screening of titles to be purchased before adopting the "Library Collection Equity Wellness Titles" Ordinance is not in keeping with these goals.

Thank you for the opportunity to voice our support in favor of the "Library Collection Equity Wellness Titles" Ordinance! Please demonstrate your support for the Kenai Community Library by adopting this Ordinance, and by refraining from the review of any books/resources to be purchased with the Ordinance's awarded grant funds!

Sincerely,

The Friends of the Kenai Community Library Board of Directors



Sponsored by: Administration

CITY OF KENAI

ORDINANCE NO. 3258-2021

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, ACCEPTING AND APPROPRIATING FUNDING FROM THE STATE OF ALASKA DEPARTMENT OF HEALTH AND SOCIAL SERVICES, DIVISION OF PUBLIC HEALTH, FOR THE HEALTHY AND EQUITABLE COMMUNITIES PROGRAM, AND AUTHORIZING THE CITY MANAGER TO EXECUTE A MEMORANDUM OF AGREEMENT FOR THIS FUNDING.

WHEREAS, the City was notified of an award from the State of Alaska, DHSS, Division of Public Health for grant funding in support of creating and sustaining healthy and equitable communities that strategically aim to build infrastructure to improve health outcomes for high risk, underserved populations; and,

WHEREAS, the City is eligible to receive \$86,596.90 comprised of the City's allocation of \$43,298.45 and an additional \$43,298.45 from the Kenai Peninsula Borough allocation that was approved by Kenai Peninsula Borough Ordinance 2021-19-29; and,

WHEREAS, the City proposed a list of projects that were approved by the Health and Equitable Communities Program Manager, with the City's Municipal Park Trail Boardwalk Project selected as first priority by the City Council at its November 3, 2021 meeting; and,

WHEREAS, the Trail Boardwalk Project was included in the City's Fiscal Year 2021-2026 Capital Improvement plan and is anticipated to utilize all the available funding; and,

WHEREAS, it is in the best interest of the City to accept grant funding to improve infrastructure within the City that will result in a healthier community.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, as follows:

Section 1. That the City Manager is authorized to accept a grant in the amount of \$86,596.90 from the State of Alaska, Department of Health and Social Services, and to expend those funds in compliance with the grant's requirements and this ordinance.

Section 2. That the estimated revenues and appropriations be increased as follows:

Trail Construction Capital Project Fund:	
Increase Estimated Revenues –	
Federal Grants	<u>\$86,596.90</u>
Increase Appropriations – Capital Projects	
Construction	<u>\$86,596.90</u>

Section 3. That the City Manager is authorized to execute a memorandum of agreement with the State of Alaska, Department of Health and Social Services, Division of Public Health in requirements of the Healthy and Equitable Communities Grant.

Section 4. Severability: That if any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision, or application.


Section 5. Effective Date: That pursuant to KMC 1.15.070(f), this ordinance shall take effect immediately upon enactment.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 15th day of December, 2021.

BRIAN GABRIEL SR., MAYOR

ATTEST:

Jamie Heinz, MMC, City Clerk

Approved by Finance: 

Introduced: December 1st, 2021
Enacted: December 15th, 2021
Effective: December 15th, 2021



MEMORANDUM

TO: Mayor Gabriel and Council Members

THROUGH: Paul Ostrander, City Manager

FROM: Tony Prior, Fire Chief

DATE: November 18, 2021

SUBJECT: **Ordinance 3258-2021 Healthy & Equitable Communities Grant**

We were notified of a grant opportunity from the State of Alaska, Department of Health and Social Services (DHSS), Division of Public Health (DPH), that provides funding for communities to improve infrastructure that will build and promote living healthy and future pandemic prevention. Funding from this Healthy and Equitable Communities grant must have an emphasis on high risk, underserved population groups. The grant notification specified a minimum of three (3) years of funding support and we are addressing round one (1) of the program in this memo.

Funding for the program is based on population of each community within Alaska and is calculated by the Alaska Health Equity Index. The City of Kenai is eligible for a municipal allocation of \$43,298.45 from the State. Additionally, we have worked collaboratively with the Kenai Peninsula Borough (KPB) who is able to directly award additional funding to the City that is proportionate to the City’s municipal allocation, bringing our total funding to \$86,596.90. KPB and the City of Kenai have recommended to the grant manager that KPB’s proportionate amount eligible to the City, be directly awarded to City and has been approved by the grant manager. This will increase efficiency and maximize funding directly to the project.

A Memorandum of Agreement (MOA) will need to be executed between DPH and the City to meet requirements of the grant.

A list of projects was submitted to the Program Manager for pre-approval with all projects but one being approved. The top 2 priorities were presented to Council on November 3rd, with Council voting for the Municipal Park Trail Boardwalk Project as the first project to move forward.

This project has the potential to benefit individuals of all ages who come to Kenai and use the Trail Systems. We thank you for your consideration of this ordinance and we respectfully request your approval.



Office of the Borough Mayor

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2150 • (907) 714-2377

Charlie Pierce
Mayor

October 22, 2021

Maria Caruso

AK Department of Health & Social Services/Division of Public Health
3601 C Street, Suite 756
Anchorage, AK 99503-5924

Submitted electronically

Subject: Healthy Equitable Communities Grant – City Allocations

Dear Ms. Caruso:

The Kenai Peninsula Borough formally requests that a portion of the Borough's allocation is directly awarded from DHSS to the cities of Kenai and Soldotna as follows:

City of Kenai: direct award \$43,298.45 of Borough funds to the city. This amount is in addition to the city's anticipated allocation.

City of Soldotna: direct award \$25,847.27 of Borough funds to the city. This amount is in addition to the city's anticipated allocation.

This request removes a layer of unnecessary processes through the Borough by allowing the state to provide direct oversight between the Division of Health and the cities. We greatly appreciate the cities' efforts to provide services and programs that will have public benefit. Please contact Brenda Ahlberg, Community & Fiscal Projects Manager should you need additional information at 907-714-2153 or bahlberg@kpb.us

Sincerely,

Charlie Pierce,
Mayor

ba/CP

CC: Brenda Ahlberg, Community & Fiscal Projects Manager
Paul Ostrander, City of Kenai City Manager
Stephanie Queen, City of Soldotna City Manager



Sponsored by: Administration

CITY OF KENAI

ORDINANCE NO. 3259-2021

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, INCREASING ESTIMATED REVENUES AND APPROPRIATIONS IN THE GENERAL AND MUNICIPAL ROADWAY IMPROVEMENT CAPITAL PROJECT FUNDS, AND INCREASING A PURCHASE ORDER TO FOSTER'S CONSTRUCTION FOR THE 2021 BRYSON AVE BLUFF EROSION REPAIR PROJECT.

WHEREAS on September 20, 2021 the City of Kenai executed a construction agreement with Foster's Construction in the amount of \$309,775 for the 2021 Bryson Ave Bluff Erosion Repair Project; and,

WHEREAS Council authorized the project through passage of Ordinance 3244-2021 at the September 1, 2021 meeting; and,

WHEREAS Council's authorization at that time included a \$45,000 contingency for the project, for a total approved purchase order amount of \$354,775 to Foster's Construction; and,

WHEREAS erosion conditions resulting from the failed storm water piping continued to erode from the time of Bid release to the time of construction start, which resulted in additional quantities of classified fill to be used; and,

WHEREAS the total cost of this additional fill material installed totals \$53,332.50, subtracting the \$45,000 provided in contingency, leaves a balance of \$8,332.50 in required additional funding; and,

WHEREAS the quantities were determined by land surveyor McLane's Consulting prior to and after construction; and,

WHEREAS the project is now 95% complete with the exception of topsoil and grass seed which will take place in the spring.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, as follows:

Section 1. That the Administration is authorized to execute Change Order 1 to Fosters Construction in the amount \$53,332.50 for a new total Construction Agreement cost of \$363,107.50. Purchase Order 123283 is authorized to be increased from \$354,775 to \$363,107.50.

Section 2. That the estimated revenues and appropriations be increased as follows:

General Fund:

Increase Estimated Revenues –
Appropriation of Fund Balance \$8,332.50

Increase Appropriations -
Transfer to Municipal Roadway Improvement Capital
Project Fund \$8,332.50

Municipal Roadway Improvement Capital Project Fund:

Increase Estimated Revenues –
Transfer From General Fund \$8,332.50

Increase Appropriations:
2021 Bryson Ave Bluff Erosion Repair Project –
Construction \$8,332.50

Section 3. Severability: That if any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision, or application.

Section 4. Effective Date: That pursuant to KMC 1.15.070(f), this ordinance shall take effect upon adoption.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 15th day of December, 2021.

BRIAN GABRIEL SR., MAYOR

ATTEST:

Jamie Heinz, MMC, City Clerk

Approved by Finance: 

Introduced: December 1, 2021
Enacted: December 15, 2021
Effective: December 15, 2021



MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
THROUGH: Paul Ostrander, City Manager
FROM: Scott Curtin, Director of Public Works
DATE: November 22, 2021
SUBJECT: **Ordinance No. 3259-2021**

The purpose of this memo is to request Council's approval to increase estimated revenues and appropriations in the Roadway Improvement Capital Project Fund to cover project costs associated with Change Order 1 to Foster's Construction for the 2021 Bryson Ave Bluff Erosion Repair project.

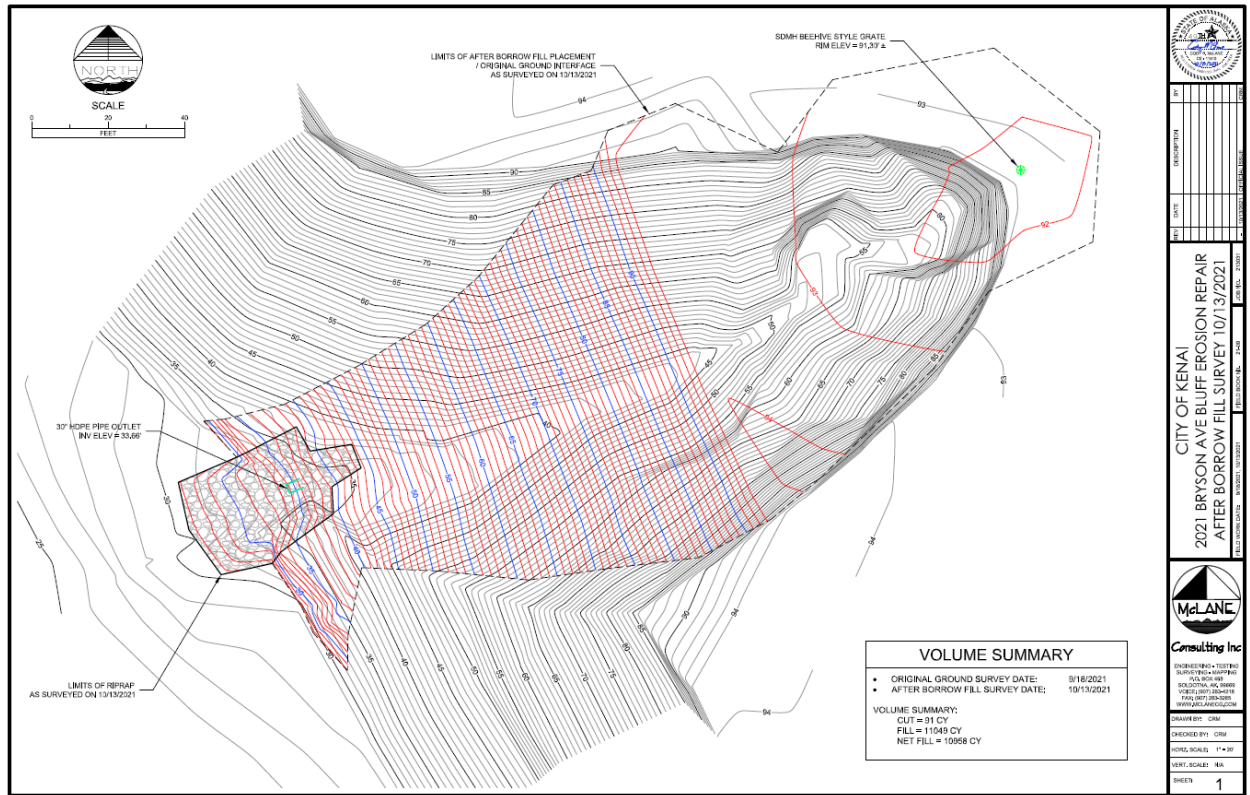
The erosion associated with this project was the result of failed storm water conveyance piping. The erosion was ongoing and continued from the time of bid release to construction start which resulted in a larger affected area. Contingency funding was included within the original appropriating Ordinance in anticipation of this need, however actual costs came in \$8,332.50 above projections.

Council has previously approved the original purchase order of \$354,775 to Foster's construction which included the \$45,000 contingency. Approval of this Ordinance will increase that purchase order to \$363,107.50.

Included below are photos of the project, before, during, and after construction. As well as the site survey used to calculate fill quantities. All in all the project has been a success, and is a great relief to both the property owners within the affected area as well as the Public Works Department that has been monitoring the area for over a year.

Council's support is respectfully requested.







Sponsored by: Council Member Knackstedt

CITY OF KENAI

ORDINANCE NO. 3260-2021

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, AMENDING KENAI MUNICIPAL CODE 13.40.010-DEFINITIONS, TO MAINTAIN CURRENT REGULATIONS ON OFF-ROAD VEHICLE USE IN KENAI AFTER JANUARY 1, 2022.

WHEREAS, effective January 1, 2022 the State is changing its regulations to allow certain “all purpose vehicles” on roadways where the speed limit is 45 miles per hour or less, unless prohibited by municipal law; and,

WHEREAS, Chapter 13.40- Off-Road Operations of Motor Vehicles, currently limits certain off-road or “all purpose” vehicle use in the City of Kenai; and,

WHEREAS, in order to maintain the current regulations enacted by the City of Kenai for off-road or “all purpose” vehicle use in the City, a change to the definitions section of KMC 13.40.010 is required; and,

WHEREAS, it is in the best interest of the City to maintain its current off-road or “all purpose” vehicle regulations after January 1, 2022.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, as follows:

Section 1. Amendment of Section 13.40.010 of the Kenai Municipal Code: That Kenai Municipal Code, Section 13.40.010 - Definitions, is hereby amended as follows:

(a) “Electric personal motor vehicle” means an electric personal assistive mobility device that is a self-balancing vehicle with two (2) nontandem wheels, designed to transport only one (1) person, has an electronic propulsion system, and has a maximum speed of not more than fifteen (15) miles an hour.

(b) “Off-road motor vehicle” means any [MOTOR VEHICLE NOT AUTHORIZED FOR OPERATION ON A PUBLIC ROADWAY ACCORDING TO STATE LAW OR REGULATION] self-propelled vehicle designed primarily for recreational cross country travel on land, snow, ice or water, or on more than one type of terrain and steered by wheels, tread, skis or any combination thereof, including vehicles that operate on a cushion of air, including but not limited to vehicles commonly known as all-terrain vehicles, four-wheelers, three-wheelers, side-by-sides, snow machines, hover crafts, dune buggies, or dirt bikes or any motorized vehicle that is being operated off of the maintained streets and roadways.

(c) "Wheelchair" means a manually operated or power-driven device designed primarily for use by an individual with a mobility disability for the main purpose of indoor or of both indoor and outdoor locomotion.

Section 2. Severability: That if any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision, or application.

Section 3. Effective Date: That pursuant to KMC 1.15.070(f), this ordinance shall take effect 30 days after enactment.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 15th day of December, 2021.

BRIAN GABRIEL SR., MAYOR

ATTEST:

Jamie Heinz, MMC, City Clerk

Introduced: December 1, 2021
Enacted: December 15, 2021
Effective: January 14, 2021



KENAI

City of Kenai | 210 Fidalgo Ave, Kenai, AK 99611-7794 | 907.283.7535 | www.kenai.city

MEMORANDUM

TO: Mayor Gabriel and Council Members
FROM: Henry Knackstedt, Council member
DATE: November 22, 2021
SUBJECT: **Ordinance No. 3260-2021, Off Road Vehicle Use**

The State of Alaska Department of Public Safety is implementing new regulations effective January 1, 2022 to allow certain off-road or all-purpose vehicle use on public roads with a speed limit of 45 miles per hour or less. The regulation change allows for municipalities to continue to regulate off-road vehicles within their jurisdictions. The City of Kenai has previously regulated the use of these types of motorized vehicles within its jurisdiction. It is my understanding from administration that there is generally little conflict with regard to use of these vehicles in the City, however, the City's regulations addressing public safety and protection of private and public property are valuable. The proposed Ordinance would maintain the prior status of off-road vehicle use in the City. Because the City's prior regulations referenced a state law definition for off-road vehicles that is no longer valuable for the intended purpose, this Ordinance provides a new definition for "off-road" vehicles maintaining the existing status for off-road vehicle use in Kenai.

Attached for your review is KMC Chapter 13.40- Off-Road Operations of Motor Vehicles, and a Question and Answer Sheet on the new state law produced by the Department of Public Safety.

Your consideration is appreciated.



All Purpose Vehicle Usage on Roadways Frequently Asked Questions

What does this new regulation do?

Beginning January 1, 2022 all purpose vehicles will be allowed on roadways where the speed limit is less than 45 miles per hour and where boroughs, municipalities, or cities have not banned their use within their boundaries. All purpose vehicles must be equipped with a headlight, one rear-facing red light, one rear-facing red reflector, and one rear-facing red break light. The all-purpose vehicle must be equipped with brakes, a muffler, carburetor, and a throttle.

What if my borough, municipality, or city opts out?

If the borough, municipally, or city opts out of the regulations the APVs may not be used on roadways within their jurisdiction.

Do I need a special driver's license or endorsement?

No, your current valid drivers license will be valid for the operation of an all-purpose vehicle. Those without a valid driver's license may not operate an all-purpose vehicle on a roadway.

Do I need a special registration?

No, a special registration is not required. However, the APV will be required to have a standard motor vehicle registration.

Do I need a license plate?

Yes, front and rear license plates must be affixed to the APV if it is being operated on roadways.

Do I need insurance?

Yes, the operator must have a motor vehicle liability policy that complies with AS 28.22.

What is an all-purpose vehicle?

An all-purpose vehicle is any self-propelled device that is on wheels or tracks that come in contact with the ground. Common all-purpose vehicles are four-wheelers, all terrain vehicles (ATVs), utility terrain vehicles (UTVs), or side-by-sides.

Do snowmachines and hovercrafts qualify as all-purpose vehicles?

Snowmachines and hovercrafts are still not allowed to be operated on the roadway under these new regulations.

Do I have to follow traffic laws when I operate my APV on a roadway?

You must follow all traffic laws when operating your APV on a roadway.

Can an Alaska State Trooper or local police officer pull me over when I am operating an APV?

Yes, APVs are subject to many of the same laws and regulations that vehicles must follow.

What happens when the speed on a roadway increases from 45 miles-per-hour to 55 miles-per-hour?

You may not operate an all-purpose-vehicle on any portion of a roadway that has a speed limit higher than 45 miles-per-hour. If the speed limit increases on the roadway, you may not travel on the portion of that roadway where the speed is higher than the limit.

Am I required to use a helmet when I operate my APV on a roadway?

Helmets are not required for drivers of an all purpose vehicle, however passengers are required to wear a helmet.

Am I required to use a seatbelt if my APV is equipped with them when I operate on a roadway?

If the all purpose vehicle is equipped with seat belts, the driver and any passengers will be required to use them while operating on a roadway.

Am I required to provide child restraints or car seats for children that are passengers on an APV being operated on a roadway?

Child restraint systems or car seats must be used if the APV is equipped with seat belts. If the APV is not equipped with seatbelts then a car seat or child restraint system is not required.

Do I need to have turn signals on my APV?

The operator must use hand signals or properly installed turn signals as required under current regulations and statutes for motor vehicles or motorcycles.

13.40.010 Definitions.

- (a) "Electric personal motor vehicle" means an electric personal assistive mobility device that is a self-balancing vehicle with two (2) nontandem wheels, designed to transport only one (1) person, has an electronic propulsion system, and has a maximum speed of not more than fifteen (15) miles an hour.
- (b) "Off-road motor vehicle" means any motor vehicle not authorized for operation on a public roadway according to State law or regulation or any motorized vehicle that is being operated off of the maintained streets and roadways.
- (c) "Wheelchair" means a manually operated or power-driven device designed primarily for use by an individual with a mobility disability for the main purpose of indoor or of both indoor and outdoor locomotion.

(Ords. 883, 2576-2011)

The Kenai Municipal Code is current through Ordinance 3243-2021, passed September 15, 2021.

Disclaimer: The City Clerk has the official version of the Kenai Municipal Code. Users should contact the City Clerk for ordinances passed subsequent to the ordinance cited above.

Note: This site does not support Internet Explorer. To view this site, Code Publishing Company recommends using one of the following browsers: Google Chrome, Firefox, or Safari.

[City Website: www.kenai.city](http://www.kenai.city)

City Telephone: (907) 283-7535

[Code Publishing Company](#)



Sponsored by: Administration

CITY OF KENAI

RESOLUTION NO. 2021-71

A RESOLUTION OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, AMENDING THE EMPLOYEE CLASSIFICATION PLAN TO CHANGE THE RANGE OF THE PARKS AND RECREATION DIRECTOR.

WHEREAS, Ordinance 3018-2018 created the Department Head Service Classification consisting of full-time paid employees who are the heads of departments and serve at will; and,

WHEREAS, Department Head Service employees are compensated within a salary range instead of on a step scale, allowing the City Manager some flexibility as needed to support recruitment and retention; and,

WHEREAS, the Parks & Recreation Director position in the City has historically been in the classified service with a range of 22; and,

WHEREAS, the Parks & Recreation Director position in the City has recently been vacated due to the retirement of the former Director; and,

WHEREAS, pursuant to Ordinance 3018-2018, when hired, the new Parks & Recreation Director will be in the Department Head Service; and,

WHEREAS, the Parks & Recreation Director job description was reviewed and improved upon following its vacancy in October of 2021, before which it had not been reviewed since 2014; and,

WHEREAS, the Parks & Recreation Director role compares closely to the Department Head Class positions of Planning Director, Senior Center Director, and Library Director all which have been assigned to range 23; and,

WHEREAS, after reviewing and improving the job description and comparing the position to other positions in the City in the Department Head Service, an adjustment in the range of the Parks and Recreation Director from a 22 to a 23 is warranted; and,

WHEREAS, making this change improves the City's position in the recruitment and retention of candidates who are qualified to run a parks and recreation program of the size and scope we have at the City.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA:

Section 1. The Council amends the Employee Classification Plan by changing the range of the Parks and Recreation Director from 22 to 23.

Section 2. That this resolution takes effect immediately upon passage.


Resolution No. 2021-71
Page 2 of 2

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 15th day of December, 2021.

BRIAN GABRIEL, SR., MAYOR

ATTEST:

Jamie Heinz, MMC, City Clerk

Approved by Finance: 



MEMORANDUM

TO: Mayor Gabriel and Council Members

FROM: Paul Ostrander, City Manager

DATE: December 8, 2021

SUBJECT: **Resolution 2021-71 – Range Increase for Parks and Recreation Director**

This resolution requests that Council amend the City's Classification Plan by changing the range of the Parks and Recreation Director from 22 to 23. This change aligns the position with other similar positions within the City, including the Senior Center Director, Library Director and Planning Director, and improves the City's position with both recruitment and retention of candidates for the role.

Ordinance 3018-2018 established the Department Head Service classification. Pursuant to that ordinance, when hired, the new Parks and Recreation Director will be in the Department Head Service.

Thank you for your consideration.

**KENAI CITY COUNCIL – REGULAR MEETING
DECEMBER 1, 2021 – 6:00 P.M.
KENAI CITY COUNCIL CHAMBERS
210 FIDALGO AVE., KENAI, AK 99611
MAYOR BRIAN GABRIEL, PRESIDING**

MINUTES

A. CALL TO ORDER

A Regular Meeting of the Kenai City Council was held on December 1, 2021, in City Hall Council Chambers, Kenai, AK. Mayor Gabriel called the meeting to order at approximately 6:00 p.m.

1. Pledge of Allegiance

Mayor Gabriel led those assembled in the Pledge of Allegiance.

2. Roll Call

There were present:

Brian Gabriel, Mayor
Henry Knackstedt
Deborah Sounart
Jim Glendening

James Baisden
Tea Winger
Glenese Pettey

A quorum was present.

Also in attendance were:

Paul Ostrander, City Manager
Scott Bloom, City Attorney
Terry Eubank, Finance Director
Jamie Heinz, City Clerk

3. Agenda Approval

MOTION:

Mayor Gabriel noted the following additions to the packet:

- | | |
|------------------|--|
| Add to item D.1. | Ordinance No. 3254-2021
• Written Public Comment |
| Add to item D.5. | Resolution No. 2021-70
• Written Public Comment |
| Add to item G.3. | Ordinance No. 3257-2021
• Written Public Comment |

Add to item G.6.

Ordinance No. 3260-2021

- Written Public Comment

Add to item G.7.

Land Management Plan Discussion

- Email from City Manager
- Written Public Comment

Add item O.5.

Information Items

- Letter Regarding Halibut Abundance-Based Management

Mayor Gabriel noted that Joy Merriner was delayed, and asked that the order of item B. Scheduled Public Comments be adjusted on the agenda to accommodate her arrival.

MOTION:

Council Member Knackstedt **MOVED** to approve the agenda with the requested revisions, and Council Member Pettey **SECONDED** the motion. **UNANIMOUS CONSENT** was requested.

VOTE: There being no objection; **SO ORDERED.**

4. Consent Agenda

MOTION:

Council Member Knackstedt **MOVED** to approve the consent agenda and requested **UNANIMOUS CONSENT**. Council Member Pettey **SECONDED** the motion.

The items on the Consent Agenda were read into the record.

Mayor Gabriel opened the floor for public comment.

Jane Fuerstenau, president of the Friends of the Kenai Library and Library Director from Kenai Peninsula College, pointed out the library has already been selected to receive grant with no specific list of required titles. She noted that the mission of the agency providing the grant is to foster health literacy and public health through resources and training, and expressed skepticism of why there would be caution for accepting the grant. She discussed the term equity, noting it means providing updated health resources to community members regardless of their financial or geographic limitations.

Marian Nelson expressed her support for the Library and agreed with Jane Fuerstenau's comments. She explained that there is a mural show at the Fine Arts Center and encouraged everyone to visit.

Dave Peck noted that the word equity is a loaded political term used in pursuit of social justice and encouraged the Council to exercise caution accepting any grants that are based on the goal of equity.

Susan Smalley discussed the word equity, noting that can be a dog-whistle term and disagreed that it is something people should be afraid of; noted that her family has participated in library activities for years and that the library never forces you to take books. She discussed how the City Council has a lot of issues to address and choosing library books should not be their priority.

There being no one wishing to be heard, the public comment period was closed.

VOTE: There being no objections, **SO ORDERED.**

All items listed with an asterisk () are considered to be routine and non-controversial by the council and will be approved by one motion. There will be no separate discussion of these items unless a council member so requests, in which case the item will be removed from the consent agenda and considered in its normal sequence on the agenda as part of the General Orders.

B. SCHEDULED PUBLIC COMMENTS

1. **Joy Merriner, BDO USA, LLP** - Presentation of the FY2021 City of Kenai Annual Comprehensive Financial Report, Federal and State Single Audit Reports, and Audit Wrap Up.

[Clerk's Note: This item was delayed for arrival of the speaker.]

C. UNSCHEDULED PUBLIC COMMENTS

Robert Ruffner spoke as a representative of Alaska Salmon Alliance about the UCIDA letter regarding the Cook Inlet fishery closure. Explained the legal background for the closing of the EEZ and the timeframe for engagement in upcoming legal action.

Tim Dillon, Executive Director of Kenai Peninsula Economic Development District, explained that they will be holding their annual Industry Outlook Forum in January, which would be a full day of discussion and presentations about current trends in the local economy; noted the speakers and presentations and encouraged everyone to attend.

SCHEDULED PUBLIC COMMENTS

1. **Joy Merriner, BDO USA, LLP** - Presentation of the FY2021 City of Kenai Annual Comprehensive Financial Report, Federal and State Single Audit Reports, and Audit Wrap Up.

[Clerk's Note: This item was delayed for arrival of the speaker.]

Joy Merriner reported on the FY21 Audit Wrap-up document, the Single Audit Report, and the Comprehensive Annual Financial Report (CAFR) noting her firm, BDO USA, LLP, issued unmodified, clean opinions, meaning the City followed the adopted standards for governmental agencies. She explained that there was a lot of work this year auditing the CARES funding and Airport Improvement Program; noted that as always, the City's financial team is very cooperative and there were no misstatements that needed to be corrected.

D. PUBLIC HEARINGS

1. **Ordinance No. 3254-2021** - Amending Kenai Municipal Code Section 14.05.025 – Telephonic Participation at Planning and Zoning Commission Meetings, to Provide

for Remote Electronic Participation in Planning and Zoning Commission Meetings by Commission Members. (Administration)

MOTION:

Council Member Knackstedt **MOVED** to enact Ordinance 3254-2021 and Council Member Winger **SECONDED** the motion.

Mayor Gabriel opened the floor for public comment; there being no one wishing to be heard, the public comment period was closed.

It was noted the Clarion article on this ordinance was appreciated. It was clarified that it is consistent with the changes made to code on Council's electronic participation, and that the Planning & Zoning Commission approved it unanimously.

VOTE:

YEA: Gabriel, Glendening, Pettey, Baisden, Sounart, Winger, Knackstedt
NAY:

MOTION PASSED UNANIMOUSLY.

2. **Ordinance No. 3255-2021** - Accepting and Appropriating Grants from the U.S. Department of Homeland Security Passed Through the State of Alaska Department of Military and Veterans' Affairs for the Purchases of Public Safety Radios for Police, Fire, and Communications Departments. (Administration)

MOTION:

Council Member Knackstedt **MOVED** to enact Ordinance No. 3255-2021 and Council Member Pettey **SECONDED** the motion.

Mayor Gabriel opened the floor for public comment; there being no one wishing to be heard, the public comment period was closed.

Clarification was provided that Kenai Police Department (KPD) has been seeking grants to replace radios for several years as their current radios are becoming obsolete due to new standards. When the radio project is finished the system will serve the department for at least fifteen years; KPD plans to maintain at least one legacy police and one fire radio system.

VOTE:

YEA: Glendening, Pettey, Baisden, Sounart, Winger, Knackstedt, Gabriel
NAY:

MOTION PASSED UNANIMOUSLY.

3. **Resolution No. 2021-68** - Authorizing a Budget Transfer in the CARES Act Recovery Fund, First Responder and Incident Management Team Payroll, CARES Act Administration and Non-payroll, and Individual Assistance Grants Departments. (Administration)

MOTION:

Council Member Knackstedt **MOVED** to adopt Resolution No. 2021-68 and Vice Mayor Glendening **SECONDED** the motion.

Mayor Gabriel opened the floor for public comment; there being no one wishing to be heard, the public comment period was closed.

VOTE:

YEA: Pettey, Baisden, Sounart, Winger, Knackstedt, Gabriel, Glendening

NAY:

MOTION PASSED UNANIMOUSLY.

4. **Resolution No. 2021-69** - Approving the Execution of a Lease of Airport Fund Lands Using the Standard Lease Form Between the City of Kenai and Integrated Account Management, Inc. on Lot 3, Block 3, Cook Inlet Industrial Air Park Subdivision. (Administration)

MOTION:

Council Member Knackstedt **MOVED** to adopt Resolution No. 2021-69 and Vice Mayor Molloy **SECONDED** the motion.

Mayor Gabriel opened the floor for public comment; there being no one wishing to be heard, the public comment period was closed.

Clarification was provided that it conformed with Title 21.

UNANIMOUS CONSENT was requested.

VOTE: There being no objection; **SO ORDERED.**

5. **Resolution No. 2021-70** - Opposing Government Mandates Requiring Vaccines and Face Coverings Related to COVID 19. (Council Members Baisden and Winger)

MOTION:

Council Member Baisden **MOVED** to adopt Resolution No. 2021-70 and Council Member Sounart **SECONDED** the motion.

Mayor Gabriel opened the floor for public comment.

Garrett Ennis stated his support for the resolution because it reinforces idea of freedom and liberty for each individual to choose, and noted that information about vaccine injury is censored. He suggested a change of language so that government mandates not be enforced. Addressed public comments in the laydown, disagreeing that it is divisive and ineffective. Noted it is important that we stand for God-given rights.

Susan Smalley drew comparisons between smoking and COVID-19, noting that there are restrictions on smoking because it affects people around the smoker, and the effects of COVID-19 crosses over between people and affects them; explained how unvaccinated people have led to overcrowding in hospitals resulting in delays to the medical needs of others. She noted that the spread of COVID-19 has hurt businesses and suggested a workplace losing their ability to require masks or vaccination seems like government overreach.

Queen Parker expressed support for the resolution noting she stands for liberty and freedom. She expressed skepticism about vaccines. She stated that mandates stand in the way of individual freedom, and that masks conceal identity and restrict breathing.

Margaret Gilman spoke in opposition to the resolution, and reiterated Susan Smalley's example of smoking restrictions as a positive government intervention for public safety. She encouraged the Council to oppose the resolution because there are no current federal mandates outside the airport and this resolution will not supersede federal law. She noted this divides the community because people have strong opinions about masking and vaccines, and this resolution makes the pandemic a political issue when it should be about people.

Bobby Jollicki spoke in favor of the resolution because she supports people being able to make their own choice and freedom of choice is paramount. She states that she has a hard time hearing people who are wearing masks, and she wants people to be able to smile and see each other; noted that she knows of seventeen people who have died from COVID-19 after receiving the vaccine, including her mother.

Barbara Christian spoke in opposition to the resolution, noting that she has had freedom while wearing a mask, but feels she has had her freedom limited by people who do not wear masks and are not vaccinated. She stated that freedom goes both ways, and some people believe that freedom lies in following mandates and suggested public health measures.

Christine Hutchison spoke in favor of the resolution. She expressed concern for the future, stated that she will not comply with mandates, and expressed doubt about the vaccine. She said this resolution will make a statement for this community, and that we have to take a stand.

Alice Heckert stated she supported the resolution, discussed the importance of personal responsibility and freedom, and shared her family's experience with COVID-19. She stated that the resolution gives people the ability to choose.

Dave Peck shared that he is vaccinated but that he wouldn't want others ordered to do that, that this resolution would make a statement and be a step to support freedom.

Cathy Medcoff stated that she supports the resolution and thanked the Council for bringing it forth. She said there is no reason to wait on making this statement, and we need to be ready. She expressed skepticism of the vaccine, and that we will lose our freedom and our lives if we are not careful.

Ken Brown noted that he had heard some inaccuracies from the public, noting that the vaccine does not provide immunity and that it may provide people with a false idea that they are immune and cannot spread the virus; expressed support for the resolution noting that it sends a message.

There being no one else wishing to be heard, the public comment period was closed.

MOTION TO AMEND:

Council Member Baisden **MOVED** to amend Resolution No. 2021-70 by deleting “as a condition of employment” from the 3rd WHEREAS. Council Member Winger **SECONDED** the motion.

Clarification was provided that this phrase would be left in Section 1.

UNANIMOUS CONSENT was requested.

VOTE ON AMENDMENT: There being no objections, **SO ORDERED.**

It was stated that the goal of this resolution was to make a statement at the local level, in preparation for possible implementation of federal mandates. The Council discussed how the City has made every effort to make vaccines available, has been consistent about providing freedom of choice to its residents and this sends the message in support of that. It was noted that when doctors are fearful this may limit people’s freedom to receive services. It was stated that this resolution is not meant to be divisive but an opportunity to uphold personal liberty and freedom of choice, and allows people to follow their conscience.

Discussion involved if federal law supersedes the City, what passing this resolution would accomplish and how it would move the city forward. It was reiterated that the primary accomplishment would be sending a message about protecting residents from federal mandates. Clarification was provided that businesses would still have the right to implement their own rules.

The Council reviewed how they have responded to the COVID-19 pandemic over the past two years, and discussed the efficacy of mandates and the vaccine.

An explanation was provided on how City facilities have responded to COVID-19 rates through implementation and removal of onsite mask policies, and it was clarified that the intent was to not have mandates in place. Clarification was provided that facilities are administered by City Manager who works for the Council.

VOTE:

YEA: Sounart, Winger, Knackstedt, Gabriel, Glendening, Pettey, Baisden

NAY:

MOTION PASSED UNANIMOUSLY.**E. MINUTES**

1. *Regular Meeting of November 3, 2021. (City Clerk)

Approved by the consent agenda.

F. UNFINISHED BUSINESS – None.**G. NEW BUSINESS**

1. ***Action/Approval** - Bills to be Ratified. (Administration)

Approved by the consent agenda.

2. ***Ordinance No. 3256-2021** - Increasing Estimated Revenues and Appropriations in the Airport Improvements Capital Project Funds, Authorizing the Acceptance of a Grant from the Federal Aviation Administration for the Kenai Municipal Airport Sand Storage Facility Construction Phase II, and Authorizing a Budget Transfer in the Airport Improvements Capital Project Fund – Kenai Municipal Airport Sand Storage Facility Project to Facilitate the Return of Funds Advanced from the Airport Special Revenue Fund. (Administration)

Introduced by the consent agenda and Public Hearing set for December 15, 2021.

3. ***Ordinance No. 3257-2021** - Accepting and Appropriating a Collection Equity Award from the Network of the National Library of Medicine Region 5 for the Purchase of Health and Wellness Titles for the Kenai Community Library Collection. (Council Members Knackstedt and Pettey)

Introduced by the consent agenda and Public Hearing set for December 15, 2021.

4. ***Ordinance No. 3258-2021** - Accepting and Appropriating Funding from the State of Alaska Department of Health and Social Services, Division of Public Health, for the Healthy and Equitable Communities Program, and Authorizing the City Manager to Execute a Memorandum of Agreement for this Funding. (Administration)

Introduced by the consent agenda and Public Hearing set for December 15, 2021.

5. ***Ordinance No. 3259-2021** - Increasing Estimated Revenues and Appropriations in the General and Municipal Roadway Improvement Capital Project Funds, and Increasing a Purchase Order to Foster's Construction for the 2021 Bryson Ave Bluff Erosion Repair Project. (Administration)

Introduced by the consent agenda and Public Hearing set for December 15, 2021.

6. ***Ordinance No. 3260-2021** - Amending Kenai Municipal Code 13.40.010-Definitions, to Maintain Current Regulations on Off-Road Vehicle Use in Kenai After January 1, 2022. (Council Member Knackstedt)

Introduced by the consent agenda and Public Hearing set for December 15, 2021.

7. **Discussion** - Land Management Plan Commission Consideration Changes. (Vice Mayor Glendening and Council Member Winger)

It was clarified that the purpose of the discussion was to provide direction for the City's commissions and committees regarding their discussion of the Land Management Plan (LMP), in response to comments about how they should manage their review when it contains a large amount of maps and information. The proposed plan for breaking up the LMP and staggering the presentations among separate meetings for each commission/committee was explained. It was also noted that in addition to this plan, further information regarding the City's Land Use Table, Titles 21 and 22, and LMP recommendation definitions and examples could be provided to the commissioners and committee members.

There was no objection and Mayor Gabriel invited the Planning and Zoning Commissioners in the audience to give feedback.

Jeff Twait, Chair of Planning & Zoning Commission, expressed that the commission had been encouraged to take their time and he had initially agreed with that. He noted that the commission had already done a lot of work on the LMP. He stated that he supported postponing to get more public comment but felt the commission was nearly ready to make their recommendations. He agreed that some other commissions may require more time to understand, but Planning & Zoning was very familiar with this subject matter.

Alex Douthit, Planning & Zoning Commissioner, expressed that there were misconceptions about why there had been fewer comments about the LMP than expected; the draft LMP had been available to the commissions and public for months, and it was possible that they didn't have comments. He noted that it was primarily a tool and did not set forward a plan that was set and stone. He noted that the commission could break it down and postpone approval for months, but if the commissions are able to approve it sooner they should be able to do so. His main reason for continuing to postpone was to provide more opportunity to receive public comments.

Council Members discussed their experience sitting as liaisons during commission meetings. Discussion involved how the suggested new schedule differed from the original rollout of the LMP to commissions, and whether the Planning & Zoning Commission could or should approve their resolution prior to the other commissions. It was noted that the commissions have had months to read and digest the LMP materials.

The Council determined that a document clarifying the Land Use Table, Titles 21 and 22, and LMP definitions would be provided to the commissions, and they would continue to pace themselves as they have been.

H. COMMISSION / COMMITTEE REPORTS

1. Council on Aging – Council Member Knackstedt reviewed the actions of the November 10, 2021 meeting. Next meeting January 13, 2021.
2. Airport Commission – Council Member Baisden reviewed the actions of the November 9, 2021 meeting. Next meeting December 9, 2021, noted he would not be able to attend and Council Member Knackstedt would take his place.
3. Harbor Commission – Council Member Pettey reviewed the actions of the November 8, 2021 meeting. A special meeting will be held in January.
4. Parks and Recreation Commission – Council Member Winger reported on the actions of the November 4, 2021 meeting. Next meeting on January 6, 2022 will be a joint meeting with the Beautification Committee.
5. Planning and Zoning Commission – Council Member Winger reviewed the actions of November 10, 2021 meeting. Next meeting December 8, 2021.

6. Beautification Committee – Council Member Sounart reviewed the actions of the November 4, 2021 meeting. Next meeting December 14, 2021.
7. Mini-Grant Steering Committee – Mayor Gabriel reported on the meeting of November 5, 2021.

I. REPORT OF THE MAYOR

Mayor Gabriel reported on the following:

- Thanked Vice Mayor Glendening for attending the Senior Center’s 50th anniversary;
- Attended Alaska Municipal League virtually, and Alaska Conference of Mayors in-person;
- Submitted an application for the Coastal Community Mayor seat on the Alaska Bycatch Review Task Force;
- Attended Christmas Comes to Kenai;
- Noted the UCIDA letter in the packet, will be on the agenda for the next Council meeting;
- Thanked Finance Director Eubank for his work on the audit.

J. ADMINISTRATION REPORTS

1. City Manager – City Manager Ostrander reported on the following:
 - City League Basketball will be starting in January 2022 for the first time in 18 years;
 - Saturday is annual Shop with a Cop event;
 - Kenai City Hall participating in Mountain View Elementary Christmas Drive;
 - Kenai Fire Department and Police Department participated in a tabletop exercise with CINGSA;
 - Bluff project update: still on schedule to receive 35% of documents by the end of the month. Hope to see Infrastructure Bill funding in the next few months.
2. City Attorney – City Attorney Bloom reported on the following:
 - Hosted annual Alaska Municipal Attorney’s Association conference, thanked Council for support and noted the hard work of Legal Assistant Cindy Herr.
3. City Clerk – City Clerk Heinz reported on the following:
 - Attended the annual Alaska Association of Municipal Clerk’s conference, thanked Council for their support.

K. ADDITIONAL PUBLIC COMMENT

1. Citizens Comments (*Public comment limited to five (5) minutes per speaker*)

Jeff Twait extended an offer to have Planning & Zoning Commission members provide help to other City commissions and committees with their Land Management Plan discussion, and noted that it will be discussed at their next meeting.

2. Council Comments

Council Member Pettey noted that she attended Christmas Comes to Kenai, and the 50th Anniversary celebration of the Kenai Senior Center. Thanked Finance Director Eubank and staff for the audit and their work in the Finance Department, and thanked the Streets staff for maintaining the roads this winter. Also noted that she attended AML. Noted the upcoming Relay for Life ski event at the Kenai Golf Course.

Vice Mayor Glendening noted that he attended Christmas Comes to Kenai, and the 50th Anniversary celebration of the Kenai Senior Center.

Council Member Sounart noted that she attended Christmas Comes to Kenai, and the 50th Anniversary celebration of the Kenai Senior Center. Thanked the public for their attendance and discussion tonight.

Council Member Winger noted that she attended Christmas Comes to Kenai, and volunteered for Santa Comes to Kenai. Thanked Finance Director Eubank and staff for his work on the audit. Noted she is excited to hear about City League Basketball, and congratulated the Kenai volleyball team for coming in 2nd at State. Noted she will be camping this winter and will notify Council when she will be off-grid. Will be attending swim meet in Seward. Appreciated comments and discussion tonight.

Council Member Baisden thanked the public for their discussion tonight. Recognized the Kenai volleyball team, thanked Administration for their time meeting with him, and thanked Knackstedt for filling in for him on Airport Commission.

Council Member Knackstedt attended the Alaska Municipal League conference, recognized Terry Eubank for being elected President of the AML Investment Pool; noted Attorney Bloom is President of AMAA and gave a presentation at AML. Enjoyed the Senior Center 50th Anniversary. Thanked Eubank for his leadership in Finance Department. Spoke of his time participating in marching band in past years.

L. **EXECUTIVE SESSION** – None.

M. **PENDING ITEMS**

1. **Resolution No. 2021-64** - Awarding an Agreement for the Kenai Waterfront Redevelopment Assessment and Feasibility Study. (Administration) *[Clerk's Note: At the November 3, 2021 Meeting, this item was Postponed to the December 15, 2021 Council Meeting; a motion to enact is on the floor.]*

N. **ADJOURNMENT**

O. **INFORMATION ITEMS**

1. Purchase Orders Between \$2,500 and \$15,000
2. Dog Park Update from Pat Porter

3. Kenai Historical Society Newsletter - 12/2021
4. United Cook Inlet Drift Association Statement on the Cook Inlet Fishery Closure.

There being no further business before the Council, the meeting was adjourned at 10:37 p.m.

I certify the above represents accurate minutes of the Kenai City Council meeting of December 1, 2021.

Jamie Heinz, MMC
City Clerk

DRAFT



Sponsored by: Administration

CITY OF KENAI

RESOLUTION NO. 2021-64

A RESOLUTION OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, AWARDING AN AGREEMENT FOR THE KENAI WATERFRONT REDEVELOPMENT ASSESSMENT AND FEASIBILITY STUDY.

WHEREAS, the City issued a formal Request for Proposals (RFP) for the Kenai Waterfront Redevelopment Assessment and Feasibility Study on September 7, 2021 with the following proposals received on October 8, 2021,

BIDDERS	TOTAL PROPOSAL SCORE
McKinley Research Group, LLC	274.65
PDC, A Division of RESPEC Company, LLC	257.5
Agnew :: Beck	252.25

; and,

WHEREAS, proposals were evaluated by the evaluation committee according to the criteria set forth in the RFP the week of October 11, 2021; and,

WHEREAS, taking into consideration price and the evaluation factors set forth in the request for proposals, responsive proposals were awarded points as set out in the RFP, and the proposal submitted by McKinley Research Group, LLC was awarded the highest points and determined to be the most advantageous to the City; and,

WHEREAS, the recommendation from City Administration is to award an Agreement to McKinley Research Group, LLC for \$94,890; and,

WHEREAS, the attached agreement for services includes the scope of services provided in the RFP, including the Kenai Waterfront Feasibility Study, Conceptual Plans and Financial Feasibility Analysis; and,

WHEREAS, sufficient funds have been appropriated for this purchase.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA:

Section 1. The Council authorizes award of an Agreement for the Kenai Waterfront Redevelopment Assessment and Feasibility Study to McKinley Research Group, LLC for the total cost of \$94,890.


Section 2. That this resolution takes effect immediately upon passage.

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 3rd day of November, 2021.

BRIAN GABRIEL, SR., MAYOR

ATTEST:

Jamie Heinz, MMC, City Clerk

Approved by Finance: 



KENAI

City of Kenai | 210 Fidalgo Ave, Kenai, AK 99611-7794 | 907.283.7535 | www.kenai.city

MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council

THROUGH: Paul Ostrander, City Manager

FROM: Christine Cunningham, Assistant to City Manager

DATE: October 21, 2021

SUBJECT: **Resolution No. 2021-64 – Awarding an Agreement for the Kenai Waterfront Redevelopment Assessment and Feasibility Study**

The purpose of this memo is to recommend awarding an agreement for the Kenai Waterfront Redevelopment Assessment and Feasibility in the amount of \$94,890.00 to McKinley Research Group, LLC.

The City advertised the Request for Proposals (RFP) three times at least two weeks prior to the date bids were due, as well as on the City website. The following proposals were received on October 8, 2011:

BIDDERS	TOTAL PROPOSAL SCORE
McKinley Research Group, LLC	274.65
PDC, A Division of RESPEC Company, LLC	257.5
Agnew :: Beck	252.25

Taking into consideration price and the evaluation factors set forth in the request for proposals, responsive proposals were awarded points as set out in the RFP, and the proposal submitted by McKinley Research Group, LLC was determined to be the most advantageous to the City.

Ordinance 3237-2021 appropriated \$95,000 for this study with an estimated cost of the feasibility report being \$75,000 and a \$20,000 contingency for additional items (e.g. conceptual plans and financial feasibility analysis). The RFP included a cost proposal form that requested proposers provide a base bid for all services, and a deductive alternate, which provided for elimination of services to provide conceptual plans and Financial feasibility analysis.

The attached agreement for services includes all items included in the scope of services provided in the RFP, including the Kenai Waterfront Feasibility Study, Conceptual Plans and Financial Feasibility Analysis.

Council's approval is respectfully requested.

PROFESSIONAL SERVICES AGREEMENT

FOR

**KENAI WATERFRONT REDEVELOPMENT
ASSESSMENT AND FEASIBILITY STUDY**

THIS AGREEMENT made and entered by and between the CITY OF KENAI and MCKINLEY RESEARCH GROUP, LLC.

Section 1. Definition. In this Agreement:

1. The term "City" means the City of Kenai.
2. The term "Consultant" means McKinley Research Group, LLC.
3. The term "City Manager" means the City Manager of the City of Kenai or authorized representative.

Section 2. Scope of Services. The Consultant shall perform all the services provided for by this Agreement:

1. Kenai Waterfront Feasibility Study

i. Project Meetings

Engage City personnel to discuss the project, scope, project plan, and timelines and acquire necessary materials (e.g., mapping, zoning, available lands information). Establish project meetings at the beginning of the process, with additional meetings to be scheduled as necessary. Attend City Council and Planning and Zoning Commission meetings to present the final Feasibility Study and attend any additional public meetings as necessary.

ii. Communications

Maintain communication with designated City personnel to provide regular updates and discuss the progress of the project. Communication will be provided to the City Council, Planning and Zoning Commission, and the public as necessary throughout the project.

iii. Community Engagement

Engage the Kenai community to develop vision, core concepts, and priorities, including an initial meeting with the City of Kenai Administrative team to develop a program to work with members of the public and identify a multifaceted community engagement strategy and process that is transparent and inclusive.

iv. Elements of Study

Develop a comprehensive feasibility study, including the following elements:

- 1) Engage Kenai community and develop vision, core concepts, and priorities
- 2) Evaluate market conditions and identify opportunities for potential revitalization of the area

- 3) Review and assess existing plans and area characteristics, including infrastructure, access, zoning, and regulations to identify development constraints and provide recommended changes to support a thriving business, residential, recreational and cultural community
- 4) Review existing infrastructure and assess infrastructure needs to support redevelopment, including roads, water, sewer, stormwater, electrical, alternative power generation, and broadband infrastructure
- 5) Identify economic strategies, including private-public partnerships, external funding opportunities, improvement districts, and incentives that encourage redevelopment of the area
- 6) Develop an implementation strategy and recommendations

v. Final Report

Provide five (5) bound copies and an electronic version of the final feasibility study in an accessible file format. The final report should include results of public involvement, background review, assessment of existing conditions, risks and opportunities related to redevelopment, infrastructure needs, redevelopment strategies and concepts to revitalize and incentivize redevelopment, recommendations regarding zoning or land and development code changes and potential economic incentive programs, conceptual development design options, and potential for combinations of uses and activities to support revitalization of the area to maximize the potential to support a thriving business, residential, recreational and cultural community.

2. Conceptual Plans and Financial Feasibility Analysis

- i. Prepare examples of conceptual plan(s) for potential site redevelopment alternative(s) that are reproducible and in an accessible file format
- ii. Prepare financial analysis to evaluate the feasibility of redevelopment alternative(s)

Section 3. Time of Performance. The services of the Consultant shall commence November 8, 2021, and shall terminate May 31, 2022, subject to appropriation of funds from the Kenai City Council. The period of performance may be extended for additional periods only by the mutual written agreement of the parties and subject to appropriation of funds by the Kenai City Council.

Section 4. Compensation.

1. Subject to the provisions of this Agreement, the City shall pay the Consultant as compensation a total sum of Ninety-Four-Thousand, Eight Hundred and Ninety Dollars (\$94,890.00) for those services to which the parties agree in this Agreement.
2. Except as otherwise provided in this Agreement, the City shall not provide any additional compensation, payment, service or other thing of value to the Consultant in connection with performance of Agreement duties. The parties understand and agree that, except as otherwise provided in this agreement, administrative overhead and other indirect or direct costs the Consultant may incur in the performance of its obligations under this Agreement have already been included in computation of the Consultant's fee and may not be charged to the City.

Section 5. Method and Time of Payment.

1. Payment shall be made within thirty (30) calendar days from receipt of an approved invoice.
2. Any expenditures identified as reimbursable under the request for proposal shall be included with the billings for professional services. Billing shall include a summary of expenditures to date by line item categories (e.g., personal services, travel, lodging, meals, and other). Documentation of expenditures need not be submitted with billings but must be retained by the Consultant in the event the City requests said documentation.
3. No payment will be disbursed until the completed task and associated expenditures have been approved by the City.
4. All invoices should be submitted in duplicate and addressed as follows:

City of Kenai
Attn: City Manager Office
210 Fidalgo Avenue
Kenai, AK 99611

Section 6. Ownership. All finished or unfinished documents, data, studies, surveys, and reports or other material prepared by the Consultant under this Agreement are the property of the City.

Section 7. Termination of Agreement for Cause. If, through any cause, the Consultant shall fail to fulfill in a timely and proper manner the obligations under this Agreement or if the Consultant shall violate any of the covenants, agreements, or stipulations of this Agreement, the City shall have the right to terminate this Agreement by giving written notice to the Consultant of termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. All finished or unfinished documents, data, studies, surveys and reports or other material prepared by the Consultant under this Agreement are the property of the City and shall be delivered to the City by or upon the effective date of termination. The Consultant shall be entitled to receive compensation only for work completed to the City's satisfaction in accordance with the terms of this Agreement.

Section 8. Termination for Convenience of City. The City may terminate this Agreement at any time by giving written notice to the Consultant of such termination and specifying the effective date of such termination. All finished or unfinished documents and other materials as described in Section 7, above, are the property of the City and shall be delivered to the City by or upon the effective date of termination. The Consultant shall be entitled to receive compensation in accordance with the payment provisions of this Agreement only for work completed to the City's satisfaction in accordance with the terms of this Agreement. If this Agreement is terminated due to the fault of the Consultant, Section 7 of this Agreement shall govern the rights and liabilities of the parties.

Section 9. Causes Beyond Control. In the event the Consultant is prevented by a cause or causes beyond control of the Consultant from performing any obligation of this Agreement, nonperformance resulting from such cause or causes shall not be deemed to be a breach of this Agreement which will render the Consultant liable for damages or give rights to the cancellation of this Agreement for cause. However, if and when such cause or causes cease to prevent

performance, the Consultant shall exercise all reasonable diligence to resume and complete performance of the obligation with the least possible delay. The phrase “cause or causes beyond control,” as used in this section, means any one or more of the following causes which are not attributable to the fault or negligence of the Consultant and which prevent the performance of the Consultant: fire, explosions, acts of God, war, orders or law of duly constituted public authorities, and other major uncontrollable and unavoidable events, all of the foregoing which must actually prevent the Consultant from performing the terms of this Agreement. Events which are peculiar to the Consultant and would not prevent another Consultant from performing, including, but not limited to financial difficulties, are not causes beyond the control of the Consultant. The City will determine whether the event preventing the Consultant from performing is a cause beyond the Consultant’s control.

Section 10. Modifications.

1. The parties may mutually agree to modify the terms of this Agreement. Modifications to this Agreement shall be incorporated into this Agreement by written amendments.
2. It is expressly understood that the City may require changes in the scope of services and an unreasonable refusal by the Consultant to agree to modification in the scope of services will be the basis for termination of this Agreement for cause. It is expressly understood that the total amount of compensation for successful performance of this Agreement will not be modified, under any circumstances, without prior written approval of the City.

Section 11. Interest of Members of City and Others. No officer, member or employee of the City and no member of its governing body, and no other public official of the governing body shall participate in any decision relating to this Agreement which affects their personal interest or the interest of any corporation, partnership or association in which they are, directly or indirectly, interested or having any personal or pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof.

Section 12. Assignability. The Consultant shall not assign any interest in this Agreement and shall not transfer any interest in the same (whether by assignment or novation) without the prior written consent of the City thereto; provided, however, that claims for money due or to become due to the Consultant from the City under this Agreement may be assigned by court order or to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City, or the Consultant shall be responsible to the City for any moneys due the assignee of this Agreement, which are paid directly to the Consultant.

Section 13. Interest of Consultant. The Consultant covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. The Consultant further covenants that in the performance of this Agreement no person having any such interest shall be employed.

Section 14. Findings Confidential. To the extent permitted or required by law any reports, information, data, etc., given to or prepared or assembled by the Consultant under this Agreement which the City requests to be kept confidential shall not be made available to any individual or organization by the Consultant without the prior written approval of the City.

Section 15. Publication, Reproduction and Use of Materials. No material produced, in whole or in part, under this Agreement shall be subject to copyright in the United States or in any other country. The City shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data or other materials prepared under this Agreement.

Section 16. Jurisdiction; Choice of Law. Any civil action arising from this Agreement shall be brought in the superior court for the third judicial district of the state of Alaska at Kenai. The law of the state of Alaska shall govern the rights and obligations of the parties.

Section 17. Non-Waiver. The failure of the City at any time to enforce a provision of this Agreement shall in no way constitute a waiver of the provisions, nor in any way affect the validity of this Agreement or any part thereof, or the right of the City thereafter to enforce each and every protection hereof.

Section 18. Permits, Laws and Taxes. The Consultant shall acquire and maintain in good standing all permits, licenses and other entitlements necessary to the performance under this Agreement. All actions taken by the Consultant under this Agreement shall comply with all applicable federal, state, and local regulations including, but not limited to, those laws related to wages, taxes, social security, workers compensation, nondiscrimination, licenses, and registration requirements. The Consultant shall pay all taxes pertaining to its performance under this Agreement.

Section 19. Agreement Administration.

1. The City Manager or designee, will be the representative of the City administering this Agreement.
2. The services to be furnished by the Consultant shall be administered, supervised, and directed by Susan Bell, President, with Donna Logan, Senior Consultant acting as primary contact and day-to-day project manager. In the event that the individual named above or any of the individuals identified in the proposal to perform work under this Agreement is unable to serve for any reason, the Consultant shall appoint a successor in interest subject to written approval of the City.

Section 20. Integration. This instrument and all appendices and amendments hereto embody the entire agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations or agreements, either oral or written, between the parties.

Section 21. Defense and Indemnification. The Consultant shall indemnify, defend, save and hold the City, its elected and appointed officers, agents and employees, harmless from any and all claims, demands, suits, or liability of any nature, kind or character including costs, expenses, and attorneys' fees resulting from Consultant or Consultant's officers, agents, employees, partners, attorneys, suppliers, and subconsultants' performance or failure to perform this Agreement in any way whatsoever. This defense and indemnification responsibility includes claims alleging acts or omissions by the City or its agents which are said to have contributed to the losses, failure, violations, or damage. However, Consultant shall not be responsible for any damages or claim arising from the sole negligence or willful misconduct of the City, its agents, or employees. Consultant and subconsultants shall also not be required to defend or indemnify the

Owner for damage or loss that has been found to be attributed to an independent contractor directly responsible to the City under separate written contract.

Section 22. Interpretation and Enforcement. This Agreement is being executed by the parties following negotiations between them. It shall be construed according to the fair intent of the language as a whole, not for or against any party. The titles of sections in this Agreement are not to be construed as limitations or definitions but are for identification purposes only.

Section 23. Relationship of the Parties. The services to be rendered under this Agreement are those of an independent contractor. The Consultant will not at any time directly or indirectly act as an agent, servant or employee of the City or make any commitments or incur any liabilities on behalf of the City without the City's express consent. The City shall not supervise or direct the Consultant except as set forth in this agreement.

Section 24. Insurance. Consultant and all subconsultants, if any, shall maintain the following insurance coverage in effect during the term of this Agreement and shall file certificates of such insurance with the Owner or City prior to the commencement of its performance under this Agreement. Such insurance shall be by a company/corporation currently rated "A-" or better by A.M. Best.

- A. A policy of comprehensive **general liability** insurance with limits of not less than **\$1,000,000** per occurrence covering injury to or death of any person or persons, and with limits of not less than **\$1,000,000** per occurrence covering **property damage**.
- B. **Auto liability** with included operations, contractual liability, and owned, leased, hired or borrowed, and non-owned vehicles with limits of not less than **\$1,000,000** combined single limit per occurrence.
- C. **Worker's Compensation and Employer's liability** insurance **in accordance with applicable laws**.
- D. **Professional Errors and Omissions** insurance in the amount of not less than **\$1,000,000**.

If the Consultant maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the contractor.

- E. **Primary Coverage** for any claims related to this contract, the **Consultant's insurance coverage shall be primary** insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
- F. **Deductibles and Self-Insured Retentions** any deductibles or self-insured retentions must be declared to and approved by the City. The City may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.
- G. **Claims Made Policies** if any of the required policies provide coverage on a claims-made basis:

- 1) The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
- 2) Insurance must be maintained and evidence of insurance must be provided for at least two (2) years after completion of the contract of work.
- 3) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of three (3) years after completion of contract work.

H. **Verification of Coverage** Consultant shall furnish the City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

I. **Subcontractors** Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein.

Said liability insurance shall provide that such insurance may not be canceled or reduced until **twenty (20) days** after the City shall have received notice of such cancellation or reduction.

Consultant shall maintain said insurance policies in effect and shall cause all parties supplying services, labor, or materials to maintain insurance in amounts and coverage not less than those specified above in effect.

A lapse in insurance coverage is a material breach of this Agreement, which may result in immediate termination of this Agreement, pursuant to Section 8.

Section 25. Severability. If any section or clause of this Agreement is held invalid by a court of competent jurisdiction, or is otherwise invalid under the law, the remainder of this Agreement shall remain in full force and effect.

Section 26. Understanding. The Consultant acknowledges that the Consultant has read and understands the terms of this Agreement, has had the opportunity to review the same with counsel of their choice, and is executing this Agreement of their own free will.

Section 27. Notices. Any notice required pertaining to the subject matter of this Agreement shall be personally delivered or mailed by prepaid first-class, registered or certified mail to the following addresses:

City: City Manager
City of Kenai
210 Fidalgo Avenue
Kenai, AK 99611

Consultant: McKinley Research Group, LLC
3800 Centerpoint Drive, Suite 1100
Anchorage, AK 99503

Section 28. Consultant’s Violations of Tax Obligations.

1. This Agreement can be terminated for cause, pursuant to Section 7, if it is determined that a Consultant is in arrears of any taxation, lease or rental agreement that is due to the City that is not remedied within ten (10) calendar days of notification by regular mail.
2. The City reserves any right it may have to offset amounts owed by an individual, firm, corporation or business for delinquent City taxes, moneys owed on sales, assessments, leases and rental agreements, against any amount owing to the same under an agreement between the City and the same.

CITY OF KENAI

CONSULTANT

By: _____

By: _____

Its: _____

Its: _____

Dated: _____

Dated: _____

ATTEST:

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY BY:

Jamie Heinz
City Clerk

Scott Bloom
City Attorney

ACKNOWLEDGMENTS

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021, by _____, Mayor of the City of Kenai, an Alaska municipal corporation, for and on behalf of the corporation.

Notary Public for State of Alaska
My Commission Expires: _____

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this ____ day of 2021, by (name) _____, the (title) _____ of (name of corporation) _____ for and on behalf of the corporation.

Notary Public for State of Alaska
My Commission Expires: _____

Kenai Waterfront Redevelopment Assessment and Feasibility Study Upland Acreage by Ownership Type

Owner	Leasee	Acreage
Rabuf	N/A	14.44
Rabuf	N/A	11.05
Dunavant	N/A	1.88
Rabuf	N/A	3.55
Frederickson	N/A	10.76
Frederickson	N/A	7.13
Jahrig	N/A	8.34
Port of Kenai	N/A	16.50
Hardcastle	N/A	0.95
Hardcastle	N/A	1.00
Hardcastle	N/A	0.98
Hall	N/A	2.86
Carlisle	N/A	1.12
Carlisle	N/A	3.21
City of Kenai	Rabuf	5.63
City of Kenai	Rabuf	1.40
City of Kenai	Rabuf	3.17
City of Kenai	N/A	6.55
City of Kenai	N/A	<u>12.06</u>

Total 112.58

% privately owned 74.41%

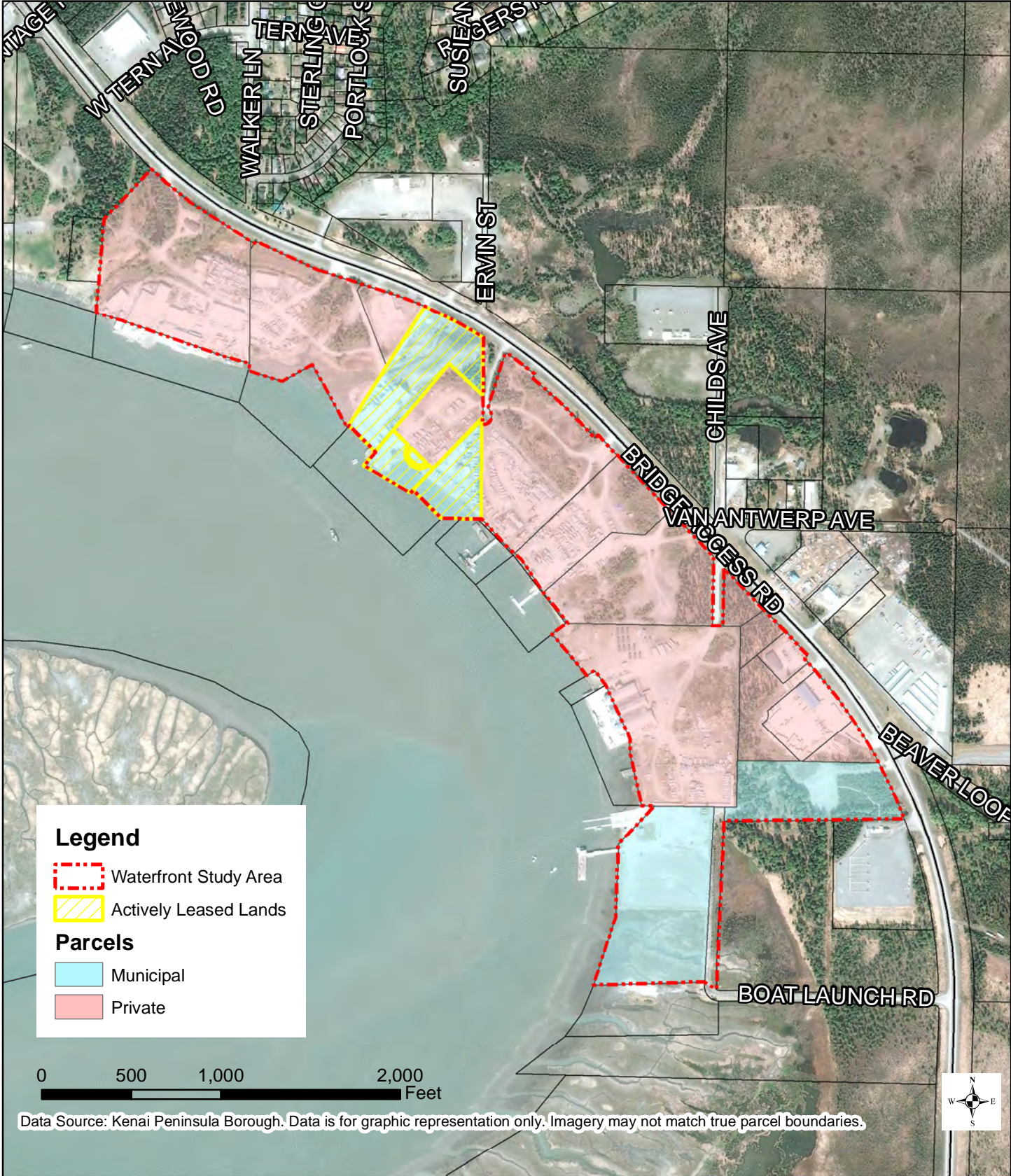
% publicly owned and under lease 9.06%

% publicly owned and not leased 16.53%

Total 100.00%



Waterfront Feasibility Study Upland Parcel Land Status



PAYMENTS OVER \$15,000.00 WHICH NEED COUNCIL RATIFICATION
COUNCIL MEETING OF: DECEMBER 15, 2021

VENDOR	DESCRIPTION	DEPARTMENT	ACCOUNT	AMOUNT
PERS	PERS	VARIOUS	LIABILITY	101,844.94
ENSTAR NATURAL GAS	GAS USAGE	VARIOUS	UTILITIES	18,083.88

INVESTMENTS

VENDOR	DESCRIPTION	MATURITY DATE	AMOUNT	Effect. Int.
PIPER JAFFRAY	U.S. AGENCY SECURITY	01/01/2023	3,055,705.39	1.46%
PIPER JAFFRAY	U.S. AGENCY SECURITY	09/25/2022	557,381.91	0.5%



Sponsored by: Administration

CITY OF KENAI

ORDINANCE NO. 3261-2021

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, ACCEPTING AND APPROPRIATING A GRANT FROM THE INSTITUTE OF MUSEUM AND LIBRARY SERVICES THROUGH THE DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT, DIVISION OF LIBRARY, ARCHIVES & MUSEUMS FOR THE PURCHASE OF A HOLD LOCKER.

WHEREAS, the Kenai Community Library desires to expand its services by installing an external materials hold locker; and,

WHEREAS, the Library received a grant from the Institute of Museum and Library Services (IMLS) through the Department of Education and Early Development, Division of Libraries, Archives, and Museums in the amount of \$22,300 for the purchase of an external hold locker; and,

WHEREAS, an external hold locker is a self-service system that allows patrons to pick up library materials in a convenient, contact-free method; and,

WHEREAS, the hold locker will be placed outside the front entrance and will therefore be accessible at all times; and,

WHEREAS, it is in the best interest of the City of Kenai and the Kenai Community Library to appropriate these grant funds for the purpose intended.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, as follows:

Section 1. That the City Manager is authorized to accept a grant in the amount of \$22,300 from the IMLS through the Department of Education and Early Development, Division of Library, Archives & Museums.

Section 2. That the estimated revenues and appropriations be increased as follows:

General Fund:

Increase Estimated Revenues – Library--Federal Grants	<u>\$22,300</u>
Increase Appropriations – Library – Machinery and Equipment	<u>\$22,300</u>

Section 3. That the City Manager is authorized to execute the grant agreement and to expend the grant funds to fulfill the purpose and intent of this Ordinance.

Section 4. Severability: That if any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision, or application.


Section 5. Effective Date: That pursuant to KMC 1.15.070(f), this ordinance shall take effect immediately upon enactment.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 5th day of January, 2022.

BRIAN GABRIEL SR., MAYOR

ATTEST:

Michelle M. Saner, MMC, City Clerk

Approved by Finance: 

Introduced: December 15, 2021
Enacted: January 5, 2022
Effective: January 5, 2022



MEMORANDUM

TO: Mayor Brian Gabriel and Council Members

THROUGH: Paul Ostrander, City Manager

FROM: Katja Wolfe, Library Director

DATE: December 6, 2021

SUBJECT: **Ordinance 3261-2021- Grant to the Purchase a Hold Locker**

The purpose of this memo is to request acceptance and appropriation of a \$22,300 grant from the Institute of Museum and Library Services (IMLS) through the Department of Education and Early Development, Division of Libraries, Archives, and Museums for the purchase of a self-service hold pickup locker.

Located outside the building, the secure locker will give library patrons the flexibility to pick up their reserved materials when it is convenient for them, even when the library is closed. The automated locker can also be utilized by those desiring a contact-less library visit.

Thank you for your consideration.



Sponsored by: Administration

CITY OF KENAI

ORDINANCE NO. 3262-2021

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, ACCEPTING AND APPROPRIATING A GRANT FROM THE INSTITUTE OF MUSEUM AND LIBRARY SERVICES PASSED THROUGH THE DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT, DIVISION OF LIBRARY, ARCHIVES & MUSEUMS FOR THE PURCHASE OF STEAM KIT SHELVING, LIBRARY MATERIALS, AND OTHER ITEMS.

WHEREAS, the Library received a grant from the Institute of Museum and Library Services (IMLS) through the Department of Education and Early Development, Division of Libraries, Archives, and Museums in the amount of \$6,000; and,

WHEREAS, \$3,500 will be used to purchase STEAM (Science, Technology, Engineering, Art and Math) kit shelving and programming equipment; and,

WHEREAS, \$2,500 will be used to purchase library materials; and,

WHEREAS, it is in the best interest of the City of Kenai and the Kenai Community Library to appropriate these grant funds for the purpose intended.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, as follows:

Section 1. That the City Manager is authorized to accept a grant in the amount of \$6,000 from the Institute of Museum and Library Services through the Department of Education and Early Development, Division of Library, Archives & Museums.

Section 2. That the estimated revenues and appropriations be increased as follows:

General Fund:

Increase Estimated Revenues –	
Library---Federal Grants	<u>\$6,000</u>
 Increase Appropriations –	
Library – Books	\$2,500
Library – Operating/Repair Supplies	3,100
Library – Small Tools/Minor Equipment	<u>400</u>
	<u>\$6,000</u>

Section 3. That the City Manager is authorized to execute the grant agreement and to expend the grant funds to fulfill the purpose and intent of this Ordinance.

Section 4. Severability: That if any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision, or application.


Section 5. Effective Date: That pursuant to KMC 1.15.070(f), this ordinance shall take effect immediately upon enactment.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 5th day of January, 2022.

BRIAN GABRIEL SR., MAYOR

ATTEST:

Michelle M. Saner, MMC, City Clerk

Approved by Finance: 

Introduced: December 15, 2021
Enacted: January 5, 2022
Effective: January 5, 2022



MEMORANDUM

TO: Mayor Brian Gabriel and Council Members

THROUGH: Paul Ostrander, City Manager

FROM: Katja Wolfe, Library Director

DATE: December 6, 2021

SUBJECT: **Ordinance 3262-2021 Acceptance of a Grant from the IMLS**

The purpose of this memo is to request acceptance and appropriation of \$6,000 from the Institute of Museum and Library Services (IMLS) through the Department of Education and Early Development, Division of Libraries, Archives, and Museums. Per the grant award, \$3,500 will be used for the purchase of STEAM (Science, Technology, Engineering, Art, and Math) kit shelving, a Chromebook charging station, and programming equipment (e.g., amplifiers and a canopy tent), and \$2,500 will be used for the purchase of library materials.

Thank you for your consideration.



Sponsored by: Administration

CITY OF KENAI

ORDINANCE NO. 3263-2021

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, INCREASING ESTIMATED REVENUES AND APPROPRIATIONS IN THE GENERAL FUND – POLICE DEPARTMENT AND ACCEPTING GRANTS FROM THE UNITED STATES DEPARTMENT OF JUSTICE AND ALASKA MUNICIPAL LEAGUE JOINT INSURANCE ASSOCIATION (AMLJIA) FOR THE PURCHASE OF BALLISTIC VESTS.

WHEREAS, the Kenai Police Department participates in a Ballistic Vest Partnership (BVP) grant program through the Department of Justice, which covers 50% of the cost of ballistic vests purchased for officers; and,

WHEREAS, the City’s current insurance company, AMLJIA, also has a ballistic vest reimbursement program, which covers 50% of the cost of ballistic vest purchased for officers; and,

WHEREAS, three ballistic vests were recently purchased for a total of \$5,630 and the two programs together will cover 100% of the cost of those ballistic vests.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, as follows:

Section 1. That the City Manager is authorized to accept and expend United States Department of Justice and AMLJIA grant funds for the purchase of ballistic vests.

Section 2. That the estimated revenues and appropriations be increased as follows:

General Fund:

Increase Estimated Revenues –	
Federal Grants – Police	\$2,815.00
Miscellaneous Grants	<u>2,815.00</u>
	<u>\$5,630.00</u>
Increase Appropriations –	
Police – Small Tools	<u>\$5,630.00</u>

Section 3. Severability: That if any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision, or application.


Section 4. Effective Date: That pursuant to KMC 1.15.070(f), this ordinance shall take effect immediately upon enactment.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 5TH day of January, 2022.

BRIAN GABRIEL SR., MAYOR

ATTEST:

Michelle M. Saner, MMC, City Clerk

Approved by Finance: 

Introduced: December 15, 2021
Enacted: January 5, 2022
Effective: January 5, 2022



MEMORANDUM

TO: Mayor Gabriel and Council Members

THROUGH: Paul Ostrander, City Manager

FROM: David Ross, Police Chief

DATE: November 24, 2021

SUBJECT: **Ordinance No. 3263-2021 Accepting Grant Funds for Ballistic Vests**

The police department participates in the United States Department of Justice' Ballistic Vest Partnership (BVP), which provides grant funds for half the cost of Officer ballistic vests. The City's insurance carrier, AMLJIA, also has a grant program by which they cover half the cost of ballistic vests purchased by officers.

The Police Department recently purchased five ballistic vests for officers, at a total cost of \$5,630 and anticipates that cost to be covered 100% by the two programs.

I am respectfully requesting consideration of the ordinance accepting and appropriating the grant funds for the purpose they were intended.



Sponsored by: Administration

CITY OF KENAI

ORDINANCE NO. 3264-2021

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, ACCEPTING AND APPROPRIATING ASSET FORFEITURE FUNDS PROVIDED TO THE CITY OF KENAI THROUGH THE STATE OF ALASKA DEPARTMENT OF PUBLIC SAFETY.

WHEREAS, the Kenai Police Department works cooperatively with the State of Alaska Department of Public Safety and participates in the regional drug task force (SCAN) with enforcement efforts that directly impact the City of Kenai and surrounding areas; and,

WHEREAS, In August of this year the Kenai Police Department received two asset forfeiture sharing checks totaling \$28,889.31 from the State of Alaska Department of Public Safety, related to drug cases where assets or cash were forfeited; and,

WHEREAS, the Kenai Police Department intends to use those funds as they were intended, for the furtherance of the administration of justice, through the purchase of law enforcement equipment.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, as follows:

Section 1. That the City Manager is authorized to accept these asset forfeiture funds from the Alaska Department of Public Safety and to use those funds for the purchase of law enforcement equipment.

Section 2. That the estimated revenues and appropriations be increased as follows:

General Fund

Increase Estimated Revenues –	
Asset Forfeiture checks from the State of Alaska	<u>\$28,889.31</u>
Increase Appropriations –	
Police – Small Tools	\$18,817.83
Police – Machinery and Equipment	<u>10,071.48</u>
	<u>\$28,889.31</u>

Section 3. Severability: That if any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision, or application.


Section 4. Effective Date: That pursuant to KMC 1.15.070(f), this ordinance shall take effect immediately upon enactment.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 5th day of January, 2022.

BRIAN GABRIEL SR., MAYOR

ATTEST:

Michelle M. Saner, MMC, City Clerk

Approved by Finance: 

Introduced: December 15, 2021
Enacted: January 5, 2022
Effective: January 5, 2022



MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council

THROUGH: Paul Ostrander, City Manager

FROM: David Ross, Police Chief

DATE: December 3, 2021

SUBJECT: Ordinance No. 3264-2021, Accepting Drug Forfeiture Funds

The Kenai Police Department received \$28,889.31 in asset forfeiture sharing funds from the State of Alaska Department of Public Safety. Those funds were shared with the Kenai Police Department after being forfeited to the State in connection with criminal drug cases, for which the Kenai Police Department participated in the investigation. Funds forfeited in this manner are intended to be used in furtherance of the administration of justice.

I am respectfully requesting consideration of the ordinance appropriating \$28,889.31 into the General Fund Accounts: Police- Small Tools - \$18,817.83 and Police – Machinery & Equipment - \$10,071.48 accounts to pay for law enforcement equipment. The primary purchases made with these funds are anticipated to be, an updated video recording system for police interview rooms, and video camera systems for some new police vehicles.



Sponsored by: Sponsored by Vice Mayor Glendening and Council Members Winger and Baisden

CITY OF KENAI

ORDINANCE NO. 3265-2021

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, INCREASING ESTIMATED REVENUE AND APPROPRIATIONS IN THE GENERAL FUND AND THE PARKS IMPROVEMENT CAPITAL PROJECT FUND FOR ADDITIONAL KENAI DOG PARK FUNDING.

WHEREAS, Resolution 2018-52 designated land within the Daubenspeck Family Park for the development of an off-leash dog park; and,

WHEREAS, since that time a group of volunteers has worked on fundraising and construction of the dog park; and,

WHEREAS, Ordinance 3211-2021 (Substitute) provided \$25,000 in available funding from the City's General fund for the park; and,

WHEREAS, despite the prior appropriation and fundraising efforts, additional funds are needed to complete the project; and,

WHEREAS, the dog park will be the first of its kind in the City and provide new recreational opportunities for residents and visitors; and,

WHEREAS, the park is intended to include access for disabled users; and,

WHEREAS, the group of volunteers spearheading the project have requested City assistance in completing some of the more complicated construction aspects of the project including lighting, water supply, security, ADA accessible walkways, and concrete work; and,

WHEREAS, it is in the best interest of the City to support the completion of the park by finishing the scope, design work, and the bid process for construction as needed.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, as follows:

Section 1. That the estimated revenues and appropriations be increased as follows:

General Fund:

Increase Estimated Revenues –	
Appropriation of Fund Balance	<u>\$63,000</u>

Increase Appropriations –	
Transfer to Parks Improvement Capital Project Fund	<u>\$63,000</u>

Section 2. That the estimated revenues and appropriations be increased as follows:

Parks Improvement Capital Project Fund:	
Increase Estimated Revenues –	
Transfer from General Fund	<u>\$63,000</u>
Increase Appropriations –	
Construction – Kenai Community Dog Park	<u>\$63,000</u>

Section 3. Severability: That if any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision, or application.


Section 4. Effective Date: That pursuant to KMC 1.15.070(f), this ordinance shall take effect immediately upon enactment.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 5th day of January, 2022.

BRIAN GABRIEL SR., MAYOR

ATTEST:

Michelle M. Saner, MMC, City Clerk

Approved by Finance: 

Introduced: December 15, 2021
Enacted: January 5, 2022
Effective: January 5, 2022



KENAI

City of Kenai | 210 Fidalgo Ave, Kenai, AK 99611-7794 | 907.283.7535 | www.kenai.city

MEMORANDUM

TO: Mayor Gabriel and Council Members

FROM: Vice Mayor Glendening, Councilmembers Winger and Baisden

DATE: December 9, 2021

SUBJECT: **Ordinance No. 3265-2021, Kenai Dog Park Funding**

This Ordinance appropriates \$63,000 into the Parks Improvement Capital Project Fund in support of completion of the Kenai Dog Park, including design and construction needs. Council has previously dedicated land for this park, with a group of volunteers raising funds and completing work to date. The City has also previously made \$25,000 available for the project. The volunteer fundraising efforts are ongoing. To ensure the project is built to the desired standards, it is important for the City to continue working forward with the volunteers to assist in its completion, including managing some of the more complicated aspects of the project. Completion of the park will provide new recreational opportunities for residents and visitors.

Your consideration is appreciated.



MEMORANDUM

TO: Mayor Gabriel and Council Members

THROUGH: Paul Ostrander, City Manager

FROM: Eland Conway, Airport Manager

DATE: December 3, 2021

SUBJECT: **Action Approval- Special Use Permit to American Red Cross of Alaska**

American Red Cross of Alaska is requesting a Special Use Permit effective December 1, 2021 through November 30, 2022.

The Permit is for approximately 475 sqft of general office space on the second floor at the Alaska Regional Fire Training Center. The American Red Cross provides services to the Kenai Peninsula such as house and forest fire response, smoke alarm installs and preparedness training. The monthly fee for this permit is \$1.00 per month, an additional \$211.44 for utilities per month, plus applicable sales tax.

The Special Use Application has been received and the \$100 application fee is paid.

Administration respectfully requests Council to approve the following motion:

I move to authorize the City Manager to issue a Special Use Permit to American Red Cross of Alaska effective December 1, 2021 through November 30, 2022.

SPECIAL USE PERMIT

THE CITY OF KENAI (CITY) for the considerations and pursuant to the conditions and requirements set forth below, hereby grants **AMERICAN RED CROSS OF ALASKA (PERMITTEE)**, a nonprofit corporation, whose address is 235 E. 8th Ave. Ste. 200, Anchorage Alaska, 99501, the non-exclusive right to use that area described below:

Access to second floor office space, ROOM 228, and parking at the Alaska Regional Fire Training Center, located at 450 Marathon Rd., Kenai, Alaska 99611. Approximately 475 square feet.

1. **TERM.** This special use permit shall commence and be effective on December 1, 2021, and shall extend through November 30, 2022.
2. **PERMIT FEES.** The monthly fee for this permit is \$1.00 per month, plus \$211.44 utilities cost per month, plus applicable sales tax.
3. **USE.** The right to use the ROOM 228 for General Office Space, Training and/or Testing, and Storage. This includes reasonable ingress and egress to and from ROOM 228 through the Building's common areas. Permittee shall not have the right to use any other space in the Building (such as library, conference rooms, break room, coffee room) or any equipment belonging to the City unless given written permission to do so.
4. **LICENSES AND PERMITS; LAWS.** Permittee shall adhere to all federal, state, and local laws, ordinances, and regulations while conducting its activities on the Premises. Permittee shall obtain and maintain all required federal, state, and local licenses, permits, certificates, and other documents required for Permittee's operations under the Permit. Permittee shall provide proof of compliance to the City upon request by the City.
5. **NO EXCLUSIVITY.** This Permit is not intended to grant any exclusive use to the described Premises.
6. **INSURANCE.** Permittee shall provide proof of insurance coverage, including worker's compensation, if necessary, in an amount satisfactory to the City Manager, and listing the City as an additional insured.
7. **INDEMNITY, DEFEND, AND HOLD HARMLESS AGREEMENT.** Permittee agrees to indemnify, defend, and hold the City, its agents, and employees harmless from and against any and all liability, loss, suit, claim, judgment, fine, demand, damage, penalty, property damage, or personal injury of whatever kind, including sums paid in settlements

of claims, attorney fees, consultant fees, expert fees, or costs incurred arising from or connected with the Permittee's use or occupation of the Premises. Permittee shall give the City of Kenai reasonable notice of any such claims or actions. However, Permittee shall not be responsible for any damage or claims from the sole negligence, activities, or omission of the City or its agents or employees.

8. PERSONALITY. Permittee must keep the space and all other materials on the Premises clean and in good condition.

Permittee shall remove any and all personal property from the Premises at the termination of this Permit (or any renewal thereof). Personal property placed or used upon the Premises will be removed and/or impounded by the City, if not removed upon termination of this Permit and when so removed and/or impounded, such property may be redeemed by the owner thereof only upon the payment to the City of the costs of removal plus storage charges of \$25.00 per day. The City of Kenai is not responsible for any damage to or theft of any personal property of Permittee at or from the Premises.

9. NO WAIVER. Failure to insist upon a strict compliance with the terms, conditions, and/or any requirement herein contained, or referred to, shall not constitute or be construed as a waiver or relinquishment of the right to exercise such terms, conditions or requirements.

10. MUTUAL CANCELLATION. This Permit may be cancelled in whole or in part with one month written notice by Permittee or the City.

11. NO DISCRIMINATION. Permittee will not discriminate on the grounds of race, color, religion, national origin, ancestry, age, or sex against any patron, employee, applicant for employment, or other person or group of persons in any manner prohibited by federal or State law. Permittee recognizes the right of the City to take any action necessary to enforce this requirement.

12. ASSUMPTION OF RISK. Permittee shall provide all proper safeguards and shall assume all risks incurred in its use of the Premises.

13. NO JOINT VENTURE. City shall not be construed or held to be a partner or joint venturer of Permittee in the conduct of its business or activities on the Premises.

14. CONTACT INFORMATION. The contact information for Permittee, and the person in responsible charge for Permittee during the term of the Permit, for purposes of notice and all communications from City to Permittee is:

American Red Cross of Alaska
235 E. 8th Ave. Ste. 200
Anchorage, Alaska 99501
Telephone: (907) 715-7649

The contact information for City for purposes of notice and all communications from Permittee to City is:

Airport Administration
305 North Willow, Suite 200
Kenai, Alaska 99611
Telephone: (907) 283-8281

15. RIGHTS OR REMEDIES. No right or remedy herein conferred upon or reserved to each respective party is intended to be exclusive of any other right or remedy. Each and every right and remedy shall be cumulative and in addition to any other right or remedy given hereunder, or now or hereafter existing at law or in equity.

16. GOVERNING LAW; VENUE. The laws of State of Alaska will determine the interpretation of this Agreement and the performance thereof. Any lawsuit brought thereon shall be filed in the Third Judicial District at Kenai, Alaska.

17. AUTHORITY. By signing this Permit, Permittee represents that it has read this agreement and it agrees to be bound by the terms and conditions herein and that the person signing this Permit is authorized to bind Permittee.

CITY OF KENAI

By: _____

City Manager

AMERICAN RED CROSS OF ALASKA

By: _____
Paul Ramage
Regional Facility Coordinator

Approved as to form:

Scott Bloom
City Attorney

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the ____ day of _____, 2021, City Manager of the City of Kenai, an Alaska municipal corporation, on behalf of the City.

Notary Public for Alaska
My Commission Expires: _____

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this ____ day of _____, 2021, the foregoing instrument was acknowledged before me by Paul Ramage, of AmericanRed Cross of Alaska, an Alaska non-profit corporation, on behalf of the corporation.

Notary Public for Alaska
My Commission Expires: _____

Alaska Regional Fire Training Center

Level 2





KENAI

City of Kenai | 210 Fidalgo Ave, Kenai, AK 99611-7794 | 907.283.7535 | www.kenai.city

MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
FROM: Jamie Heinz, City Clerk
DATE: December 8, 2021
SUBJECT: **Nomination and Confirmation of Applicants for Reappointment to Commissions**

Pursuant to Kenai Municipal Code (KMC) 1.90.010 & 1.90.040, the Mayor has nominated the following individual to be confirmed by City Council to a three-year term ending December 31, 2024 unless otherwise noted:

Airport Commission: Dan Pitts (reappointment)
 Jacob Caldwell (new appointment replacing Derek Leichliter, ending 2023)
 Joshua Daily (new appointment replacing Kimberly Dodge ending 2024)

Beautification Committee: Lisa Gabriel (reappointment)
 Janet Phillips (reappointment)
 Christina Warner (new appointment replacing Lydia Craycraft, ending 2022)

Council on Aging: Chuck Thornton (reappointment)
 Frances Kilfoyle (new appointment replacing Don Erwin, ending 2023)

Harbor Commission: Nate Berga (reappointment)
 Victoria Askin (new appointment replacing Clyde Crandall, ending 2024)

Parks & Recreation Commission: Charlie Stephens (reappointment)
 Jennifer Joanis (reappointment)

KMC requires Council confirmation of nominations presented by the Mayor. Your consideration is appreciated.



COMMITTEE/COMMISSION APPLICATION

City of Kenai
210 Fidalgo Avenue
Kenai, AK 99611
Phone: 283-8231
Fax: 283-5068
Email: cityclerk@kenai.city

Personal Information	
Name: DAN PITTS	Date: 11/10/21
Resident of the City of Kenai? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	How Long? AIRPORT LEASEE 30+ YEARS
Name of Spouse: REEAN	
Employer: SELF	Job Title: DENTIST
Contact Information	
Residence Address: 41765 EAST LAKE AVE	
Mailing Address: PO Box 1916	Email Address: danopitts@gmail.com
Home Phone No.: 907-262-5919	Home Fax No.:
Business Phone No.: 907-398-1535	Business Fax No.:
May we include your contact information on our webpage? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes, but not all	
Please specify what we can include on our webpage:	
Affiliations	
Current membership in organizations: ADA, NRA, ALASKA RENTAL SOCIETY, AOPA, SOLDOTNA ROTARY	
Past organizational memberships: NONE	
City committee or commission in which you are interested: AIRPORT COMMISSION	
Why do you want to be involved with this Committee or Commission? I HAVE LEASED SPACE ON KENAI AIRPORT 30+ YEARS. WE DO BUSINESS WITH CROWLEY, RAVN, EVERTS, NORTH AIR.	
What background, experience, or credentials do you possess to bring to the commission or committee membership? 40+ YEAR PILOT, FLIGHT INSTRUCTOR 30+ YEAR KENAI AIRPORT BUSINESS.	

FOR CITY USE ONLY ROUTING: <input type="checkbox"/> Clerk's Office DISTRIBUTION: <input type="checkbox"/> City Council <input type="checkbox"/> File
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From: [Jacob Caldwell](#)
To: [City Clerk](#)
Subject: Form submission from: Commission/Committee Application
Date: Wednesday, October 20, 2021 11:52:57 AM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Submitted on Wednesday, October 20, 2021 - 11:52am

Submitted by anonymous user: 69.178.28.100

Submitted values are:

Date Wed, 10/20/2021

Name Jacob Caldwell

Resident of City of Kenai? No

If resident, how long?

Residence Address 34840 Poppy Wood St, Soldotna, AK 99669

Mailing Address 34840 Poppy Wood St, Soldotna, AK 99669

Home Telephone 9073989447

Home Fax

Business Telephone 907-283-4124

Business Fax

Email address jacob@kenaiaviation.com

May we include your contact information on our website? Yes

If not all, what may we include?

Employer Kenai Aviation

Job Title Director of Station Operations

Name of Spouse Autumn Caldwell

Current Membership Organization N/A

Past organizational memberships N/A

Committees or commissions in which you are interested Airport

Why do you want to be involved with this commission or committee?

I have grown up around this airport and the local aviation community and want to be able to give back to the community and to the airport. I would like to bring my experience working at airports across the country to benefit our local municipal airport.

What background, experience, or credentials do you possess to bring the board, commission, or committee membership?

I have 12 years work experience in the aviation industry, a BS in Aviation Technology with an Aviation Administration emphasis from UAA, a FAA Private Pilot license and Aircraft Dispatcher license. My work experience has been primarily in airline operations and management with Grant Aviation, Alaska Airlines, and Kenai Aviation. During my time with all three companies I have served as a primary airport liaison and worked closely with the airport staffs at each airport I have worked on.

The results of this submission may be viewed at:

<https://www.kenai.city/node/2601/submission/9231>

From: [Joshua Daily](#)
To: [City Clerk](#)
Subject: Form submission from: Commission/Committee Application
Date: Friday, October 22, 2021 3:56:15 PM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Submitted on Friday, October 22, 2021 - 3:56pm

Submitted by anonymous user: 162.58.82.135

Submitted values are:

Date Fri, 10/22/2021

Name Joshua Daily

Resident of City of Kenai? Yes

If resident, how long? 2 years

Residence Address

Mailing Address

Home Telephone

Home Fax

Business Telephone

Business Fax

Email address daily539@gmail.com

May we include your contact information on our website? Yes, but not all (specify below)

If not all, what may we include? Email

Employer Federal Aviation Administration

Job Title Supervisory Air Traffic Control Specialist

Name of Spouse Rheanna Daily

Current Membership Organization None

Past organizational memberships

Committees or commissions in which you are interested Airport Commission

Why do you want to be involved with this commission or committee?

I have a passion for aviation and a passion for leadership. Serving on the Kenai airport commission has been a goal of mine since joining Kenai Flight Service Station in 2019. I have worked with several of the commission members in the past and feel that I would be a great addition to the already experienced team already in place.

What background, experience, or credentials do you possess to bring the board, commission, or committee membership?

Education: BS Air Traffic Management, Embry-Riddle Aeronautical University, 2011; MS Aeronautics, Embry-Riddle Aeronautical University, 2014.

Experience: I have been an air traffic controller since 2014, working at Baton Rouge Metro Airport in Louisiana, Kenai ATC Tower, and Kenai FSS. Before becoming an air traffic controller, I worked at the FAA Headquarters in Washington, D.C. in project management and systems engineering. Student pilot.

The results of this submission may be viewed at:

From: [Lisa Gabriel](#)
To: [City Clerk](#)
Subject: Form submission from: Commission/Committee Application
Date: Monday, November 15, 2021 11:02:05 AM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Submitted on Monday, November 15, 2021 - 11:01am

Submitted by anonymous user: 74.123.241.2

Submitted values are:

Date Mon, 11/15/2021

Name Lisa Gabriel

Resident of City of Kenai? Yes

If resident, how long? 32 Years

Residence Address 2305 Watergate Way, Kenai, AK 99611

Mailing Address 2305 Watergate Way, Kenai, AK 99611

Home Telephone 907-252-9524

Home Fax

Business Telephone

Business Fax

Email address gabriel1@alaska.net

May we include your contact information on our website? Yes

If not all, what may we include?

Employer Kenai Peninsula Borough School District

Job Title Administrative Assistant/Superintendent/Board of Education

Name of Spouse Brian Gabriel Sr.

Current Membership Organization Alaska Federation of Republican Women, Kenai Peninsula Fishermen's Association

Past organizational memberships

Committees or commissions in which you are interested Beautification

Why do you want to be involved with this commission or committee?

I would like to continue on the Beautification committee. I believe that the work we have done in the past has helped not only make our City look better, but the activities we have had the opportunity to sponsor with the support of the Kenai City Council have enriched the lives of our citizens.

What background, experience, or credentials do you possess to bring the board, commission, or committee membership?

I have been on the committee for the past 10 years. I am community-minded and look forward to working with the committee to continue our work of beautifying and making the City of Kenai a better place to live.

The results of this submission may be viewed at:

<https://www.kenai.city/node/2601/submission/9381>

From: [Janet Phillips](#)
To: [City Clerk](#)
Subject: Form submission from: Commission/Committee Application
Date: Sunday, November 21, 2021 1:10:41 AM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Submitted on Sunday, November 21, 2021 - 1:10am

Submitted by anonymous user: 107.115.29.10

Submitted values are:

Date Sat, 11/21/2020

Name Janet Phillips

Resident of City of Kenai? Yes

If resident, how long? 22 months

Residence Address 325 Portlock St

Mailing Address 325 Portlock St

Home Telephone 9073143738

Home Fax

Business Telephone

Business Fax

Email address tiggerwild1966@gmail.com

May we include your contact information on our website? Yes

If not all, what may we include?

Employer Alaska Ready Constructors

Job Title Office Manager

Name of Spouse Clayton Phillips

Current Membership Organization Beautification Committee

Past organizational memberships City of St Robert Parks and Rec Board, Youth Sports Board, Aglow Board, and others

Committees or commissions in which you are interested Beautification Committee

Why do you want to be involved with this commission or committee? I love being involved in the communities in which I live!

What background, experience, or credentials do you possess to bring the board, commission, or committee membership?

I have been on many boards in my lifetime to include the parks and rec. I simply enjoy working with others in my community towards a common goal.

The results of this submission may be viewed at:

<https://www.kenai.city/node/2601/submission/9461>

From: [Christina Warner](#)
To: [City Clerk](#)
Subject: Form submission from: Commission/Committee Application
Date: Thursday, June 17, 2021 7:38:25 PM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Submitted on Thursday, June 17, 2021 - 7:38pm

Submitted by anonymous user: 209.165.168.206

Submitted values are:

Date Thu, 06/17/2021

Name Christina Warner

Resident of City of Kenai? Yes

If resident, how long? Lifelong

Residence Address

Mailing Address P.O. Box #911, Kenai 99611

Home Telephone (907) 690-4977

Home Fax N/A

Business Telephone N/A

Business Fax N/A

Email address

May we include your contact information on our website? Yes, but not all (specify below)

If not all, what may we include? Mailing Address, Phone Number

Employer Budget Rent A Car

Job Title Customer Service Agent

Name of Spouse Kevin Warner

Current Membership Organization Professional Disc Golf Association, Kenai Eagle

Women's League

Past organizational memberships Benevolent and Protective Order of Elks, Moose International

Committees or commissions in which you are interested Parks and Recreation *or Beautification (confirmed 12/8/21)*

Why do you want to be involved with this commission or committee?

As a lifelong resident of Kenai, I intend to utilize this opportunity to fulfill my civic responsibility to our beautiful city. I feel it is paramount to stay active year round, and I want to ensure that families and individuals have resources and activities available. In summation, I want to service our community and give back to this unique space we call home.

What background, experience, or credentials do you possess to bring the board, commission, or committee membership?

My proposal to the Parks and Recreation Committee to install restrooms at a local park, was passed unanimously. I spent time researching our local parks, meeting members of the community and approaching them with my petition, and attending a Parks and Recreation meeting, where I delivered my request and took questions from the panel. In May of 2021, I founded a public women's league for a hobby I am passionate about. The goal of which is to give give ladies a new activity, and to get people outdoors, utilizing our parks. Although, I have a minimal background in local government, I am familiar with the process. In addition to the above, I am very detail oriented, inquisitive, level headed, eloquent, and organized. I

have worked in customer service for a number of years which enables me to communicate easily, and I am able to build a rapport with people from all walks of life.

The results of this submission may be viewed at:

<https://www.kenai.city/node/2601/submission/8321>



COMMITTEE/COMMISSION APPLICATION

City of Kenai
 210 Fidalgo Avenue
 Kenai, AK 99611
 Phone: 283-8231
 Fax: 283-5068
 Email: cityclerk@kenai.city

Personal Information	
Name: Charles Thornton	Date: 11-15-2021
Resident of the City of Kenai? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	How Long? 6 years
Name of Spouse: Janice	
Employer: Retired	Job Title: Pastor
Contact Information	
Residence Address: 381 Senior Court, Apt 113 Kenai, AK 99611	
Mailing Address: same	Email Address: cthornton@alaskagrace.net
Home Phone No.: 907-395-0312	Home Fax No.: X
Business Phone No.: X	Business Fax No.: X
May we include your contact information on our webpage? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes, but not all	
Please specify what we can include on our webpage:	
Affiliations	
Current membership in organizations: Life Member of Inspire (National Pastor's Fellowship)	
Past organizational memberships:	
City committee or commission in which you are interested: Kenai Counsel on Aging	
Why do you want to be involved with this Committee or Commission? I think I may make a contribution to its ministry	
What background, experience, or credentials do you possess to bring to the commission or committee membership? 50+ years of pastoral ministry to people of all ages, including Seniors	

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KENAI

COMMITTEE/COMMISSION APPLICATION

City of Kenai
210 Fidalgo Avenue
Kenai, AK 99611
Phone: 283-8231
Fax: 283-5068
Email: cityclerk@kenai.city

Personal Information	
Name: <i>Frances Kilfoyle</i>	Date: November 22, 2021
Resident of the City of Kenai? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	How Long? <i>45 years</i>
Name of Spouse:	
Employer: <i>retired</i>	Job Title:
Contact Information	
Residence Address: <i>104 North Gill Street #110B</i>	
Mailing Address: <i>same</i>	Email Address: <i>NONE</i>
Home Phone No.: <i>907 283 8436</i>	Home Fax No.: <i>NONE</i>
Business Phone No.: <i>NONE</i>	Business Fax No.: <i>NONE</i>
May we include your contact information on our webpage? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes, but not all	
Please specify what we can include on our webpage:	
Affiliations	
Current membership in organizations: <i>I am active at Kenai Senior Center - TOPS Club - Baptist Church</i> <i>College Heights</i>	
Past organizational memberships: <i>A couple of Quilt Clubs over the years</i>	
City committee or commission in which you are interested: <i>Council ON Aging</i>	
Why do you want to be involved with this Committee or Commission? <i>I am a senior citizen myself, as are many of the I care most about. I am interested in things that concerns our quality of life.</i>	
What background, experience, or credentials do you possess to bring to the commission or committee membership? <i>I have lived in Kenai for 45 years. I know alot of people here. It is familiar to me. Its my home. And as I said I am a Senior Citizen</i>	

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 ROUTING: Clerk's Office
 DISTRIBUTION: City Council File

From: [Nate Berga](#)
To: [City Clerk](#)
Subject: Form submission from: Commission/Committee Application
Date: Monday, November 15, 2021 4:06:52 PM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Submitted on Monday, November 15, 2021 - 4:06pm

Submitted by anonymous user: 24.237.158.252

Submitted values are:

Date Mon, 11/15/2021

Name Nate Berga

Resident of City of Kenai? No

If resident, how long?

Residence Address 30179 Kalifornsky Beach Road Kasilof AK 99610

Mailing Address PO Box 190 Kenai AK 99611

Home Telephone 907-395-7068

Home Fax

Business Telephone

Business Fax

Email address aknate@gmail.com

May we include your contact information on our website? Yes

If not all, what may we include?

Employer Pacific Star Seafoods

Job Title Plant Manager

Name of Spouse

Current Membership Organization Alaska Salmon Alliance, Cook Inlet Aquaculture Association

Past organizational memberships

Committees or commissions in which you are interested Kenai Harbor Commission

Why do you want to be involved with this commission or committee? My life revolves around the mouth of the Kenai River and has since 1999.

What background, experience, or credentials do you possess to bring the board, commission, or committee membership?

The results of this submission may be viewed at:

<https://www.kenai.city/node/2601/submission/9391>

From: [Victoria J. Askin](#)
To: [City Clerk](#)
Subject: Form submission from: Commission/Committee Application
Date: Wednesday, October 13, 2021 8:05:34 PM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Submitted on Wednesday, October 13, 2021 - 8:05pm

Submitted by anonymous user: 209.112.186.112

Submitted values are:

Date Wed, 10/13/2021

Name Victoria J. Askin

Resident of City of Kenai? Yes

If resident, how long? 37 years

Residence Address 2520 Watergate Way

Mailing Address PO Box 178

Home Telephone 9+07-283-3972

Home Fax 907-283-3972

Business Telephone 907-283-138

Business Fax 907-398-1308

Email address ectt@ptialaska.net

May we include your contact information on our website? Yes

If not all, what may we include?

Employer Hilcorp Alaska LLC

Job Title I & E Technician

Name of Spouse Marty

Current Membership Organization None

Past organizational memberships LEPC, Harbor Commission, Planning & Zoning Commissions, City Council

Committees or commissions in which you are interested Harbor, Planning & Zoning, Airport, Parks & Rec

Why do you want to be involved with this commission or committee?

Have served on both Harbor and Planning and Zoning, enjoyed both, Planning and Zoning being my favorite. Harbor is of interest now because of the potential waterfront activity happening in the next year.

What background, experience, or credentials do you possess to bring the board, commission, or committee membership?

Prior experience along with employment experience that is pertinent to both Harbor and Planning and Zoning.

The results of this submission may be viewed at:

<https://www.kenai.city/node/2601/submission/9201>

From: [Garrett Ennis](#)
To: [City Clerk](#)
Subject: Form submission from: Commission/Committee Application
Date: Friday, November 26, 2021 1:08:34 PM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Submitted on Friday, November 26, 2021 - 1:08pm

Submitted by anonymous user: 212.102.46.44

Submitted values are:

Date Fri, 11/26/2021

Name Garrett Ennis

Resident of City of Kenai? Yes

If resident, how long? 42 years

Residence Address

Mailing Address

Home Telephone 9074204292

Home Fax

Business Telephone

Business Fax

Email address

May we include your contact information on our website? Yes, but not all (specify below)

If not all, what may we include? My phone number

Employer KPBSD

Job Title Substitute Teacher

Name of Spouse

Current Membership Organization None

Past organizational memberships

Committees or commissions in which you are interested Harbor Commission

Why do you want to be involved with this commission or committee?

I would like to start getting involved with local issues that affect our community and get the experience necessary to make a positive impact. I was informed that there was a vacancy from commission members so I figured I'd apply.

What background, experience, or credentials do you possess to bring the board, commission, or committee membership?

No real background experience that pertains to maintaining a harbor but I'm a quick study and do have an interest in how a commission operates. For what it's worth I do hold a BA in Music and a Class A CDL.

The results of this submission may be viewed at:

<https://www.kenai.city/node/2601/submission/9521>



COMMITTEE/COMMISSION APPLICATION

City of Kenai
210 Fidalgo Avenue
Kenai, AK 99611
Phone: 283-8231
Fax: 283-5068
Email: cityclerk@kenai.city

Personal Information
Name: Charlie Stephens Date: 11/15/21
Resident of the City of Kenai? [X] Yes [] No How Long? 24 years
Name of Spouse: Julie Stephens
Employer: Retired Job Title:
Contact Information
Residence Address:
Mailing Address: Email Address: cstephens-711@gmail.com
Home Phone No.: Home Fax No.:
Business Phone No.: Business Fax No.:
May we include your contact information on our webpage? [] Yes [] No [X] Yes, but not all
Please specify what we can include on our webpage: email ONLY
Affiliations
Current membership in organizations: National Ed. Assoc., Retired-
Past organizational memberships: N-E-A
City committee or commission in which you are interested: Parks & Rec
Why do you want to be involved with this Committee or Commission? I have enjoyed being on the commission and am interested in having input regarding the city's Parks.
What background, experience, or credentials do you possess to bring to the commission or committee membership? 25 years teaching/coaching, including 14 years of teaching P.E.

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ROUTING: [] Clerk's Office
DISTRIBUTION: [] City Council [] File



COMMITTEE/COMMISSION APPLICATION

City of Kenai
 210 Fidalgo Avenue
 Kenai, AK 99611
 Phone: 283-8231
 Fax: 283-5068
 Email: cityclerk@kenai.city

Personal Information	
Name: Jennifer Joanis	Date: 11/08/21
Resident of the City of Kenai? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	How Long? 13.5 years
Name of Spouse: Lance Joanis	
Employer: self	Job Title: Attorney/Mediator
Contact Information	
Residence Address:	
Mailing Address: PO Box 1786, Kenai 99611	Email Address: jpeavey89@hotmail.com
Home Phone No.:	Home Fax No.:
Business Phone No.: sa	Business Fax No.:
May we include your contact information on our webpage? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes, but not all	
Please specify what we can include on our webpage: Name, mailing address, and email	
Affiliations	
Current membership in organizations: Kenai Peninsula Bar Association (Secretary); Kenai Parks and Recreation Commission; Kenai Classical School (Treasurer); Membership: Lee Shore Center; 100 Women Who Care; KDLL; Kenai Performers; Kenai Peninsula Orchestra	
Past organizational memberships: Kenai Little League	
City committee or commission in which you are interested: Parks and Recreation	
Why do you want to be involved with this Committee or Commission? I am renewing my application because my term has expired and have a continued interest in promoting the parks and trails for multi-purpose use and enjoyment. I firmly believe that quality recreation and outdoor spaces foster not only a high quality of life, but also encourage economic interest.	
What background, experience, or credentials do you possess to bring to the commission or committee membership? My family and I are active users of the parks and outdoor spaces in Kenai.	

FOR CITY USE ONLY ROUTING: <input type="checkbox"/> Clerk's Office DISTRIBUTION: <input type="checkbox"/> City Council <input type="checkbox"/> File
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MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
FROM: Jamie Heinz, City Clerk
DATE: December 8, 2021
SUBJECT: **Planning & Zoning Commission Vacancy**

The Planning & Zoning Commission will have two vacancies as of December 31, 2021 due to terms ending. All requirements pursuant to Code have been met to fill these vacancies. Applications received for consideration are attached to this correspondence.

Pursuant to KMC 14.05.015 (b), "... the Mayor shall make nominations only from the list of persons who timely submitted an application..." and, as per KMC 14.15.015 (c), "... The Kenai City Council shall review the Mayor's nomination no later than the next regular Council meeting following the meeting in which the Mayor made the nomination..."

Mayor Gabriel has nominated Jeff Twait and Gwen Woodard for reappointment to the Planning and Zoning Commission. Council shall consider confirmation of the Mayor's nominations no later than the January 5, 2022 meeting.

From: [Jeff Twait](#)
To: [City Clerk](#)
Subject: Form submission from: Commission/Committee Application
Date: Wednesday, November 10, 2021 6:05:06 PM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Submitted on Wednesday, November 10, 2021 - 6:04pm

Submitted by anonymous user: 24.237.158.248

Submitted values are:

Date Wed, 11/10/2021

Name Jeff Twait

Resident of City of Kenai? Yes

If resident, how long? 30 years

Residence Address 1808 Julie Anna Drive

Mailing Address 1808 Julie Anna Drive

Home Telephone 9073984624

Home Fax

Business Telephone 907-398-4624

Business Fax

Email address cornerstonecustomhomedesigns@gmail.com

May we include your contact information on our website? Yes

If not all, what may we include?

Employer Cornerstone Custom Homes & Designs

Job Title Owner

Name of Spouse Heather Morning

Current Membership Organization Kenai Peninsula Builders Association

Past organizational memberships

Committees or commissions in which you are interested Planning and Zoning

Why do you want to be involved with this commission or committee? Help craft planning and zoning policy in our community

What background, experience, or credentials do you possess to bring the board, commission, or committee membership? 15 years as a member of the Commission

The results of this submission may be viewed at:

<https://www.kenai.city/node/2601/submission/9371>



COMMITTEE/COMMISSION APPLICATION

City of Kenai
 210 Fidalgo Avenue
 Kenai, AK 99611
 Phone: 283-8231
 Fax: 283-5068
 Email: cityclerk@kenai.city

Personal Information	
Name: Gwen Woodard	Date: 11/24/2021
Resident of the City of Kenai? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	How Long? 54 years
Name of Spouse: Michael Woodard	
Employer: Retired	Job Title:
Contact Information	
Residence Address: 702 Cypress Dr	
Mailing Address:	Email Address:
Home Phone No.: 907-283-7708	Home Fax No.:
Business Phone No.:	Business Fax No.:
May we include your contact information on our webpage? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes, but not all	
Please specify what we can include on our webpage: Address, home phone	
Affiliations	
Current membership in organizations: Republican Women of the Kenai, Precinct leader #220	
Past organizational memberships:	
City committee or commission in which you are interested: Planning & Zoning (continued)	
Why do you want to be involved with this Committee or Commission? I've served on the Commission for nearly a year and have found it gratifying to participate in the future of our community.	
What background, experience, or credentials do you possess to bring to the commission or committee membership? I don't have the construction background of several of the Commissioners but feel I add the outlook of a local retailer (past) and homeowner.	

FOR CITY USE ONLY ROUTING: <input type="checkbox"/> Clerk's Office DISTRIBUTION: <input type="checkbox"/> City Council <input type="checkbox"/> File
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Sponsored by: Mayor Gabriel

CITY OF KENAI

RESOLUTION NO. 2020-89

A RESOLUTION OF THE CITY OF KENAI, ALASKA, OPPOSING ALTERNATIVE 4 PROPOSED TO THE NORTH PACIFIC FISHERY MANAGEMENT COUNCIL THAT WOULD CLOSE ALL FEDERAL WATERS IN COOK INLET TO COMMERCIAL SALMON FISHING.

WHEREAS, the North Pacific Fishery Management Council developed the *Fishery Management Plan for Salmon Fisheries in the EEZ off Alaska*, (FMP) that manages salmon fisheries in the United State Exclusive Economic Zone (EEZ; 3 nautical miles to 200 nautical miles off shore of Alaska); and,

WHEREAS, pursuant to a United States Court of Appeals Ninth Circuit ruling, after successful litigation brought by Cook Inlet commercial fishermen and seafood processors, the North Pacific Fishery Management Council must amend the FMP to bring it in line with the Ninth Circuit Court's decision; and,

WHEREAS, the North Pacific Fishery Management Council is considering four alternative amendments to the FMP:

Alternative 1 is status quo or no action, deferring management to the State of Alaska by excluding the traditional net fishing area in the Cook Inlet EEZ from the FMP (the Ninth Circuit Court ruling makes this alternative "untenable" according to the authors' of the Public Review Draft Environmental Assessment/ Regulatory Impact Review for Proposed Alternative XX to the Fishery Management Plan for the Salmon Fisheries in the EEZ Off Alaska);

Alternative 2 would establish federal management of the commercial salmon fishery in Cook Inlet with management of the commercial fishery delegated to the State of Alaska in accordance with the Magnuson Stevens Act and other applicable federal law;

Alternative 3 would establish Federal management of the commercial salmon fishery in Cook Inlet with the North Pacific Fishery Management Council and national Marine Fisheries Service without delegation of management to the State of Alaska; and

Alternative 4 would effectively close all federal waters in Cook Inlet to commercial salmon fishing; and,

WHEREAS, the City Council of Kenai has consistently advocated for science-based fisheries management decisions; and,

WHEREAS, Alternative 4 proposed by the State of Alaska ADF&G Deputy Commissioner at the North Pacific Fishery Management Council's October 12, 2020 meeting after closure of public comment is not a science-based decision, but instead according to the United Cook Inlet Drift association is a punitive decision for bringing the lawsuit and rather than constituting a

management plan consistent with sound fishery management and applicable federal regulations simply short circuits the Court’s decision and intent of the Magnuson Stevens Act and FMP by eliminating the fishery altogether; and,

WHEREAS, if Alternative 4 were adopted by the North Pacific Fishery Management Council, it would close the area of fishing where most the Cook Inlet Drift Fleet harvest occurs, effectively eliminating the economic viability of the fishery and viability of local seafood processors; and,

WHEREAS, the loss of the drift gillnet fishery in Cook Inlet would cause severe job loss, loss of capital investment in the fishery and support businesses, and could impact other fisheries if local processing capacity is lost or reduced; and,

WHEREAS, a 2015 report published by the McDowell group titled “The Economic Impact of the Seafood Industry in Southcentral Alaska” reported that the seafood industry in the reporting region directly employs over 10,000 people seasonally and had an economic output of \$1.2 billion; and,

WHEREAS, the City Council recognizes that the drift gillnet fleet, like other fisheries users, is a critical component of the City, positively contributing to the City’s local history, culture and economy; and,

WHEREAS, the City Council opposes adoption by the North Pacific Fishery Management Council of Alternative 4 which would effectively end the Cook Inlet Drift Net fishery and cause sever local economic impact and other harm to the City.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA:

Section 1. That the City Council opposes the North Pacific Fishery Management Council adopting Alternative 4, and that a copy of this Resolution along with other consistent written comment from the Mayor or City manager be provided to the North Pacific Fishery Management Council as public comment for consideration at its December meeting.

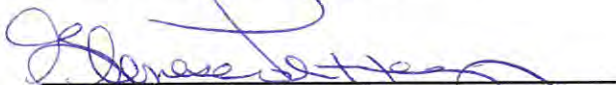
Section 2. That the City Council has not considered which of the remaining alternatives should be adopted by the NPFMC.

Section 3. That this resolution takes effect immediately upon passage.

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 23rd day of November, 2020.


BRIAN GABRIEL SR., MAYOR


ROBERT MOLLOY, VICE MAYOR


GLENEASE PETTEY, COUNCIL MEMBER

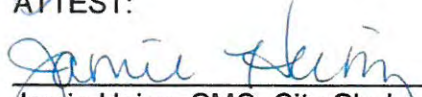

JIM GLENDENING, COUNCIL MEMBER


TEEA WINGER, COUNCIL MEMBER

SEAT VACANT, COUNCIL MEMBER


HENRY KNACKSTEDT, COUNCIL MEMBER

ATTEST:


Jamie Heinz, CMC, City Clerk





Sponsored by: The Kenai City Council

CITY OF KENAI

RESOLUTION NO. 2021-52

A RESOLUTION OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, OPPOSING AMENDMENT 14 TO THE FISHERY MANAGEMENT PLAN FOR SALMON FISHERIES IN THE EEZ OFF ALASKA.

WHEREAS, the Magnuson-Stevens Fishery Conservation and Management Act directs the North Pacific Fishery Management Council (Council) to prepare a fishery management plan for each fishery under its authority that requires conservation and management; and,

WHEREAS, the North Pacific Fishery Management Council developed the *Fishery Management Plan for Salmon Fisheries in the EEZ off Alaska*, (FMP) that manages salmon fisheries in the United State Exclusive Economic Zone (EEZ; 3 nautical miles to 200 nautical miles off shore of Alaska); and,

WHEREAS, pursuant to a United States Court of Appeals Ninth Circuit ruling, after successful litigation brought by the Cook Inlet commercial fishermen and seafood processors, the North Pacific Fishery Management Council was required to amend the FMP to bring it in line with the Ninth Circuit Court's decision; and,

WHEREAS, the North Pacific Fishery Management Council considered four alternative amendments to the FMP at its December 7, 2020 meeting selecting Alternative 4 that closes all federal waters in Cook Inlet to commercial salmon fishing; and,

WHEREAS, the City of Kenai, through Resolution No. 2020-89, dated November 23, 2020, provided its opposition of Alternative 4 to the Council; and,

WHEREAS, the City of Kenai through Resolution No. 2021-13 requested the US Secretary of Commerce to Veto the North Pacific Salmon Fishery Management Council's adoption of Alternative 4; and,

WHEREAS, at its meeting of June 16, 2021 the Kenai City Council approved the submission of comments to the National and Oceanic and Atmospheric Administration (NOAA) opposing proposed regulations closing the EEZ to commercial salmon fishing; and,

WHEREAS, NOAA is soliciting comments on Amendment 14 to the Fishery Management Plan for salmon fisheries in the EEZ submitted by the North Pacific Management Council; and,

WHEREAS the City Council of Kenai opposes Amendment 14 because closure of the fishery in the EEZ does not promote the goals of the Magnuson-Stevens Act and very likely will significantly harm the fishery participants and negatively impact the City of Kenai; and,

WHEREAS, closing of the fishery in the EEZ does not provide the greatest opportunity for harvest, and while closure does protect salmon, minimize regulatory burden, and avoid additional management jurisdictions, other paths forward could accomplish the same without the potential harm to the fishery participants and communities that rely on and support the fishery; and,

Resolution No. 2021-52
Page 2 of 3

WHEREAS, the North Pacific Management Council's conclusion that Amendment 14 will provide for sustained participation of communities in the fishery and minimize adverse economic impacts to the City is unsubstantiated and likely untrue; and,

WHEREAS, the City of Kenai has never been consulted by the North Pacific Management Council as to what the effects of Amendment 14 might impose on the City; and,

WHEREAS, both sport, personal use and commercial fisheries have played a key role in the history, society and economy of the City; and,

WHEREAS, the Kenai City Council has heard testimony from industry participants that Amendment 14 could lead to the closure of local processing capacity affecting the future viability of both drift and setnet fisheries in Cook Inlet; and,

WHEREAS, the loss of the commercial fisheries in Cook Inlet not only would effect the fishermen who directly rely on the fishery, but many support industries and businesses that benefit from the local economy generated by the fisheries and processors; and,

WHEREAS, it is disingenuous of the North Pacific Management Council to suggest that closure of the fishery would provide any benefit to the fisheries participants or to the City of Kenai.


NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA:

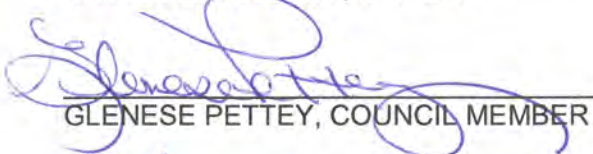
Section 1. The Council unanimously opposes Amendment 14 to the Fishery Management Plan for salmon fisheries in the EEZ submitted by the North Pacific Management Council and authorizes the City Clerk to provide this Resolution to NOAA as comments on the proposed Amendment.


Section 2. That this resolution takes effect immediately upon passage.

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 7th day of July, 2021.


BRIAN GABRIEL, SR., MAYOR

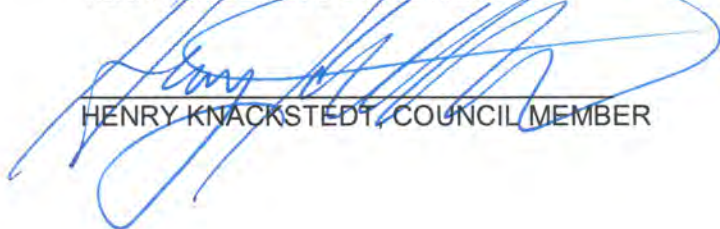

ROBERT MOLLOY, VICE MAYOR


GLENEISE PETTEY, COUNCIL MEMBER


JIM GLENDENING, COUNCIL MEMBER


TEEA WINGER, COUNCIL MEMBER


VICTORIA ASKIN, COUNCIL MEMBER


HENRY KNACKSTEDT, COUNCIL MEMBER

Resolution No. 2021-52

Page 3 of 3

ATTEST:

Jamie Heinz

Jamie Heinz, MMC, City Clerk





MEMORANDUM

TO: Mayor Gabriel and Council Members
FROM: Scott Bloom, City Attorney
DATE: March 31, 2021
SUBJECT: **Resolution 2021-52- Objecting to Amendment 14**

This Resolution provides the City Council's opposition to Amendment 14 to the Fishery management Plan for the Salmon Fisheries in the Exclusive Economic Zone off Alaska that would close certain federal waters to commercial salmon fishing. Comments on the Rule proposed by the National Oceanic and Atmospheric Administration are due by July 19, 2021.

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(907) 277-1900 (phone)
(907) 277-1920 (facsimile)

*Attorneys for United Cook Inlet Drift Association and
Cook Inlet Fishermen’s Fund*

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED COOK INLET DRIFT
ASSOCIATION and COOK INLET
FISHERMEN’S FUND,

Plaintiffs,

v.

NATIONAL MARINE FISHERIES
SERVICE; NATIONAL OCEANIC AND
ATMOSPHERIC ADMINISTRATION;
GINA RAIMONDO, in her official capacity
as the United States Secretary of Commerce;
JANET COIT, in her official capacity as
Assistant Administrator, National Oceanic
and Atmospheric Administration; and JAMES
W. BALSIGER, in his official capacity as
NMFS Alaska Region Administrator,

Defendants.

Civil Action No.: _____

**COMPLAINT FOR DECLARATORY
JUDGMENT AND INJUNCTIVE
RELIEF, AND PETITION FOR
REVIEW (42 U.S.C. § 4332; 16 U.S.C.
§§ 1801-1891d; 5 U.S.C. §§ 553, 701-
706)**

United Cook Inlet Drift Association, et al. v. NMFS, et al

SUMMARY OF ACTION

1. Plaintiffs have a related action pending in *United Cook Inlet Drift Association, et al., v. National Marine Fisheries Service, et. al.* 3:13-cv-00104-TMB. Plaintiffs have sought relief in that related action to include the allegations below pursuant to Federal Rule of Civil Procedure 15(a)(2) and 15(d). Plaintiffs hereby file this complaint protectively in response to arguments by Federal Defendants in the related action that relief under Civil Rule 15 is not proper or warranted, or otherwise insufficient to satisfy the applicable statute of limitations.

2. Commercial salmon fishing in Alaska is an important part of the state's cultural heritage and history. Salmon fishing has supported generations of Alaska fishers and their families and has been the life blood of many rural Alaskan communities and businesses since long before statehood.

3. The Cook Inlet salmon fishery has historically been one of the nation's most productive salmon fisheries. But during the last two decades, the commercial harvest in Cook Inlet has steadily—and more recently, precipitously—declined. In the 1980s and 1990s, the sockeye salmon harvest alone ranged consistently from four to nine million sockeye per year. The 10-year average annual commercial catch from 2008 to 2017 is now down to just 2.7 million sockeye. The commercial sockeye harvest was about 1.8 million in 2017 and 2019, and the commercial sockeye harvest in 2018 was only 814,516—the worst harvest in over 40 years. In 2020, the commercial salmon

United Cook Inlet Drift Association, et al. v. NMFS, et al

harvest in Cook Inlet reached *a new low*, below 2018, with 669,751 sockeye harvested and 1.2 million total commercial harvest of all five salmon species. These precipitous declines have all occurred under the exclusive management, control and direction of the State of Alaska.

4. In 2010, Plaintiffs sought to turn the tide of state mismanagement of the fishery by appealing to the National Marine Fisheries Service (“NMFS”) and the North Pacific Fishery Management Council (the “Council”), and asking for the development of a fishery management plan (“FMP”) to manage the Cook Inlet salmon fishery in a manner consistent with the National Standards of the Magnuson-Stevens Fishery Conservation and Management Act (the “MSA” or Magnuson-Stevens Act”). NMFS and the Council flatly refused, cynically claiming that they (as the entities entrusted by Congress to manage this nation’s fishery resources) lacked the expertise to manage salmon in Alaska (even though they manage salmon in other areas of Alaska). Instead, in 2012, NMFS and the Council issued Amendment 12 to the *Fishery Management Plan for Salmon Fisheries in the EEZ off the Coast of Alaska* (the “Salmon FMP”). See 77 Fed. Reg. 75,570 (Dec. 21, 2012). Amendment 12 cut the Cook Inlet salmon fishery out of the Salmon FMP altogether and deferred all management authority to the State of Alaska.

5. Plaintiffs initiated this lawsuit eight years ago against Federal Defendants (collectively NMFS) to challenge Amendment 12. The Ninth Circuit Court of Appeals agreed with Plaintiffs that NMFS’s decision to defer management to the State of Alaska in Amendment 12 was illegal. *United Cook Inlet Drift Ass’n v. Nat’l Marine Fisheries*

United Cook Inlet Drift Association, et al. v. NMFS, et al

Serv., 837 F.3d 1055, 1063 (9th Cir. 2016). The Ninth Circuit instructed that NMFS could not “wriggle out of” its duties or “shirk” the statutory command to produce an FMP for the Cook Inlet salmon fishery. *Id.* at 1063, 1064. Moreover, the Ninth Circuit rejected NMFS’s argument that the Magnuson-Stevens Act “does not expressly require an FMP to cover an entire fishery.” *Id.* at 1064. Furthermore, the “Act makes plain that federal fisheries are to be governed by federal rules in the national interest, not managed by a state based on parochial concerns.” *Id.* at 1063. As this Court explained, the Ninth Circuit “held that Magnuson-Stevens Act requires” the Council “to create an FMP for each entire fishery under its authority that requires conservation and management.” Dkt. 168 at 2-3.

6. The Ninth Circuit decision in September of 2016 initiated a five-year administrative process that NMFS, the Council, and the State of Alaska turned into a complete farce. At the last minute, the Council completely abandoned its efforts to create a federally delegated or a federally managed FMP program for the Cook Inlet salmon fishery. Instead, at the urging of the State of Alaska (and with help from NMFS), the Council proposed an amendment (“Amendment 14”) that closes commercial salmon fishing in federal waters altogether, relinquishes and defers all management decision for the Cook Inlet salmon fishery to the State of Alaska. This is precisely the opposite of what the Ninth Circuit instructed. NMFS proceeded to draft language for Amendment 14 for the Council, reviewed and approved Amendment 14, and issued final regulations

implementing Amendment 14 on November 3, 2021. *See* 86 Fed. Reg. 60,568 (Nov. 3, 2021).

7. The NMFS decision to close the commercial salmon fishing in federal waters will have immediate and disastrous consequences on commercial processors and fishers, their families, and the communities and business that depend on salmon fishing in Cook Inlet. The closed area in Cook Inlet has been an essential part of commercial fishing in Cook Inlet for over 100 years. As one Alaska legislator explained, Amendment 14 “will likely put an end to commercial fishing in Cook Inlet, and therefore, and Alaskan way of life.”

8. As discussed more fully below, Amendment 14 and its implementing regulations, like its predecessor Amendment 12, are arbitrary, capricious, and contrary to the Magnuson-Stevens Act, 16 U.S.C. §§ 1801-1891d; the National Environmental Policy Act (“NEPA”), 42 U.S.C. § 4321, *et seq.*; and the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 551-559, 701-706.

9. Even worse, the process associated with Amendment 14 demonstrates that the Council and NMFS were not acting in good faith during the remand of Amendment 12. Public records show that members of the Council were actively trying to avoid the application of federal standards to the Cook Inlet salmon fishery. The Commissioner for the Alaska Department of Fish and Game, Doug Vincent Lang, a member of the Council, expressed concern that the Council would “take actions to bring state management in federal waters in line with federal standards” under the Magnuson-Stevens Act. Behind

the scenes, and outside the public process, Commissioner Lang developed a political strategy based on the supposed “State Right to Manage” the fishery, and in opposition to “federal or outsider influence.” Without informing the public or stakeholders, Commissioner Lang determined that the state was “unwilling” to accept a delegated management authority in Cook Inlet (even though it accepts delegated management authority for other fisheries) and left stakeholders and Council staff to continue on a fool’s errand trying to develop a delegated program that the state had predetermined it was never going to accept. This fact was not disclosed by the state until after the close of public comment in December 2020, and immediately before the state called for a vote to close the fishery. NMFS is complicit in this scheme, as staff were aware of the state’s plan, and not only stayed silent on the issue, but actively advised State of Alaska representatives to omit the rationale related to the “State’s sovereign rights over management of the salmon fisheries” from the record before the Council, and replace it with a pretextual explanation ostensibly related to salmon conservation. This is not fair dealing.

10. For all these reasons, and those discussed below, Plaintiffs respectfully request this Court to vacate the decision approving Amendment 14 and its implementing regulations, and seek an order requiring NMFS to comply with the MSA and develop an appropriate FMP that covers Cook Inlet. Plaintiffs request the Court to declare that Amendment 14, its underlying implementing regulations, and NMFS’s NEPA Finding of No Significant Impact (“FONSI”) are arbitrary, capricious, and an abuse of discretion;

not in accordance with law; and in excess of statutory jurisdiction, authority, or limitations. Plaintiffs further seek an order vacating Amendment 14 and its underlying implementing regulations, and the FONSI, and remanding to Defendants under the prescriptive supervision of this Court as set forth in the Request for Relief below.

PARTIES

Plaintiffs

11. Plaintiff United Cook Inlet Drift Association (“UCIDA”) is a corporation in good standing registered under the laws of the State of Alaska. UCIDA represents the economic, social, and political interests of drift gillnet fishermen and their families in Cook Inlet, Alaska. UCIDA currently has approximately 200 members who hold limited-access salmon driftnet fishing permits, issued by the State of Alaska, in Cook Inlet. UCIDA membership ranges across 27 different states and one foreign country.

12. UCIDA’s members make their living by commercial fishing. UCIDA’s members hold State of Alaska limited-entry permits (meaning additional permits can no longer be issued and are fully allocated), which authorize them to catch all five species of salmon: sockeye, coho, chinook, chum, and pink. The majority of drift gillnet fishing by UCIDA’s members in Cook Inlet occurs within federal waters in the exclusive economic zone (“EEZ”).

13. Drift gillnet boats are small-scale fishing operations, typically crewed by one to three persons. Each fishing operation represents a substantial investment in the boat, gear, and the permit itself. Each boat is generally allowed to deploy a single 900-

foot-long gillnet. The gillnet is suspended in the water column by floats (called “corks”) as the boat drifts with the current—hence the name “drift gillnet.” After the gillnet is allowed to “soak” in the water for a length of time (as the boat and net drift with the current), the gear is hauled in, and the fish are removed and placed on ice in the boat’s hold. Those fish are then transported to, and offloaded at, one of Cook Inlet’s local seafood processors in fishing communities such as Kenai, Kasilof, Ninilchik, or Homer. After processing, these salmon are delivered throughout the United States and around the world.

14. In addition to permit holders, UCIDA has approximately 30 Associate members including fish processors, gear suppliers, crew members, and other interested members of the community.

15. UCIDA’s mission is to promote public policy that facilitates the science-based and orderly harvest of Cook Inlet salmon in a manner that is economically and ecologically sustainable and that protects commercial salmon fishing in Cook Inlet as a viable way of life. UCIDA and its members are committed to the protection of the environment of Cook Inlet, and to ensuring that its marine resources are both managed and conserved to enhance the health and productivity of the ecosystem. To that end, UCIDA has advocated in state and federal forums for management of these stocks in a manner consistent with the goals and objectives of the MSA, including management consistent with the MSA’s Maximum Sustainable Yield (“MSY”) principles (MSY is defined at 50 C.F.R. § 600.310(e)(1)(i)(A) as the largest long-term average catch or yield

that can be taken from a stock or stock complex under prevailing ecological, environmental conditions). The relief UCIDA seeks in this lawsuit is germane to its organizational purpose.

16. Plaintiff Cook Inlet Fishermen’s Fund (“CIFF”) is a non-profit corporation registered under the laws of the State of Alaska. CIFF has 446 members, including commercial fishermen of all gear types, seafood processors, and community members. The majority of CIFF’s members are from Alaska, but CIFF also has members from 21 other states.

17. CIFF’s mission is to advocate on behalf of all commercial fishermen of Cook Inlet and for the coastal community more generally. CIFF’s members and volunteers are fueled by the desire to save the commercial fishing industry in Cook Inlet as well as all of Alaska. The relief CIFF seeks in this case is germane to its organizational purpose.

18. Plaintiffs, directly or through their members, fully participated, to the limited extent allowed by NMFS and the Council, in the proceedings predating the decisions challenged in this lawsuit. Plaintiffs submitted detailed written comments and testimony on Amendment 14 and its implementing regulations and the accompanying draft environmental assessment (“EA”).

19. Plaintiffs have standing to bring this action because their members are directly and adversely impacted by Amendment 14 and its implementing regulations, which close fishing in federal waters in Cook Inlet and improperly defers and

relinquishes all management decisions for the Cook Inlet salmon fishery to the State of Alaska. Plaintiffs and their members are also adversely impacted by Defendants' failure to comply with the procedural requirements of NEPA and the MSA. The challenged agency decisions are final and ripe for review by this Court.

Defendants

20. NMFS is an agency of the National Oceanographic and Atmospheric Administration ("NOAA"), U.S. Department of Commerce. NMFS is sometimes referred to as NOAA Fisheries. Among its duties, NMFS is responsible for managing commercial marine fisheries to ensure sustainable harvests that provide the greatest overall benefit to the nation pursuant to the MSA.

21. Defendant Gina Raimondo is the Secretary of the U.S. Department of Commerce and is sued in her official capacity. Secretary Raimondo directs all business of the Department of Commerce, including NOAA and its agency, NMFS. Through these agencies, Secretary Raimondo is ultimately responsible for the approval of Amendment 14, its implementing regulations, and the EA and corresponding FONSI, and is further responsible for the Department of Commerce's compliance with federal law, including NEPA, the MSA, and the APA.

22. Defendant Janet Coit is the Assistant Administrator for NMFS and is sued in her official capacity. The Secretary of Commerce has delegated responsibility to the NOAA Administrator to ensure compliance with NEPA, the MSA, and the APA, and to promote effective management and stewardship of the nation's fisheries resources and

assets to ensure sustainable economic opportunities. The NOAA Administrator, in turn, has subdelegated this responsibility to NMFS.

23. Defendant James Balsiger is the Administrator of the NMFS Alaska Region and is sued in his official capacity. Dr. Balsiger also is a voting member of the Council and participated in the remand process leading to the development of Amendment 14. Dr. Balsiger drafted Amendment 14, and then reviewed and approved Amendment 14 on behalf of NMFS.

JURISDICTION AND VENUE

24. This Court has jurisdiction over this action pursuant to 5 U.S.C. §§ 701-706 (APA), 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 2201 (declaratory judgments), 28 U.S.C. § 2202 (injunctive relief), and 16 U.S.C. §§ 1855(f) and 1861(d) (MSA).

25. Defendants have waived sovereign immunity in this action pursuant to 5 U.S.C. § 702 and 16 U.S.C. § 1855(f).

26. Plaintiffs have exhausted all administrative remedies.

27. Venue is properly vested in this Court under 28 U.S.C. § 1391 because Plaintiffs' principal place of business is in this district, and a substantial part of the acts or omissions giving rise to this controversy occurred in this district.

STATUTORY FRAMEWORK

The Magnuson-Stevens Fishery Conservation and Management Act

28. The MSA is the primary domestic legislation governing management of federal fisheries. 16 U.S.C. §§ 1801-1891d.

29. The MSA created eight regional fishery management councils that are primarily charged with preparing FMPs and plan amendments for each managed federal fishery. *Id.* § 1852(a)(1).

30. The MSA requires an FMP for each fishery under the regional council's jurisdiction "that requires conservation and management." *Id.* § 1852(h)(1). The FMP is the foundational document for management of each fishery and provides the framework for ensuring that fisheries are managed in a manner consistent with the requirements of the MSA and its National Standards.

31. The MSA's purpose is to put these national fishery resources under "sound management" and "to realize the full potential of the Nation's fishery resources." *Id.* § 1801(a)(5)-(6). This includes both conservation measures to prevent overfishing, as well as a "national program for the development of fisheries which are underutilized or not utilized by the United States fishing industry." *Id.* § 1801(a)(7).

32. The MSA gives special attention to anadromous species such as salmon. Indeed, the MSA's stated purpose is "to take immediate action to conserve and manage the fishery resources found off the coasts of the United States, and the *anadromous species . . . of the United States.*" *Id.* § 1801(b)(1) (emphasis added).

33. The Council manages fisheries in the EEZ off Alaska's coast. Prior FMPs developed by the Council govern the management of salmon fisheries, including but not limited to the salmon fisheries, in which Plaintiffs' members participate.

34. The authority of a state to manage fisheries in the EEZ, beyond the state's territorial waters (three miles for purposes of MSA), is constrained by the MSA. The state may regulate all fishing activities in the adjacent portions of the EEZ only to the extent that the applicable FMP delegates such authority. *Id.* § 1856(a)(3). Absent such delegation through an FMP, the state may only regulate vessels registered under the laws of that state in the EEZ.

35. Fishery management councils submit proposed FMPs and FMP amendments to the Secretary of Commerce for review and approval. *Id.* §§ 1853, 1854. All FMPs, and FMP amendments, must be consistent with the requirements of the MSA, including the 10 National Standards set forth in the MSA.

36. The MSA's National Standards guide all FMPs and MSA regulations. For example, National Standard 1 requires FMPs to prevent overfishing while achieving the optimum yield from each fishery for the U.S. fishing industry. *Id.* § 1851(a)(1). National Standard 2 requires that all conservation measures be based on the best scientific information available. *Id.* § 1851(a)(2). National Standard 3 provides that fisheries should be managed as a unit throughout their range, where practicable. *Id.* § 1851(a)(3). National Standard 4 requires that any allocation of fishing rights be "fair and equitable" to fishermen and "shall not discriminate between residents of different States." *Id.* § 1851(a)(4). National Standard 7 requires conservation measures to, where practicable, minimize costs and unnecessary duplication. *Id.* § 1851(a)(7). National Standard 8 requires conservation measures to take into account the importance of the fishery

resources to fishing communities, to provide for the sustained participation of, and to minimize impacts on, such communities. *Id.* § 1851(a)(8). National Standard 10 requires conservation measures to promote the safety of human life at sea. *Id.* § 1851(a)(10).

37. The Secretary of Commerce, acting through NMFS, must disapprove an FMP amendment to the extent it is inconsistent with provisions of the MSA or any other applicable law.

38. The Secretary of Commerce must also approve all regulations that implement an FMP. *Id.* § 1854(b). The Secretary must give notice of proposed rulemaking and provide an opportunity for public comment on proposed regulations. *Id.*

39. Any fishery management regulation implementing an FMP must be consistent with the MSA, including the 10 National Standards for fishery management and conservation. *Id.* §§ 1854(b), 1851(a).

The National Environmental Policy Act

40. Approvals of FMPs, FMP amendments, and implementing regulations are subject to NEPA requirements, 42 U.S.C. § 4321, *et seq.*; 16 U.S.C. § 1854(i).

41. Congress established NEPA as “our basic national charter for protection of the environment.” 40 C.F.R. § 1500.1(a) (1978) (amended July 16, 2020). NEPA and its implementing regulations require that federal agencies, including NMFS, must prepare an environmental impact statement (“EIS”) for all “major Federal actions significantly affecting the quality of the human environment.” 42 U.S.C. § 4332(2)(C); *see* 40 C.F.R. § 1501.3–6 (2020). The purpose of NEPA is to ensure that federal decision-making is

fully and publicly informed through a reasonably thorough and thoughtful analysis of the probable environmental impacts resulting from a proposed federal action, and through identification and analysis of a reasonable range of alternative actions, including the no-action alternative. In enacting NEPA, Congress sought to ensure that federal agencies take a hard look at the environmental consequences of any proposed action and required agencies to comply with NEPA “to the fullest extent possible.” 42 U.S.C. § 4332.

42. NEPA requires that a federal agency proposing a major federal action with significant environmental effects prepare a detailed statement, which must include the environmental impacts of and alternatives to the proposed action. *Id.* § 4332(2)(C)(i)-(iii). This detailed written statement is an EIS. *See* 40 C.F.R. § 1508.1(j) (2020).

43. To determine whether an EIS is necessary, an agency may first prepare an EA. *See id.* §§ 1501.5(a)–(c), 1508.1(h) (2020). An EA is a “concise public document prepared by a Federal agency to aid an agency’s compliance with the Act and support its determination of whether to prepare an [EIS] or a [FONSI].” *Id.* § 1508.1(h) (2020). An EA must contain sufficient information and analysis to determine whether the proposed action is likely to have significant impacts, thus requiring preparation of an EIS. *See id.* §§ 1501.5(a)–(c), 1508.1(h) (2020). An EA must consider a reasonable range of alternatives, and must include a reasonably thorough discussion of the direct, indirect, and cumulative impacts of the proposed alternative. *See* § 1501.5(c)(2) (2020).

44. If an agency concludes, based on the EA, that an EIS is not required, it must prepare a FONSI, which explains the agency’s reasons for its decision. *Id.* §§ 1501.6(a)–(c), 1508.1(l) (2020).

45. The analysis of alternatives should present the environmental impacts of the proposed action and the alternatives based on the information and analysis presented. *Id.* § 1502.14 (2020). The analysis must evaluate reasonable alternatives to the proposed action, identify a “no action” alternative, discuss in detail each alternative considered, and discuss the reasons alternatives were eliminated from detailed study. *Id.* § 1502.14(a)–(f) (2020). These alternative analysis requirements also apply to EAs. *See* 42 U.S.C. § 4332(2)(E); 40 C.F.R. § 1501.5(c)(2) (2020).

The Administrative Procedure Act

46. The APA provides for judicial review of final agency action by persons “aggrieved” by such action. 5 U.S.C. § 702. The actions reviewable under the APA include any “preliminary, procedural, or intermediate agency action or ruling . . . on the review of the final agency action.” *Id.* § 704.

47. The APA also provides standards applicable when a federal agency proposes and adopts final rules and regulations. *Id.* §§ 553, 551(4). Specifically, agencies must provide “[g]eneral notice” of any “proposed rule making” to the public through publication in the Federal Register. That notice must include: “(1) a statement of the time, place, and nature of public rule making proceedings; (2) reference to the legal authority under which the rule is proposed; and (3) either the terms or substance of the

proposed rule or a description of the subjects and issues involved.” *Id.* § 553(b). An agency’s responsibility to consider public comments on a proposed rulemaking is required by 5 U.S.C. § 553(c).

48. Under the APA, a reviewing court shall “hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” *Id.* § 706(2)(A). A reviewing court shall also “hold unlawful and set aside agency action, findings, and conclusions found to be . . . without observance of procedure required by law.” *Id.* § 706(2)(D).

STATEMENT OF FACTS

The Cook Inlet Salmon Fishery

49. Upper Cook Inlet is home to five species of anadromous salmon—chinook, sockeye, coho, pink, and chum—as well as steelhead trout. These are some of the largest natural, wild returns of salmon in the nation. And unlike many of our nation’s fisheries that are fully utilized (or even overutilized), Cook Inlet salmon stocks are largely underutilized. For example, in 2014 an estimated 20 million pink salmon returned to Cook Inlet, but state restrictions limited harvest to 642,754 fish, with *15 million pink salmon not utilized* and not needed for biological purposes. This happened again in 2020.

50. The Kenai River sockeye runs in Cook Inlet, in particular, are world-class, with the potential to produce millions of adult sockeye returns annually. These sockeye are also genetically unique, with an unusual variety in the age and large size of adult returning stocks.

51. The commercial fishery on these Cook Inlet anadromous stocks dates back to at least 1882, utilizing all manner of gear types, from fishwheels to driftnets. The federal government expressly recognized the national importance of maintaining this commercial fishery in 1952 when it negotiated by treaty to exclude Cook Inlet from an international treaty banning most net fishing activities outside of state waters.

52. Commercial fishing in Upper Cook Inlet is currently limited to two gear types (set and drift gillnets) and occurs on all five Cook Inlet anadromous salmon stocks. East side set net operations deploy gillnets from fixed locations near shore, anchored to the bottom, and commonly extending in sections as far as one and half miles offshore. West side set net operations are commonly extended up to 5 miles off shore. Northern District set net operations commonly extend up to 10 miles off of the northern inlet shores. Drift gillnets, by contrast, are deployed from small vessels. Each drift gillnet is approximately 900 feet long.

53. The majority of commercial fishing harvest in Upper Cook Inlet is on sockeye. The vast majority of the commercially caught Cook Inlet salmon find their way to grocery stores and restaurants in the United States. Cook Inlet salmon are an important and healthy part of the nation's food supply.

54. The Cook Inlet salmon fishery is highly competitive and requires conservation and management.

The 1990 Salmon FMP

55. The last major revision to the Salmon FMP was in 1990. The 1990 Salmon FMP has two management areas: the East Area and the West Area. The border between the two areas is the longitude of Cape Suckling.

56. The 1990 Salmon FMP addressed commercial salmon fishing in the East and West Areas differently. In the East Area (which consists primarily of coastal waters off southeast Alaska), the 1990 FMP set forth the Council's management goals and objectives. The 1990 FMP delegated management of East Area fisheries, consistent with the Council's management goals and objectives, to the State of Alaska.

57. In the West Area, by contrast, the 1990 Salmon FMP provided little guidance on how to manage salmon. Instead, the 1990 Salmon FMP closed the vast majority of the West Area to commercial fishing, consistent with prohibitions in the International Convention for the High Seas Fishery of the North Pacific Ocean ("High Seas Convention"). Also consistent with the High Seas Convention, the 1990 FMP exempted from this closure three historic net fisheries: Cook Inlet, Prince William Sound, and the Alaska Peninsula area. The EEZ portion of Cook Inlet open to fishing is a contiguous area of approximately 1,100 square miles. The 1990 Salmon FMP did not expressly delegate management to the State of Alaska or set clear management goals or objectives for the West Area.

58. The High Seas Convention was repealed and replaced in 1992 by the North Pacific Anadromous Stock Act of 1992, which contained no provisions for management of the three historic net fisheries areas. Despite the change in the law, the Council took

no action to make changes to the FMP to clarify for the West Area how it was to be managed for nearly 20 years.

The State of Alaska's Management of the Cook Inlet Salmon Fishery

59. The State of Alaska has managed the salmon fisheries in Alaska since 1960. As a condition of statehood, Alaska was allowed to manage the Cook Inlet salmon fishery provided that “the Alaska State Legislature has made adequate provision for the administration, management, and conservation of said resources in the broad *national interest*.” Alaska Statehood Act, Pub. L. No. 85-508 § 6(e), 72 Stat. 339, 341 (1958) (emphasis added). The State of Alaska sets its fishery management policies through the Alaska State Board of Fish, and implements those management policies through the Alaska Department of Fish and Game.

60. The State of Alaska manages salmon in Cook Inlet based on a series of state management plans without Federal oversight. Generally speaking, these management plans set escapement goals for salmon. An escapement goal, in this context, is the number of salmon that the state has determined is necessary or desirable to “escape” past a fishery and, thereby, provides spawning stock for successive generations or meets other needs.

61. The state management plans also include allocation decisions. Allocation decisions are generally made by setting the number of fishing days, including time and area, allowed for a particular gear type during the season.

62. In season, the state manages these fisheries based on assessments of run strength, as measured against desired escapement goals. In theory, if the run strength is estimated to be larger than normal, then more fishing days are authorized to avoid exceeding maximum escapement targets. If run strengths are estimated to be smaller than normal, then fewer fishing days are authorized to avoid dropping below minimum escapement targets. These run strength assessments are based on preseason forecasts, test boat data, and other factors. Fishing in the EEZ, including test boat fishing in the EEZ, is essential to proper management of the commercial harvest in Cook Inlet.

63. Setting science-based escapement goals for salmon is essential to a well-managed fishery. If an escapement goal is set too low, then the fishery gets overfished and run strengths diminish over time. If an escapement goal is set too high, then the harvestable surplus is lost. Where too many salmon escape and spawn, the fitness of that run may also be diminished in future years due to density-dependent effects and other biological and ecological factors. That is especially the case for sockeye, where rearing space and food supply in the lakes and rivers are a limiting factor. Over-escapement events can reduce run strengths for two or three successive years.

64. The state has two basic kinds of escapement goals: biological and sustainable. Biological escapement goals are intended to achieve the MSY (human consumption for that fishery as a food resource). Sustainable escapement goals, by contrast, are based on historical data showing that a certain harvest level can be sustained.

In Upper Cook Inlet, only one salmon stock has a biological escapement goal. This goal has not been peer reviewed or set for MSY as required by MSA and National Standard 1.

65. Beginning in 2000, the state imposed a “Sustainable Salmon Fisheries Policy” (“SSFP”) intended to ensure the long-term viability of salmon runs in Alaska.

66. The state has affirmatively stated that it is under no obligation to comply with the MSA in making its fishery management decisions. Indeed, the state’s record has shown that it has not managed the fisheries, especially the fisheries in Cook Inlet, in a manner consistent with the MSA.

67. In 1990, when the last Salmon FMP was created, the state typically managed the salmon fisheries in accordance with the MSA. Beginning in 1996, the state began departing from MSA management. And, when the state subsequently adopted the SSFP, it no longer made any attempt to manage fisheries in Cook Inlet under MSA standards.

68. During the last two decades, the commercial harvest in Cook Inlet has steadily—and more recently, precipitously—declined. In the 1980s and 1990s, the *sockeye* salmon harvest alone ranged consistently from four to nine million sockeye per year. The Secretary declared a fishery disaster in Cook Inlet in 2012 due to the commercial salmon fishery failure. The commercial sockeye harvest was about 1.8 million in 2017 and 2019, and commercial sockeye harvest in 2018 was only 814,516—the worst harvest in over 40 years. The 2018 total commercial harvest of *all five* salmon species was approximately 1.3 million salmon: 61% less than the most

recent 10-year average (already reduced) annual harvest of 3.4 million fish. In 2020, the commercial salmon harvest in Cook Inlet reached a new low below 2018 with 669,751 sockeye harvested and 1.2 million total commercial harvest of all five salmon species. Petitions for disaster declarations for the 2018 and 2020 commercial seasons are currently pending with the Secretary.

69. The decline in harvest and disaster requests are a direct result of mismanagement by the State of Alaska because of unnecessary restrictions on the commercial fisheries, preventing the harvest of millions of surplus salmon annually. State management in 2021 provides an example. In 2021, the State of Alaska missed the high end of already overinflated escapement goals for sockeye on the Kenai and Kasilof Rivers and Fish Creek by allowing a *surplus* of 1,447,618 sockeye to escape. This wasted surplus *was larger than the entire commercial sockeye harvest* for Upper Cook Inlet in 2021 of 1,403,017 sockeye. The state wasted more sockeye than it allowed to be harvested.

70. Accompanying this period of historically low salmon harvest is the state's decision to gradually restrict the commercial fishery year after year, with most openings now being severely geographically limited to only a narrow band, preventing the fishery from targeting areas where salmon congregate. Commercial drift fishing historically occurred predominately in the EEZ, but state restrictions have progressively pushed fishing efforts out of this essential fishing area. At the same time, the state has continued to increase "escapement" levels to record high (and likely unsustainable) levels in order

to guarantee more than enough fish for the sport fishers to catch and to stock the state resident-only personal use fishery with hundreds of thousands of fish.¹ Even with inflated escapement targets, the restrictions on commercial fishing are so significant that the state still regularly exceeds those escapement goals by a wide margin (e.g., the Kenai in-river sockeye goal has been exceeded nine out of the last 10 years).

71. The state restrictions have resulted in severe financial hardship to the U.S. citizens participating in the Cook Inlet commercial salmon fishery, as well as the businesses that rely on the commercial harvest. Twenty years ago, Cook Inlet had 23 major salmon processors willing to purchase and prep salmon for the wholesale and retail markets, including both international markets and local food stores throughout America. Presently, there are only two major salmon processors left in Cook Inlet.

72. Importantly, these state restrictions are based not on science or sound principles of species conservation and fishery management, but rather on other “allocative purposes,” like “mak[ing] sport fisheries more enjoyable.” In fact, as a result of the state’s over-escapement approach, the increasing *sport* fishery (and the resident-only personal use fishery) has harmed Cook Inlet salmon by causing “serious in-river habitat degradation problems such as hydrocarbon pollution and turbidity levels that exceed clean water standards, and miles of trampled riverbanks.” Millions of salmon go

¹ For example, the in-river escapement goal for sockeye in the 1980s and early 1990s (when the fishery was doing very well) was 400,000 to 700,000. ER 384. By 2011, the state ratcheted that goal to 1.1 million to 1.35 million, with no underlying biological basis for the change. *Id.*

unharvested every year while the commercial fleet is sidelined, to the detriment of Plaintiffs' members, local fishing communities, and the national interest in this important food source as expressed by the Magnuson-Stevens Act.

73. As noted above, only one salmon stock in Cook Inlet is claimed to have a biologically-based escapement goals. Many runs in Cook Inlet have no escapement goal of any kind. There are no escapement goals for pink salmon, only one tributary with escapement goals for chum, and two tributaries with escapement goals for coho. Of the 35 chinook tributaries, only seven have any escapement goals or monitoring data, and most of those seven are listed under the state designation of "stock of concern."

74. State management in Cook Inlet has destabilized the fishery. As a result, many seafood processors have simply quit doing business in Cook Inlet, citing a hostile business environment created by state mismanagement as the reason. In recent decades, the commercial catch of salmon in Cook Inlet has declined as a result of state management decisions. Harvests of some stocks have declined as much as 50% due to state management. Every year, millions of salmon (worth tens of millions of dollars to local and national communities and businesses), above and beyond those necessary to meet biological needs, go unharvested due to state mismanagement.

Amendment 12 to the Salmon FMP

75. In 2007, Congress amended the MSA to require all fishery management councils to amend their FMPs to "establish a mechanism for specifying annual catch limits in the plan (including a multiyear plan), implementing regulations, or annual

specifications, at a level such that overfishing does not occur in the fishery, including measures to ensure accountability.” 16 U.S.C. § 1853(a)(15). Congress gave the fishery management councils a deadline of “fishing year” 2011 to accomplish this goal for any fishery that was not being overfished. *Id.* § 1853 note.

76. In 2010, the Council began the process of amending the Salmon FMP to comply with this statutory deadline. Plaintiffs, and their members, fish processors, and community leaders from Cook Inlet enthusiastically participated in the Council’s process. Plaintiffs explained in public testimony and written comments that the salmon fisheries in Cook Inlet were experiencing significant management concerns that have resulted in reduced run strengths, wasted harvests, and reduced salmon quality. Plaintiffs further explained that the state was not managing this fishery in a manner consistent with the MSA, as conceded by the state who affirmatively represented that it was not obligated to do so. Accordingly, Plaintiffs asked the Council to update the FMP for the West Area, provide management goals and objectives for Cook Inlet and annual catch limits (or an appropriate proxy for annual catch limits) as required by the MSA, and then delegate management to the state consistent with these goals and objectives. This is precisely what the Council proposed to do (and did) for the federal salmon fisheries in the East Area, and Plaintiffs explained that similar measures were necessary to address ongoing management concerns in Cook Inlet.

77. Plaintiffs also offered to work with the Council, and with Defendants, to secure funding to carry out those tasks.

78. Instead of granting Plaintiffs' request or working with the commercial salmon fishing groups to address their concerns, Council members told Plaintiffs that their belief that the Council could provide them any help was "naive and misguided" or "ill-founded, at best." The Council emphasized that the "National Marine Fisheries Service does not have the expertise . . . to effectively manage salmon fisheries," and that it was naive to expect that the federal agencies could help the state achieve the optimum yield required by the MSA or help stabilize unpredictability in the management of the fishery.

79. Instead of complying with Congress's annual catch limit requirement, the Council, with the support of Defendants, adopted Amendment 12 to the FMP, which provided no annual catch limits for Cook Inlet. Instead of including annual catch limits in the Salmon FMP for Cook Inlet, the Council redrew the map of the West Area to withdraw Cook Inlet from inclusion in the West Area and the Salmon FMP altogether. In so doing, the Council effectively abdicated all federal responsibility for managing salmon in Cook Inlet, contrary to the MSA.

NMFS Approves Amendment 12 and Issues a FONSI

80. The Council submitted Amendment 12 and its implementing regulations to NMFS for approval in December 2011. On April 2, 2012, NMFS published a notice of Amendment 12 in the Federal Register and solicited public comment. 77 Fed. Reg. 19,605 (Apr. 2, 2012). On April 11, 2012, NMFS published a notice of the draft rules

implementing Amendment 12 and solicited public comment. 77 Fed. Reg. 21,716 (Apr. 11, 2012).

81. Plaintiffs submitted comprehensive comments on Amendment 12, the proposed implementing regulations, and the draft EA on May 29, 2012.

82. Plaintiffs explained that the Council's decision to remove Cook Inlet from the Salmon FMP was arbitrary, capricious, and contrary to law and asked the Defendants to reject Amendment 12 and its implementing regulations as inconsistent with the requirements of the MSA.

83. Plaintiffs also submitted detailed comments on the errors in the EA, the failure of the EA to comply with NEPA and its implementing regulations, and the need for a full EIS.

84. On June 25, 2012, NMFS issued its final EA and FONSI, concluding that Amendment 12 would have no significant impact on the environment.

85. The final EA and FONSI concluded that no EIS was necessary.

86. The final EA and FONSI did not consider the alternative of treating Cook Inlet differently from the other federal fisheries in the West Area.

87. On June 29, 2012, NMFS approved Amendment 12 to the FMP in a one-paragraph letter. The letter explained that regulations to implement Amendment 12 would follow at a later date. Under the MSA, such regulations must be issued within 30 days after the end of the public comment period. 16 U.S.C. § 1854(b)(3).

88. On December 21, 2012, nearly four months after the statutory deadline to issue final regulations expired, NMFS published its notice of approval of the regulations implementing Amendment 12. The decision relies primarily on National Standards 3 and 7 as its justification for removing Cook Inlet from the Salmon FMP.

Ninth Circuit Finds Amendment 12 Contrary to MSA

89. In 2013, UCIDA filed its initial complaint in this action with the district court, challenging NMFS's decision to remove the Cook Inlet salmon fishery from the Salmon FMP. UCIDA alleged that the decision violated NMFS's statutory obligation to prepare an FMP "for each fishery under its authority that requires conservation and management." *Id.* § 1852(h)(1). NMFS argued, *inter alia*, that the Magnuson-Stevens Act allows NMFS to "cede regulatory authority to a state over federal waters that require conservation and management simply by declining to issue an FMP" and "does not expressly require an FMP to cover an entire fishery." *United Cook*, 837 F.3d at 1062, 1064. In September 2016, the Ninth Circuit issued an opinion rejecting NMFS's argument and siding with UCIDA.

90. The Ninth Circuit disagreed with NMFS's argument that it could simply "defer" management to the state. The Ninth Circuit explained that "the federal government cannot delegate management of the fishery to a State without a plan, because a Council is required to develop FMPs for fisheries within its jurisdiction . . . and then to manage those fisheries 'through' those plans." *Id.* at 1063 (emphasis added). The court also made clear that a purpose of the FMP requirement was to ensure "that federal

fisheries are to be governed by federal rules in the national interest, not managed by a state based on parochial concerns.” *Id.*

91. Next, the Ninth Circuit rejected NMFS’s argument that an FMP need not cover an entire fishery. The court explained that “fishery[] [is] a defined term” and that NMFS’s view, if accepted, would allow it to “fulfill its statutory obligation by issuing an FMP applying to only a single ounce of water in that fishery.” *Id.* at 1064. The court stated that Congress “did not suggest that [the] Council could wriggle out of this requirement by creating FMPs only for selected parts of those fisheries, excluding other areas that required conservation and management.” *Id.* In short, the Ninth Circuit instructed that (1) NMFS must prepare an FMP consistent with the federal standards set forth in the Magnuson-Stevens Act that reflect the national interest and (2) the FMP must address the entire Cook Inlet salmon fishery.

The Remand Process and Amendment 14

92. Amendment 14 is the Council and NMFS’s response to the Ninth Circuit’s mandate. Throughout the remand process, NMFS and the Council repeatedly attempted to find new ways to wriggle out of their statutory duty. Throughout most of the process, NMFS and the Council were considering three proposed alternatives on remand—*none* of which would comply with the Ninth Circuit’s holding or the MSA.

93. Alternative 1 is to produce no FMP amendment. This is not a viable alternative given the Ninth Circuit’s decision.

94. Alternative 2 would parse the fishery into separate “state” and “federal” components, and then manage the fish only when they are in federal waters. But the court already rejected the argument “that § 1851(h)(1) does not expressly require an FMP to cover an entire fishery,” explaining that “fishery” is a “defined term” and that NMFS could not provide “FMPs only for selected parts of those fisheries.” *Id.* Alternative 2 also proposed to defer to the state as to what management is needed in federal waters, allowing the state to decide how many fish are caught, who gets to fish, and where, when, and how fishing will occur. This violates both the Magnuson-Stevens Act, which requires these elements to be decided by NMFS, and the court’s instruction that NMFS and the Council must develop an FMP according to “federal rules in the national interest” so that the fishery is “not managed by a state based on parochial concerns.” *Id.* at 1063.

95. Alternative 3 would also parse the fishery into separate “state” and “federal” components, and manage the fish only when in federal waters. This alternative would set its own federal standards for fish while in federal waters but makes that federal management plan entirely subservient to the state segment of the fishery. Fishing would occur in federal waters *if, and only if*, the state allows it. If the state decides to “allocate” the entire harvestable surplus to state needs (like having more than enough fish for sport fishers or for state resident-only personal use fishers), then Alternative 3 simply could close the separate federal fishery. This subservient approach plainly elevates parochial concerns over national interests and defies this Court’s instruction that the FMP must cover the entire “fishery” as defined in the MSA.

96. NMFS and the Council never meaningfully engaged with their core obligations, as set forth by the Ninth Circuit. Instead, they repeatedly mischaracterized what commercial fishers were asking for as preemption. But commercial fishers simply want a management plan that covers salmon stocks throughout their range to ensure management of those stocks of fish consistent with the National Standards. This is not a request for “preemption” as NMFS erroneously states; it is precisely what NMFS’s own regulations require: “[t]he geographic scope of the fishery, for planning purposes, should cover the entire range of the stocks(s) of fish, and not be overly constrained by political boundaries.” 50 C.F.R. § 600.320(b).

97. Throughout the remand, the Council and NMFS disregarded the stakeholder process. The Council took an inordinate amount of time (nearly a year) just to create a stakeholder Salmon Committee. The members of the Salmon Committee worked diligently for many months to develop a functional and workable alternative (Alternative 2) that would create an FMP amendment to delegate management of the fishery to the State of Alaska under a federal plan. The Salmon Committee made one primary recommendation to the Council, that the Council consider an FMP amendment that covers the *entire* fishery as required by the Ninth Circuit’s decision. The Council refused to even analyze that alternative and instead dissolved that Committee altogether. As one Council member conceded, the commercial fishers “put their faith in the Council process, participated like professionals [in] the salmon FMP committee,” but “this process failed to serve them.”

98. The Council process failed because the State of Alaska and Commissioner Lang, sitting as the state’s representative on the Council, had a different agenda. While stakeholders worked in good faith to find a way to make a delegated program under Alternative 2 work, the state had decided (without telling the public) that it was unwilling to accept a delegated program at all. The state did not disclose that it was unwilling to accept a delegated program until after the close of public comment at the Council hearing on December 7, 2020, four years into the remand process. Even worse, the state’s failure to disclose its position on Alternative 2 distracted and diverted stakeholders from making efforts to develop Alternative 3, the only potentially viable option for the fishery in light of the state’s (undisclosed) refusal to accept delegation.

99. Public records reveal that Commissioner Lang intended to use his role on the Council to avoid compliance with the Magnuson-Stevens Act and the results of the Ninth Circuit decision. In an internal email, Commissioner Lang notes that UCIDA had “convinced a federal court to order the Council to take action.” But Commissioner Lang did not want the Ninth Circuit decision to open the state’s management to “federal and outsider influence” that comes with an FMP. Instead, he developed a policy rationale based on the “State Right to Manage.” He explained that “we cannot support the establishment of a process that requires annual federal and Council review and oversight of our fisheries and their management.” He further explained that closure of the fishery in federal waters is “the only option” for “preserving state management” and preventing “federal incursion into this and other state-managed fisheries.” Under any other option,

he explains, the Council would “take actions to bring state management in federal waters in line with federal standards.” In Commissioner Lang’s view, the “side effects” of compliance with federal fishery management standards “could kill us.”

100. In furtherance of the “State Right to Manage” agenda, Commissioner Lang (acting through Deputy Commissioner Rachel Baker), in October 2020, asked the Council to consider a new alternative (Alternative 4) that would result in closure of the Cook Inlet salmon fishery in federal waters. The motion to add Alternative 4 (made by Deputy Commissioner Baker) was made after the close of public comment and just two months before the Court-ordered deadline. Deputy Commissioner Baker proposed Alternative 4 as a potential policy choice that would help with a “transparent analysis” of the alternatives. But Deputy Commissioner Baker failed to disclose the state’s unwillingness to accept a delegated program or the underlying “State Right to Manage” rationale.

101. Meanwhile, between the October Council meeting and the December 7, 2020, Council meeting, NMFS helped the state carry out its anti-Magnuson-Stevens Act rationale for Alternative 4. NMFS was given advance drafts of the state’s motion to select Alternative 4, including express statements that Alternative 4 “maintains the States sovereign rights over management of the salmon fisheries.” NMFS staff suggested removing that language because “this statement could receive some pushback.” That offending language was scrubbed and replaced with conservation pretexts created at the last minute on the advice of NMFS. As Deputy Commissioner Baker explained in an

email to Commissioner Lang on December 3, 2020, written *four* days before the Council voted, “NOAA General Counsel provided some suggestions for building the record, the main outstanding issue is the need to identify conservation benefits that outweigh costs of closing the EEZ to commercial fishery participants.” Although aware of this issue, and the state’s plans to refuse to accept any federally delegated program, NMFS never informed the public of the state’s rationale. Neither did other Council members who were actively coordinating support for Alternative 4 outside the public process.

102. Alternative 4 was uniformly opposed by the public. NMFS received 225 written comments and 35 oral testimonies; all (except one) were in opposition to the new Alternative 4. The opposition included all commercial fishers as well as state legislators, local city governments, community development associations, economic development associations, and environmental protection groups. After the close of public comments at the December 7, 2020, Council meeting, the state announced to the public for the very first time that it refused to accept any delegated federal management for salmon in Cook Inlet. The state’s newly articulated objection to delegated management was not credible given that the state is currently subject to a delegated management program for salmon in the East Area under the Salmon FMP and has willingly accepted a delegated program for many other fisheries in Alaska (e.g., cod, scallop, and crab). With Alternative 1 (no action) precluded by the Ninth Circuit’s holding, Alternative 2 rendered infeasible by the state’s announcement, and Alternative 3 not fully developed, the Council voted for

Alternative 4. Notably, NMFS's representative to the Council, Dr. Balsiger, abstained, citing "litigation" concerns.

103. During the Council meeting in December 2020, the Council neither reviewed nor adopted an FMP amendment. Instead, the Council adopted Alternative 4 as "the preferred alternative."

104. It was not until sometime after the Court-ordered deadline of December 31, 2020 that NMFS even began drafting an FMP amendment to implement Alternative 4. In a letter dated March 2021, the NMFS Regional Director, Dr. Balsiger, provided the first draft FMP framework. Dkt. 180-1 at 1-2. The letter indicates that the Council had yet to make any decisions on what the FMP amendment would look like and had not yet made important decisions on the essential Magnuson-Stevens Act requirements of any FMP, including annual catch limits, maximum sustained yield, or optimum yield. *Id.* Without any public process, stakeholder input, or Council discussion, NMFS drafted Amendment 14 for the Council. *Id.*

105. NMFS then engaged in a sham "review" process of an Amendment that NMFS itself wrote. NMFS described the FMP Amendment 14 drafted by *NMFS* as the *Council's* amendment and misleadingly asserted that the Council "submitted" that amendment to NMFS for review on May 14. Dkt. 181-1 at 2. NMFS Regional Director Balsiger then reviewed and approved what he referred to as the "Council's" Amendment 14, with the Regional Director approving his own work on August 12, 2021.

106. NMFS proposed regulations implementing Amendment 14 on June 14, 2021. 86 Fed. Reg. 29,977 (June 4, 2021). The public comment period closed on July 6, 2021. By statute, NMFS was required to issue a final rule within 30 days, by August 5, 2021. 16 U.S.C. § 1854(b)(3). NMFS did not issue its final rule on Amendment 14 until November 3, 2021.

FIRST CLAIM FOR RELIEF

(Failure to Comply with Ninth Circuit’s Decision on Amendment 12)

107. Plaintiffs incorporate by reference all preceding paragraphs of this Complaint.

108. Plaintiffs have not yet received the relief they are entitled to under their original complaint and the holding of the Ninth Circuit in *United Cook*.

109. MSA Section 304(a) and (b), 16 U.S.C. § 1854(a)-(b), requires Defendants to ensure FMPs and implementing regulations are consistent with the requirements of the MSA.

110. Plaintiffs’ original complaint alleged that NMFS violated Section 304(a) and (b) because NMFS’s decision to remove the Cook Inlet salmon fisheries from the Salmon FMP is contrary to the express purpose of the MSA regarding anadromous stocks, and express requirements that an FMP is necessary “for each fishery under its authority that requires conservation and management,” because the Cook Inlet salmon fishery clearly requires conservation and management. *Id.* § 1852(h)(1). The Ninth Circuit agreed.

111. On remand, Defendants try to achieve the same result under a different guise. Amendment 14 closes the fishery in federal waters and relinquishes complete management control for the Cook Inlet salmon fishery to the State of Alaska. But this is just a different way to shirk the same duty.

112. Moreover, under Amendment 14, NMFS continues to defer management decision for sport fishing within federal waters in Cook Inlet to the State of Alaska without delegation through an FMP. This is directly contrary to the Ninth Circuit's instruction.

113. The Ninth Circuit instructed that the Magnuson-Stevens Act "makes plain that federal fisheries are to be governed by federal rules in the national interest, not managed by a state based on parochial concerns" and further explained the FMP must cover the entire fishery. *United Cook*, 837 F.3d 1063. Amendment 14 violates these basic instructions. It improperly segregates the fishery into multiple parts, provides no management for most of the fishery, and turns all harvest decision for the entire fishery over to the State of Alaska. This alone is reason to reject Amendment 14.

114. Furthermore, Defendants' remand process involved numerous procedural irregularities and failures to comply with the Council's Statement of Organization, Practices, and Procedures by failing to disclose key information such as the state's refusal to accept a delegated program in a manner that allowed for meaningful public comment and participation, failing to identify a preferred alternative or preliminary preferred alternative before taking final action, drafting Amendment 14 for the Council and

deciding key elements of Amendment 14 for the Council without going through the public process, and proceeding to engage in a sham review process by and approving Amendment 14 (written by NMFS) as if it were written by the Council.

115. By continuing to refuse to comply with the MSA as held by the Ninth Circuit, NMFS has both prejudiced and injured Plaintiffs' rights and interests, and Plaintiffs have no other adequate remedy at law. For these reasons, Plaintiffs are entitled to the relief requested below.

SECOND CLAIM FOR RELIEF

(Violation of the MSA and the APA—Amendment 14)

116. Plaintiffs incorporate by reference all preceding paragraphs of this Complaint.

117. The MSA allows judicial review pursuant to the APA, 5 U.S.C. § 706(2)(A), (B), (C), or (D). 16 U.S.C. § 1855(f)(1)(B). Those provisions of the APA authorize reviewing courts to set aside federal agency action that is arbitrary, capricious, and an abuse of discretion, in excess of statutory limitations, or without observance of the procedures required by law.

118. MSA Section 304(a) and (b), 16 U.S.C. § 1854(a)-(b), requires Defendants to ensure FMPs and implementing regulations are consistent with the requirements of the MSA.

119. In addition to and including all of the reasons set forth above, Amendment 14 violates the MSA, and should be set aside under the APA for at least the following reasons:²

a. NMFS and the Council failed to follow the established procedures for developing Amendment 14. These include (1) violation of the Council's Statement of Organization, Practices, and Procedures by failing to disclose key information such as the state's refusal to accept a delegated program and failing to identify a preferred alternative or preliminary preferred alternative before taking final action; (2) the Council's failure to present Amendment 14 to the scientific and statistical committee, and the Council's failure to set required measures prior to final action; (3) NMFS's decision to write Amendment 14 for the Council and set the annual catch limits, maximum sustained yield, and optimum yield for the Council without going through the public Council process or without Council approval; and (4) Dr. Balsiger's review and approval of the Amendment that he wrote, as if he were reviewing the work of the Council.

b. Amendment 14 fails to comply with the MSA's statutory requirement to provide an FMP for each entire fishery under its jurisdiction that requires conservation and management. Amendment 14 improperly bifurcates the Cook Inlet salmon fishery into artificial state and federal components and then fails to

² Plaintiffs filed detailed comments on Amendment 14 detailing the legal flaws. Those comments are attached to this Complaint and incorporated herein.

provide management for the state component, or for all fishing activities in the federal component.

c. Amendment 14 is a capricious and punitive closure that was motivated and adopted for political reasons instead of for compliance with National Standards of the Magnuson-Stevens Act, and is the product of bad-faith decision-making by NMFS and the Council. Amendment 14 was proposed by the State of Alaska to support a hidden state's rights agenda and avoid "outsider influence" from NMFS, and NMFS was aware of and complicit in that anti-Magnuson-Stevens Act agenda.

d. Amendment 14 arbitrarily fails to account for the negative impact that the fishery closure will have on the state's ability to manage the fishery. It is well established that the State of Alaska cannot properly manage the commercial salmon fishery in Cook Inlet if the EEZ portion of the fishery is closed. In order to assess in-season run strength, the State of Alaska relies on test boat fishing (operated under a state-issued commercial license) in the Cook Inlet EEZ near the southern line of the commercial fishery management area, as well as early catch data from the drift fleet in the EEZ to calibrate the test boat data and assess the in-season run strength. Without these tools (both of which are foreclosed by Amendment 14), the state will have no way of assessing the in-season run strength. By the time fish reach state waters near natal streams, it is too late to assess the run and harvest the salmon that are excess to spawning needs. The test fishery harvest numbers in addition to the drift fishery harvest numbers are used to

calibrate run size so that over-fishing will not occur on early or small returns. Without the EEZ fishery, over-escapement of salmon will increase, the predictability of the salmon harvest will decrease, processors will not have a reliable source of product, and both the industry and the resource will suffer. The Council was presented with unanimous testimony from stakeholders, legislators, and cities confirming that closing the EEZ portion of the fishery will completely ruin the commercial fishery in Cook Inlet. It was arbitrary and capricious for NMFS to approve the closure under these circumstances.

e. Amendment 14 also fails to comply with the Magnuson-Stevens Act's statutory requirements for closing a fishery. Under 16 U.S.C. § 1853(b)(2)(C), an FMP may designate areas where fishing is closed, but the FMP must "ensure" that a closure "(i) is based on the best scientific information available; (ii) includes criteria to assess the conservation benefit of the closed area; (iii) establishes a timetable for review of the closed area's performance that is consistent with the purposes of the closed area; and (iv) is based on an assessment of the benefits and impacts of the closure, including its size, in relation to other management measures (either alone or in combination with such measures), including the benefits and impacts of limiting access to: users of the area, overall fishing activity, fishery science, and fishery and marine conservation." Amendment 14 does not meet any of these requirements. The best scientific information available shows that closure will have an enormous negative impact on the fishery and its

participants, and will have either no appreciable conservation benefits or actually harm conservation of the resource. Moreover, the Council's proposed Amendment to the FMP lacks "criteria to assess the conservation benefit of the closed area" and a timetable to review performance of the closed area.

f. Amendment 14 also runs afoul of National Standard 1. National Standard 1 requires that an FMP achieve optimum yield, which is defined both in terms of the "greatest overall benefit to the Nation" as well as achieving the MSY. Amendment 14 does not ensure either requirement is met. It turns complete control for all harvest levels over to the State of Alaska to do as it pleases with the fishery, while precluding the state from using essential management tools (harvest in the EEZ) to properly manage that fishery. The Council and NMFS never conducted a stock assessment for the nearly 1,300 stocks of salmon in Cook Inlet, and the FMP purports to conduct *no annual stock* assessments of the stocks moving forward. Simply put, the Council and NMFS do not know what the "maximum sustained yield" is for Cook Inlet salmon stocks and do not plan to find out.

g. NMFS decision to allow the state to set escapement goals also violates the Magnuson-Stevens Act's required use of the Scientific and Statistical Committee ("SSC"). 16 U.S.C. § 1852(g)(1)(B). Magnuson-Stevens Act establishes the SSC to "provide its Council ongoing scientific advice for fishery management decisions, including recommendations for

acceptable biological catch, preventing overfishing, maximum sustainable yield, . . . and reports on stock status and health, bycatch, habitat status, social and economic impacts of management measures, and sustainability of fishing practices.” Amendment 14 bypasses the SSC and puts those ongoing decisions in the hands of the State of Alaska. This is not what Congress intended in passing the Magnuson-Stevens Act.

h. Amendment 14 is also not supported by the “best scientific information” available as required by National Standard 2. This fishery closure is not based on science at all, but based on politics. Moreover, the draft EA/RIR abruptly cuts off its analysis of the fishery impacts in 2018, thereby omitting the dismal harvest in 2019 and the disastrous harvests in 2020. This information was available to NMFS and the Council but not used. This missing information was critical to the decision to close the fishery in the EEZ because much of the reduced harvest in 2019 and 2020 was the result of needless state closures of fishing opportunities in the EEZ. Restrictions on fishing in the EEZ in 2020, despite relatively high abundance of salmon returns, resulted in a fishery disaster with the average drift permit holder grossing only about \$4,400 for the entire season. Complete closure of the EEZ will be far worse. Likewise, NMFS and the Council failed to utilize the best available science in other respects in evaluating the efficacy of the State of Alaska’s escapement-based

management program (Appendix 13) by using a data set that ended in 2010, cutting off the last 10 years of available information on salmon returns.³

i. Amendment 14 also violates National Standard 3, which requires that “[t]o the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.” Closure of the EEZ fishery does not “coordinate” management of stocks or manage them as a unit. It simply abdicates all federal responsibility to the state to manage the fishery in state waters however it deems fit.

j. Amendment 14 also violates National Standard 4, which requires that all allocations “not discriminate between residents of different states.” Here Amendment 14 effectively allocates the entire fishery to the State of Alaska. The State of Alaska does, in fact, discriminate against out-of-state fishers, including by establishing an Alaska resident-only dipnet fishery that harvests hundreds of thousands of salmon per year to the detriment of other users of the resource.

k. Amendment 14 also violates National Standard 8, which requires that conservation measures “take into account the importance of fishery resources to fishing communities” using the best scientific data available, and to “(A) provide for the sustained participation of such communities,

³ Appendix 13 was also not peer reviewed.

and (B) to the extent practicable, minimize adverse economic impacts on such communities.” As noted above, NMFS and the Council have not relied on the best available information related to impacts of the fishery closure, including omission of data related to the last two years of harvest. The closure required by Amendment 14 will not provide for sustained participation of fishing communities; it will wreak economic hardship on those communities and have severe consequences on the viability of commercial salmon fishing in Cook Inlet as expressed in public comment (but ignored by the Council) by the City of Kenai, the City of Homer, State Senator Peter Micciche, State Representative Sarah Vance, the United Fisherman of Alaska, the Cook Inlet Aquaculture Association, Cook Inletkeeper, the Homer Marine Trades Association, the North Pacific Fisheries Association, the Kenai Peninsula Fishermen’s Association, Pacific Star Seafoods, Salmon State, and hundreds of commercial fishers.

l. Amendment 14 is also contrary to National Standard 10, requiring consideration of safety of life at sea, as it would concentrate more vessels and gear in smaller nearshore areas where there is a greater risk of collision and increased risk of vessels and gear hitting “erratic” boulders (large submerged boulders in the nearshore area).

m. The Council’s decision to adopt Amendment 14 is also contrary to the MSA because it was driven by a Council stated policy “to facilitate

State of Alaska salmon management in accordance with the Magnuson-Stevens Act, Pacific Salmon Treaty, and applicable Federal law.” There are two fatal problems with this policy. First, the facilitation of State of Alaska management is not a “policy” goal of the Magnuson-Stevens Act. The state’s role is to participate through the Council process, not as a substitute for the Council, and the Council’s policy is contrary to the intent of the Magnuson-Stevens Act by elevating state interests over national interests. The Ninth Circuit has already explained that this is improper. Second, the State of Alaska is assuredly not managing salmon in Alaska “in accordance with the Magnuson-Stevens Act.” UCIDA submitted detailed comments showing precisely why the state’s process for setting escapement goals does not comply with the Magnuson-Stevens Act. The Magnuson-Stevens Act requires the Council to set annual catch limits for each fishery based on peer-reviewed SSC recommendations. State of Alaska management plans that affect harvest levels or ACLs are based on flawed escapement goals set by politically appointed Alaska Board of Fisheries members.

120. Amendment 14 is arbitrary, capricious, and contrary to the MSA, and NMFS’s approval of Amendment 14 has both prejudiced and injured Plaintiffs’ rights and interests, and Plaintiffs have no other adequate remedy at law. For these reasons, Plaintiffs are entitled to the relief requested below.

United Cook Inlet Drift Association, et al. v. NMFS, et al

THIRD CLAIM FOR RELIEF

(Violation of NEPA and the APA)

121. Plaintiffs incorporate by reference all preceding paragraphs of this Complaint.

122. NEPA requires that federal agencies prepare a “detailed statement” regarding all “major Federal actions significantly affecting the quality of the human environment.” 42 U.S.C. § 4332(2)(C). NEPA requires an agency to take a hard look at the environmental consequences of a proposed action, including by disclosing and analyzing the significance of all direct, indirect, and cumulative environmental impacts of each alternative. 40 C.F.R. §§ 1502.14, 1502.16 (2020). The agency’s analysis must include accurate scientific analysis, expert agency comments, and public scrutiny. *Id.* §§ 1502.23, 1501.5 (2020); 40 C.F.R. § 1500.1(b) (1978) (amended July 16, 2020).

123. If there exist substantial questions whether the action may have a significant effect on the environment, the agency must prepare an EIS.

124. If an agency decides not to prepare an EIS for a major federal action, it must supply a convincing statement of reasons to justify its conclusion that a project will not have significant impacts on the environment. *Id.* §§ 1508.1(1), 1501.6 (2020).

125. NMFS failed to produce a convincing statement of reasons demonstrating that Amendment 14 will not have significant impacts on the environment. NMFS has not taken a hard look at the environmental and conservation impacts that will occur to Cook Inlet salmon stocks as a result of closing the EEZ, including the resulting removal of the

ability of the State of Alaska to utilize the test boat fishery or early harvest returns in the EEZ, important management tools necessary to evaluate in-season run status and timing. The effects of such a closure are unknown, untested, and highly controversial, and raise serious questions as to whether the approval of Amendment 14 will significantly damage the long-term conservation of the fishery. NMFS and the Council rushed Alternative 4 from proposal to approval in less than two months, and never bothered to pause and look at the environmental consequences of that action. Likewise, NMFS failed to take a hard look at the socioeconomic consequences of closing the EEZ portion of the fishery. The state has a demonstrated pattern of commercial fishery disasters in Cook Inlet over the last decade, and Amendment 14 ensures a permanent disaster situation.

126. NMFS's failure to prepare an EIS in the face of substantial questions regarding significant environmental impacts was arbitrary, capricious, and not in accordance with law, in violation of NEPA, 42 U.S.C. § 4332(2)(C), and the APA, 5 U.S.C. § 706(2).

127. Alternatively, Defendants' decision to issue a FONSI without providing a convincing statement of reasons to justify its conclusion that the project's impacts to the fishery and fishing communities will be insignificant was arbitrary, capricious, and not in accordance with law, in violation of NEPA, 42 U.S.C. § 4332(2)(C), and the APA, 5 U.S.C. § 706(2).

128. NEPA requires an agency to develop and assess appropriate alternatives in any proposal involving unresolved conflicts concerning uses of available resources. 42 U.S.C. § 4332(2)(E); 40 C.F.R. §§ 1507.2(d), 1501.5(c)(2) (2020).

129. The EA fails to consider a reasonable range of alternatives. Alternative 1 (no action) was foreclosed by the Ninth Circuit. Alternative 2 (delegation to the state) was secretly a sham, as the state would not accept delegation. Alternative 3 (separate federal management) was crafted by the Council in a manner designed to make it look impracticable and result in closure. These are not real alternatives, conveniently leaving only Alternative 4, the last-minute proposal by the state designed to prevent outsiders (e.g., NMFS) from interfering with the state's desire to manage the fishery. While there is no set number of alternatives that must be considered, it should be plain that an agency cannot structure its alternatives so there is only one available alternative, especially when as here that one alternative is the product of improper political motivation. NMFS was required to, at the very least, consider a version of Alternative 3 that was feasible (as suggested by UCIDA and CIFF in public comments).

130. NMFS's decision to approve Amendment 14 without considering appropriate alternatives and comparing the environmental impacts of those alternatives was arbitrary, capricious, and not in accordance with law and violated NEPA, 42 U.S.C. § 4332(2)(C), its implementing regulations, 40 C.F.R. §§ 1502.14(a), 1507.2(d), 1501.5(c)(2) (2020), and the APA, 5 U.S.C. §§ 702, 706.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that the Court:

- A. Declare that the Defendants violated the MSA, APA, and NEPA;
- B. Declare that the Defendants' actions, as set forth above, were arbitrary and capricious, an abuse of discretion, not in accordance with law, and without observance of procedure required by law;
- C. Declare that Amendment 14 is not consistent with the Ninth Circuit's decision in this matter;
- D. Declare that Defendants acted in bad faith in adopting and approving Amendment 14;
- E. Vacate Amendment 14 and its implementing regulations, and remand with an order instructing the Defendants to develop an FMP for the *entire* Cook Inlet salmon fishery that complies with the requirements of the MSA, APA, and NEPA and the Ninth Circuit's holding;
- F. Vacate the FONSI, and remand with an order instructing, as appropriate, the Defendants to prepare an EA or EIS that complies with NEPA and the APA;
- G. Appoint a special master to supervise the development of an FMP amendment for the entire Cook Inlet salmon fishery, to set deadlines for the development of that FMP, and to impose interim fishery management measures for the Cook Inlet salmon fishery until the FMP amendment is both issued and fully implemented;

H. Award Plaintiffs their reasonable attorney fees, costs, expenses, and disbursements, including attorney fees associated with this litigation pursuant to the Equal Access to Justice Act or other law; and

I. Award Plaintiffs other and further relief as this Court may deem just and equitable.

DATED this 16th day of November, 2021.

STOEL RIVES, LLP

/s/ Jason T. Morgan

Ryan P. Steen, AK Bar No. 0912084

Beth S. Ginsberg, *Pro Hac Vice Pending*

Jason T. Morgan, AK Bar No. 1602010

Connor R. Smith, AK Bar No. 1905046

*Attorneys for Plaintiffs United Cook Inlet
Drift Association and Cook Inlet Fishermen's
Fund*

**KENAI COUNCIL ON AGING
REGULAR MEETING
NOVEMBER 10, 2021 – 3:00 P.M.
KENAI SENIOR CENTER**

MEETING SUMMARY

1. CALL TO ORDER

The meeting was called to order at 3:10 p.m.

a. Pledge of Allegiance

Committee led those assembled in the Pledge of Allegiance.

b. Roll was confirmed as follows:

Members Present: Craig, Geller, Modigh, Thornton, Milewski
Members Absent: Nelson, Williams,

No quorum was present.

Staff/Council Liaison
Present: Activity/Volunteer Coordinator K. Feltman, Administrative
Assistant A. Piersee and, Council Liaison Knackstedt

c. Agenda Approval

d. Election of Chair

2. SCHEDULED PUBLIC COMMENTS – None.

3. UNSCHEDULED PUBLIC COMMENT -- None.

4. APPROVAL OF MEETING SUMMARY

a. August 12, 2021

5. UNFINISHED BUSINESS -- None.

6. NEW BUSINESS

a. **Discussion** – 50th Anniversary on November 30th

7. REPORTS

- a. Senior Center Director
- b. Council on Aging Chair
- c. City Council Liaison

8. NEXT MEETING ATTENDANCE NOTIFICATION – December 9, 2021

9. COUNCIL MEMBERS COMMENTS AND QUESTIONS

10. **ADDITIONAL PUBLIC COMMENT**
11. **INFORMATION ITEMS** – None.
12. **ADJOURNMENT**

Due to lack of a quorum, the meeting was adjourned at 4:06pm.

Meeting summary prepared and submitted by:

Meghan Thibodeau
Deputy City Clerk

DRAFT

**KENAI AIRPORT COMMISSION
REGULAR MEETING
NOVEMBER 9, 2021 – 6:00 P.M.
KENAI CITY COUNCIL CHAMBERS
CHAIR GLENDA FEEKEN, PRESIDING**

MEETING SUMMARY

1. CALL TO ORDER

Chair Feeken called the meeting to order at 6:00 p.m.

a. Pledge of Allegiance

Chair Feeken led those assembled in the Pledge of Allegiance.

b. Roll was confirmed as follows:

Commissioners Present: G. Feeken, K. Dodge, D. Pitts, P. Minelga, J. Zirul

Commissioners Absent: J. Bielefeld

Staff/Council Liaison Present: Airport Manager E. Conway, Planning Director R. Foster, Council Liaison Baisden, Deputy Clerk Meghan Thibodeau

A quorum was present.

c. Agenda Approval

MOTION:

Vice Chair Dodge **MOVED** to approve the agenda with requested revisions and Commissioner Minelga **SECONDED** the motion. There were no objections; **SO ORDERED**.

2. SCHEDULED PUBLIC COMMENT – None.

3. UNSCHEDULED PUBLIC COMMENT

Mayor Gabriel noted that the loss of Commissioner Derek Lechlitter was a terrible tragedy. He shared his memories of Derek as a great businessman and a personal friend, noting the work he did for the City and the Airport Commission. He led the Commission in a moment of silence.

4. APPROVAL OF MEETING SUMMARY

a. Regular Meeting of October 14, 2021

MOTION:

Commissioner Minelga **MOVED** to approve the meeting summary of October 14, 2021 and Commissioner Pitts **SECONDED** the motion. There were no objections; **SO ORDERED**.

5. **UNFINISHED BUSINESS** - None

6. **NEW BUSINESS**

- a. **Discussion/Recommendation** – Resolution No. 2021-XX – Approval to Execute a Lease to Integrated Account Management, Inc.

MOTION:

Commissioner Minelga **MOVED** to recommend approval of Lease to Integrated Account Management, Inc. and Vice Chair Dodge **SECONDED** the motion.

Planning Director Foster noted the draft Council resolution in the packet for a 45-year lease to Integrated Account Management, Inc. Their application is to continue their current use of the land for professional offices. Foster stated that this use is compatible with this zoning district and with the Comprehensive Plan, and staff's opinion is that it is a good fit. He noted that because this is airport property, the lease would go toward the airport fund.

Clarification was provided that the lessee has the opportunity to purchase the property, which they had discussed with staff but decided instead to renew their lease.

UNANIMOUS CONSENT was requested.

There were no objections; **SO ORDERED**.

- b. **Discussion/Recommendation** – Resolution No. AC21-01 – Recommending the Council of the City of Kenai Approve and Adopt the City of Kenai Land Management Plan

MOTION:

Vice Chair Dodge **MOVED** to approve of Resolution No. AC21-01 and Commissioner Pitts **SECONDED** the motion.

Planning Director Foster gave a presentation on the draft Land Management Plan (LMP), including why it was created, the background and development of the LMP, the new City Lands Inventory and Database, the objectives of the LMP, how it categorizes lands by recommendation, and timeline for approval by commissions and Council. He provided a demonstration of the new GIS tool and explained how it interacts with the database, and how it can be used by the City and the public in the future.

Discussion involved mixed-recommendation lands at the airport, how land values are determined, and development conditions for donated land.

A parcel on map 24 was suggested to not be retained as it was adjacent to a new development on airport leased land. It was also suggested to look at the land on the other side of Marathon road for disposal and consider past commission discussion on these lands.

MOTION:

Commissioner Pitts **MOVED** to postpone Resolution No. AC21-01 until December 9, 2021.
Commissioner Zirul **SECONDED** the motion.

There were no objections; **SO ORDERED**.

7. REPORTS

- a. **Airport Manager** – Airport Manager Conway reported on the following:
 - Enplanements and revenue are still down compared to 2019 but up from 2020;
 - Working with Triangle Recycling on sand contract;
 - Reported on current employment for airport snow & ice control;
 - Discussed snow & ice removal and storage strategy.
- b. **City Council Liaison** – Council Member Baisden introduced himself as the new Airport Commission Liaison, and reported on actions taken during the November 4, 2021 City Council Meeting.

8. NEXT MEETING ATTENDANCE NOTIFICATION – December 9, 2021

9. COMMISSIONER COMMENTS AND QUESTIONS

Commissioner Pitts noted that Derek Leichliter was an aggressive businessman who was dedicated to the local airports, and the kind of guy that made things happen. Noted that he had a lot of good ideas and will be missed.

Commissioner Minelga shared memories of how he met and became friends with Commissioner Leichliter, noting that he was generous and will be missed by the community. Noted that he looks forward to working with Council Liaison Baisden.

Commissioner Zirul stated that he had known Commissioner Leichliter for many years, and echoed everyone's positive comments about him. Noted it is a great loss for commission and he will be missed.

Vice Chair Dodge echoed the sentiments of other commissioners, noting that she really enjoyed his energy and passion in the commission, and he will be greatly missed.

Chair Feeken noted that we will miss him, and his loss is very sad.

10. ADDITIONAL PUBLIC COMMENT – None.

11. INFORMATION ITEMS

- a. October Mid-Month Report
- b. September 2021 Enplanement Report

12. ADJOURNMENT

MOTION:

There being no further business before the Commission, the meeting was adjourned at 7:18 p.m.

Meeting summary prepared and submitted by:

Meghan Thibodeau
Deputy City Clerk

DRAFT

**KENAI AIRPORT COMMISSION
REGULAR MEETING
DECEMBER 9, 2021 – 6:00 P.M.
KENAI CITY COUNCIL CHAMBERS
CHAIR GLENDA FEEKEN, PRESIDING**

MEETING SUMMARY

1. CALL TO ORDER

Chair Feeken called the meeting to order at 6:00 p.m.

a. Pledge of Allegiance

Chair Feeken led those assembled in the Pledge of Allegiance.

b. Roll was confirmed as follows:

Commissioners Present: G. Feeken, P. Minelga, J. Zirul

Commissioners Absent: J. Bielefeld, K. Dodge, D. Pitts

Staff/Council Liaison Present: Airport Manager E. Conway, Administrative Assistant E. Brincefield, Council Liaison Baisden, Deputy Clerk Meghan Thibodeau

No quorum was present.

c. Agenda Approval

2. SCHEDULED PUBLIC COMMENT

3. UNSCHEDULED PUBLIC COMMENT

4. APPROVAL OF MEETING SUMMARY

- a. Regular Meeting of November 9, 2021

5. UNFINISHED BUSINESS

- a. **Discussion/Recommendation** – Resolution No. AC21-01 – Recommending the Council of the City of Kenai Approve and Adopt the City of Kenai Land Management Plan *[Clerk's note: at the November 9, 2021 meeting, this item was postponed until this meeting. A motion to adopt is on the floor.]*

6. NEW BUSINESS

- a. **Discussion/Recommendation** – Special Use Permit to American Red Cross of Alaska for General Office Space

7. REPORTS

- a. **Airport Manager**
- b. **City Council Liaison**

8. NEXT MEETING ATTENDANCE NOTIFICATION – January 13, 2022

9. COMMISSIONER COMMENTS AND QUESTIONS

10. ADDITIONAL PUBLIC COMMENT

11. INFORMATION ITEMS

- a. Manager's Mid-Month Report
- b. October 2021 Enplanement Report

12. ADJOURNMENT

MOTION:

Due to a lack of a quorum, the meeting was adjourned at 6:15 p.m.

Meeting summary prepared and submitted by:

Meghan Thibodeau
Deputy City Clerk

**KENAI HARBOR COMMISSION
REGULAR MEETING
NOVEMBER 8, 2021 – 6:00 P.M.
KENAI CITY COUNCIL CHAMBERS
CHAIR PRO TEM CHRISTINE HUTCHISON, PRESIDING**

MEETING SUMMARY

1. CALL TO ORDER

Chair Pro Tem Hutchison called the meeting to order at approximately 6:00 p.m.

a. Pledge of Allegiance

Chair Pro Tem Hutchison led those assembled in the Pledge of Allegiance.

b. Roll Call

Roll was confirmed as follows:

Commissioners present: C. Hutchison, B. Bornemann, N. Berga (via electronic participation), B. Peters, D. Peck

Commissioners absent: M. Dunn,

Staff/Council Liaison present: Public Works Director S. Curtin, Public Works Administrative Assistant L. List, Deputy City Clerk M. Thibodeau, Planning Director R. Foster, Council Liaison G. Pettey

A quorum was present.

c. Agenda Approval

MOTION:

Commissioner Peters **MOVED** to approve the agenda as written and Commissioner Bornemann **SECONDED** the motion. There were no objections; **SO ORDERED**.

2. SCHEDULED PUBLIC COMMENTS – None.

3. UNSCHEDULED PUBLIC COMMENT – None.

4. APPROVAL OF MEETING SUMMARY

- a. Regular Meeting of June 7, 2021
- b. Special Meeting of August 23, 2021

MOTION:

Commissioner Peters **MOVED** to approve the meeting summaries of June 7, 2021 and August 23, 2021 and Commissioner Bornemann **SECONDED** the motion. There were no objections; **SO ORDERED**.

5. **UNFINISHED BUSINESS** – None.

6. **NEW BUSINESS**

- a. **Discussion/Recommendation** – Resolution No. HC21-01 – Recommending the Council of the City of Kenai Approve and Adopt the City of Kenai Land Management Plan

MOTION:

Commissioner Peters **MOVED** to approve Resolution No. HC21-01 and Commissioner Peck **SECONDED** the motion.

Planning Director Foster gave a presentation on the draft Land Management Plan (LMP), including why it was created, the background and development of the LMP, the new City Lands Inventory and Database, the objectives of the LMP, how it categorizes lands by recommendation, and timeline for approval by commissions and Council. He provided a demonstration of the new GIS tool and explained how it interacts with the database, and how it can be used by the City and the public in the future.

It was explained that the database and GIS mapping tool is currently for internal use only but would be available to the public in the future, and that right now parcel information can be found through the City's website and through City Administration. It was noted that maps 35, 36 and 37 would be of most interest to the Harbor Commission.

Clarification was provided that the document is a tool to provide data in an efficient manner, and Administration is seeking approval and recommendation to take to Council. Suggestions included a digital file with plat information which could be helpful to the public and less cumbersome than the LMP; connecting the GIS tool with the Kenai Peninsula Borough parcel viewer. Clarification was provided on the implementation stage, and leased set net sites. The discussion included how it can benefit from information and recommendations from the waterfront development feasibility study.

MOTION:

Commissioner Bornemann **MOVED** to postpone Resolution No. HC21-01 until a Special Meeting in January, date to be determined. Commissioner Peck **SECONDED** the motion. There were no objections; **SO ORDERED.**

7. **REPORTS**

- a. **Public Works Director** – S. Curtin reported on the following:
- Dipnet Report: late fish run;
 - South Beach port-a-potties resulted in some savings, but not as much as he hoped
- b. **Harbor Commission Chair** – No report.
- c. **City Council Liaison** – Council Member Pettey thanked the commission for their discussion on the LMP. Reported on the actions of recent City Council meetings.

8. **NEXT MEETING ATTENDANCE NOTIFICATION** – February 7, 2022

Noted that a Special Meeting would be scheduled for January.

9. **COMMISSIONER COMMENTS AND QUESTIONS**

Commissioner Peters welcomed Council Member Pettey, wished everyone happy holidays.

Commissioner Peck welcomed Council Member Pettey and thanked Administration for the LMP presentation.

Vice Chair Berga thanked the commission for their discussion on the LMP and waterfront development.

10. **ADDITIONAL PUBLIC COMMENT**

Council Member Glendening encouraged the commission to spend their time working on the LMP and focus on the Harbor areas.

11. **INFORMATION ITEMS** – None.

12. **ADJOURNMENT**

There being no further business before the Commission, the meeting was adjourned at approximately 7:45 p.m.

Meeting summary prepared and submitted by:

Meghan Thibodeau
Deputy City Clerk



KENAI

City of Kenai | 210 Fidalgo Ave, Kenai, AK 99611-7794 | 907.283.7535 | www.kenai.city

MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
THROUGH: Paul Ostrander, City Manager
THROUGH: Dave Ross, Police Chief
FROM: Jessica “JJ” Hendrickson, Animal Control Chief
DATE: December 1, 2021
SUBJECT: **November 2021 Monthly Report**

This month the Kenai Animal Shelter took in **43** animals. Animal intake and disposition:

DOGS:				
	INTAKE	18	DISPOSITION	12
	Waiver	9	Adopted	6
	Stray	6	Euthanized	1
	Impound	0	Claimed	5
	Protective Custody	2	Field Release	0
	Quarantine	1	Transferred	0
	Microchips	0	Other Dispositions	0
	Other Intakes	0		
CATS:				
	INTAKE	24	DISPOSITION	14
	Waiver	10	Adopted	12
	Stray	14	Euthanized	2
	Impound	0	Claimed	0
	Protective Custody	0	Field Release	0
	Quarantine	0	Transferred	0

Microchips	0	Other Dispositions	0
Other Intakes	0		0
OTHER ANIMALS:			
INTAKE	1	DISPOSITION	1
Pig	1	Pig	1
Rabbit	0	Rabbit	0
Other	0	Guinea Pig	0
DOA:	10	OTHER STATISTICS:	
Dog	5	Licenses (City of Kenai Dog Licenses)	3
Cat	5		

- 4 Animal dropped with After Hours (days we are closed but cleaning and with KPD)
- 23 Animals are *known* borough animals
- 22 Animals are *known* City of Kenai
- 5 Animals are *known* City of Soldotna
- 1 Animals from unknown location
- 55 Field Investigations & patrols
- 5.4 Volunteer Hours Logged
- 0 Citations
- 0 Educational Outreach

Statistical Data:

- 860 2019 YTD Intakes
- 665 2020 YTD Intakes
- 556 2021 YTD Intakes



MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
THROUGH: Paul Ostrander, City Manager
FROM: Eland Conway, Airport Manager
DATE: December 7, 2021
SUBJECT: Kenai Municipal Airport (ENA) Mid-Month Report

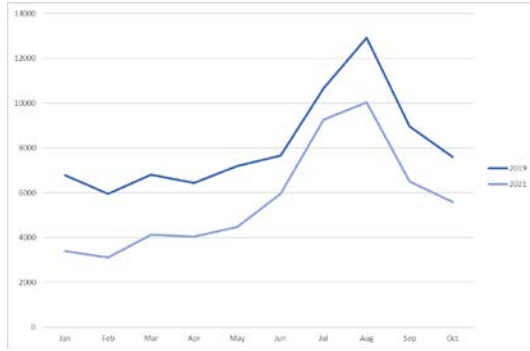
ENA Property Damage

On the morning of Sunday, November 28, a vehicle crashed into the ENA Security Gate at the end of Granite Point Ct. The vehicle appears to be a light-colored sedan. The gate remains out of service, quotes for repairs are being gathered, and there are no significant impacts to operations. The investigation is ongoing. Reference KPD Case #2111-0500.



Enplanements

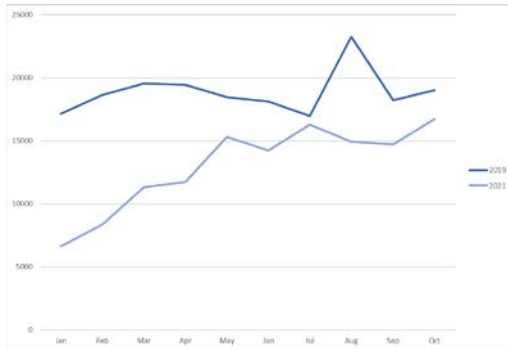
October enplanements were down 26% compared to October of 2019. YTD enplanements are down 32% compared to 2019.



Enplanements		
	2019	2021
Jan	6785	3389
Feb	5957	3112
Mar	6808	4127
Apr	6441	4035
May	7198	4464
Jun	7656	5953
Jul	10658	9259
Aug	12925	10035
Sep	8951	6500
Oct	7594	5596
Grand Total	80973	56470

Parking Revenue

Parking revenue for October was down 12% compared to October of 2019. YTD parking revenue is down 31% compared to 2019.



Parking Revenue		
	2019	2021
Jan	17143	6626
Feb	18660	8373
Mar	19540	11315
Apr	19444	11757
May	18460	15309
Jun	18112	14236
Jul	16993	16295
Aug	23265	14924
Sep	18235	14714
Oct	19040	16723
Grand Total	188,892	130,271





MEMORANDUM

TO: Mayor Gabriel and Council Members

THROUGH: Paul Ostrander, City Manager

FROM: Terry Eubank, Finance Director

DATE: December 7, 2021

SUBJECT: Finance Department Mid-Month Report – December 2021

The fiscal year 2021 Annual Comprehensive Financial Report (ACFR) has been completed with the assistance of many departments but especially the staff in the finance department. Presentation by the City's auditor occurred at the December 1st Council meeting.

The FY23 Budget is now a major focus of the department with preparation packets being prepared for distribution to department heads. The Council is scheduled to receive its first draft of the FY2022 budget in April. A preparation calendar is being finalized and will be provided to Council in January. There is much work to be done by all City departments over the next couple of months.

The department is also preparing for a portfolio review of the Airport Land Sale and General Land Sale Permanent funds. Representatives from Alaska Permanent Capital will be scheduled to present a portfolio review at the February 2, 2022 Council meeting. The review will include a summary of 2021 performance, the allowable transfer amount for each permanent fund, and a recommendation for establishment of 2021 asset allocations and evaluation benchmarks.

The deadline to expend CARES Act funding is December 30, 2021 after which the department will be completing final reporting on the City's CARES Act grants.



MEMORANDUM

TO: Mayor Brian Gabriel and City Council

THROUGH: Paul Ostrander, City Manager

FROM: Tony Prior, Fire Chief

DATE: December 7, 2021

SUBJECT: Fire Department Mid-Month Report – November

Calls for service in November were down slightly from last year. Here is the breakdown for November and overall calls for YTD 2021.

Year	2020	2021	% change
November total	105	98	-6.7%
EMS	82	74	-9.8%
All Other	23	21	-8.7%
Year total	1188	1273	7.2%

Training:

Firefighters Cory Lehl and Mitch Miller completed their final training to become Driver/Operators. Both individuals have now completed all driver training required to operate all Fire Engines at Station 1 and 2.

Steve Turkington completed his Station 2 check-off and is now able to cover shifts at the Airport Fire Station.

Cory Lehl attended the EMS symposium in Anchorage. The symposium is held annually and give medics a chance to learn from industry leading instructors in one location, and where many areas of emergency medicine are covered throughout the week.

Jeremy Hamilton attended a Fire and Life Safety Plans Review class at the National Fire Academy and was able to work with the Alexandria, VA Fire Department to gain more knowledge in Code Enforcement and Fire Investigation.

I attended a FEMA Regional Delivery, NIMS ICS All-Hazards Incident Commander Course held at Alaska Regional Training Center (BEACON) to receive Certification as and IC.

Projects/Grants:

- We conducted a Pfizer booster dose clinic on the 19th with 9 individuals at Vintage Point receiving boosters. We also completed 3 in-home visits, and 6 walk-ins' at KFD.
- Portable radios received from SHSP funding have been placed in service.

- With the passing of Ordinance 3255-2021, we are moving forward on Phase 2 replacement of mobile radios. We will work with KPD to move forward on ordering.
- Continued work on updates to Emergency Operations Plan, with updates to Table of Contents that match sections of emergency response throughout EOP.





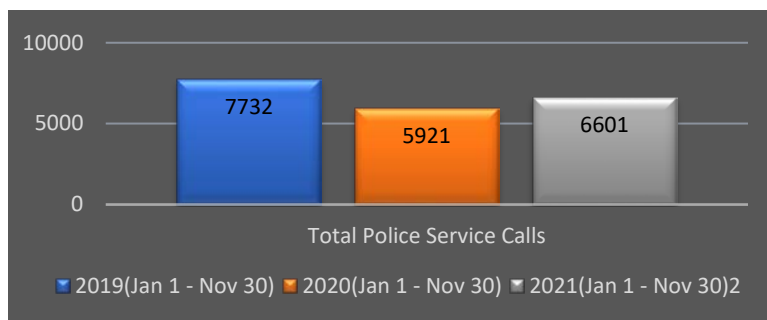
MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
THROUGH: Paul Ostrander, City Manager
FROM: Ben Langham, Acting Police Chief
DATE: December 2, 2021
SUBJECT: **Police & Communications Department Activity – November 2021**

Police handled 533 calls for service in November. The Dispatch center handled 287 calls that were received via 911. Officers made 28 arrests. Traffic enforcement resulted in 49 traffic citations. There were 9 DUI arrests. Officers investigated 12 motor vehicle collisions in November, five of which were caused by a moose. There was one collision involving drugs or alcohol.

The police department completed recruitments for two officer vacancies, one of those officers has started work and the other is scheduled to begin in December. Two investigators attended a one day training in Anchorage on forensic phone examination. One investigator attended a week long virtual Sexual Assault Response Team training. One investigator began a two week long homicide investigation course in Florida. Two dispatchers completed a virtual training officer course and another completed an emergency medical dispatch recertification.

The KPD School Resource Officer completed teaching DARE to three fifth grade classes at Mountain View Elementary and the graduations will be in December. The police department has begun the process of becoming accredited through the Oregon Accreditation Alliance.





MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council





THROUGH: Paul Ostrander, City Manager

FROM: Katja Wolfe, Library Director

DATE: December 6, 2021

SUBJECT: Library Mid-Month Report for November 2021

November 2021 at a Glance

Items Borrowed		Nov-20	Nov-21	2021 YTD
Physical		3,913	5,616	59,381
Digital		1,572	1,413	17,585
Services				
New Memberships		28	83	469
Room Reservations		n/a	71	546
Programs				
Number of Programs		16	22	192
People Reached (e.g., DIY Kits, In-Person)		n/a	332	2,366
People Reached Virtually		n/a	755	8,048
Technology Sessions				
Computer sessions		185	395	3,876
WiFi Sessions		2,614	4,564	49,458
Early Literacy Station Sessions		n/a	116	790

November 2021 programming highlights

- 22 programs
 - 17 virtual programs
 - Story times (19 participants, 231 total views within 7 days of program)
 - Let's Draw Knights (72 total views within 7 days of program)
 - Lego® Club (106 total views within 7 days of program)
 - Maker Monday (276 total views within 7 days of program)
 - LEAP into science (12 participants)
 - Eccentric Science – Art Alive! (38 total views within 7 days of program)
 - DIY Egg Nog (74 total views within 7 days of program)
 - Quilt Finish (93 total views within 7 days of program)
 - Domestic Science (65 total views within 7 days of program)
 - 3 DIY kits
 - Papel Picado (a total of 60 kits handed out)
 - Turkey Hands (a total of 50 kits handed out)
 - Folded Holiday Ornaments (a total of 60 kits handed out)
 - 2 contests
 - Count the Candy Corn (138 participants)
 - Ugly Sweater for Logan (24 participants)

November 2021 library services highlights

- Our study and conference rooms were used by 71 individuals/groups for a total of 159 hours.
- We continue to offer Curbside Pickup services. A total of 41 patrons made use of this service in November.
- The Peninsula Clarion and other local newspapers are now available in digital form. For more information, please go to <https://www.kenai.city/library/page/new-newspapers-online>.
- Our next STEAM Zoom session with local schools (i.e., Science + Math + Art = SMART) is scheduled for December 16th.





MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
THROUGH: Paul Ostrander, City Manager
FROM: Tyler Best, Acting Parks & Recreation Director
DATE: December 7, 2021
SUBJECT: **Park and Recreation– December 2021**

Snowfall is coming down, and schools are closing all over the state. The snow is good for our ski trails. They have been getting groomed for several weeks now, but the coverage over the trails has been poor. The snow accumulated the last week has helped provide a good base for people who recreate on the Kenai Ski Trails.

With the cold weather Kenai received in November, the Parks and Recreation Operators have been able to start clearing off Daubenspeck Pond, and it is now thick enough to have skaters on it. (always skate at your own risk) The Department plans to do the annual Skate with Santa at Daubenspeck Pond on December 18th. We will have hot chocolate, music, limited skate rentals (free for the public to use), and of course, Santa will be skating for the whole event.

The Department welcomed a new employee, Emily Wait to the Recreation Center Front Desk. The Kenai Recreation Center is now fully staffed.

The staff has been diligent on snow removal of sidewalks at City Hall, Library, and the Visitor Center. The department Laborer Zoda has been clearing snow around fire Hydrants since it started snowing to make them more accessible for the Fire department.

There has been one request to mark a grave for burial this month.

Parks and Recreation have received several compliments for the Holiday lights put up around town and the snow removed at Daubenspeck.



MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
THROUGH: Paul Ostrander, City Manager
FROM: Ryan Foster, Planning Director
DATE: December 7, 2021
SUBJECT: **Planning and Zoning November 2021 Report**

Planning and Zoning Commission Agenda Items and Resolutions

- On November 10, 2021 the Planning and Zoning Commission recommended approval of the following conditional use permits:
 - **Resolutions PZ2021-21 & PZ2021-40** - Application for Conditional Use Permits for a Dormitory and Bed & Breakfast, for the property described as Lot 1, Block 4, Inlet View Subdivision 1st Revision, located at 702 Lawton Drive, Kenai, Alaska 99611. The application was submitted by Kathleen Martin, P.O. Box 521, Cooper Landing, Alaska 99572
 - **Resolution PZ2021-38** - Application for a Conditional Use Permit for a Recreational Vehicle Park, for the property described as Lot 2, Block F, Beaver Creek Alaska Subdivision Kenai Planning & Zoning Commission – Regular Meeting Page 2 of 2 November 10, 2021 Amended, located at 6575 Kenai Spur Highway, Kenai, Alaska 99611. The application was submitted by Casey Gaze, 6575 Kenai Spur Highway, Kenai, Alaska 99611.

- On November 10, 2021 the Planning and Zoning Commission postponed the following resolution to December 8, 2021 for further review and discussion:
 - **Resolution No. PZ2021-39** - Recommending the Council of the City of Kenai Approve and Adopt the City of Kenai Land Management Plan. [Clerk's Note: At the October 27th Meeting, this Resolution was Postponed to this Meeting; a Motion to Enact is On the Floor.]

Building Permit and Site Plan Reviews

Planning and Zoning staff reviews all Building Permits for compliance with the zoning code. The Department conducted four Building Permit reviews in November, 2021.

Code Enforcement

There were no new code enforcement cases opened in November, 2021.

City Council Agenda Items

- On November 3, 2021, Kenai City Council approved the following lease of Airport Reserve lands:
 - **Resolution No. 2021-63** - Approving The Execution of a Lease of Airport Reserve Lands Using the Standard Lease Form Between the City of Kenai and Schilling Rentals, LLC on General Aviation Apron Sub No. 1 Amended Lot 2, Block 3. (Administration)

Land Management Plan Commission Presentations

- On November 4, 2021 planning staff presented the Draft Land Management Plan to a Joint Session of the Parks and Recreation Commission and the Beautification Committee. The draft resolution in support of approving and adopting the Land Management Plan was postponed to January 2022 to provide further review and drafting of comments.
- On November 8, 2021 planning staff presented the Draft Land Management Plan to the Harbor Commission. The draft resolution in support of approving and adopting the Land Management Plan was postponed to January 2022 to provide further review and drafting of comments.
- On November 9, 2021 planning staff presented the Draft Land Management Plan to the Airport Commission. The draft resolution in support of approving and adopting the Land Management Plan was postponed to December 9, 2021 to provide further review and drafting of comments.

The City did not receive an application for a new lease in November 2021.





MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council

THROUGH: Paul Ostrander, City Manager

FROM: Kathy Romain, Senior Center Director

DATE: December 6, 2021

SUBJECT: **November 2021 Monthly Report**

A highlight of November was the Hilcorp sponsored Thanksgiving Luncheon. The staff and volunteers prepared and delivered 300 meals for home and pickup lunches.

COVID-19 Booster Clinics were held thanks to Kenai Fire Department with 27 individuals participating.

UNOCAL Retirees began meeting again at the Senior Center for the first time since February 2020. They meet on the first Thursday of each month for lunch and monthly business items.

	2021	2020
Home Delivered Meals	2518	2838
Individuals	206	138
Dining Room (Congregate) Meals	340	0
Individuals	64	0
Transportation (1-way rides)	126	0
Individuals	11	0
Grocery Shopping Assistance	2	8
SIGN-INS VIA MySeniorCenter©		
Writers Group	15	0
Caregiver Support Group	15	0
Growing Stronger Exercise	219	0
Tai Chi Class	38	0
TOPS Weight Loss Class	33	0
Bell Choir	22	0
Bluegrass & Music Sessions	37	0
Card Games	71	0
Wii Bowling	25	0
Arts & Crafts	16	0
Total Event Sign-ins	1177	0
Individuals	128	0
Vintage Pointe Manor Vacancies	0	4

PURCHASE ORDERS BETWEEN \$2,500.00 AND \$15,000.00 FOR COUNCIL REVIEW
COUNCIL MEETING OF: DECEMBER 15, 2021

VENDOR	DESCRIPTION	DEPT.	ACCOUNT	AMOUNT
NORTHSTAR SUPPLY	FY22 CALCIUM CHLORIDE	STREETS	OPERATING SUPPLIES	11,907.00
KACHEMAK ELECTRIC	ACTUATOR VALVES	WATER	REPAIR & MAINTENANCE	6,283.00



Alaska Association of Municipal Clerks

Brenda Ballou, MMC, President
City Clerk, City of Seward
410 Adams Street, Seward, AK 99664
Phone: 907.224.3331
Email: bballou@cityofseward.net

November 30, 2021

Paul Ostrander, City Manager
City of Kenai
210 Fidalgo Avenue
Kenai, AK 99611

Dear Mr. Ostrander:

The Alaska Association of Municipal Clerks (AAMC) would like to thank you and the City of Kenai for your support of City Clerk Jamie Heinz, MMC. Ms. Heinz has progressed through the AAMC presidency and, as of the AAMC annual business meeting on November 19, 2021, she has now entered her final year on the Executive Board as the Immediate Past President. Ms. Heinz's term will extend through November 2022.

On behalf of AAMC, I thank the City of Kenai Administration and City Council and offer our sincere appreciation for the support you have shown to Ms. Heinz and to the AAMC by sharing her with our organization.

Sincerely,

D. Danyielle Snider, MMC
Secretary
Alaska Association of Municipal Clerks



Update from the Board of Directors Cook Inlet Regional Citizens Advisory Council

John Williams, Vice President, representing the City of Kenai

The Cook Inlet Regional Citizens Advisory Council met virtually on December 3rd, 2021. Remote meetings continue as a precaution to protect the health and safety of CIRCAC Directors and staff.

We were pleased to hear from Commissioner Jason Brune of the Alaska Department of Environmental Conservation. In November of 2021, ADEC released its proposed changes to the state's oil spill prevention and response regulations. The Department has identified 32 sections for possible change in Section 18 of the Alaska Administrative Code dealing with oil spill response and prevention measures, including Contingency Plans, or C-Plans. CIRCAC staff is currently working through a comprehensive review of these proposed changes and will provide comments to the Department by the deadline of January 22, 2022.

CIRCAC has remained consistent in its position that any changes to the regulations should only strengthen existing protections. These regulations have been refined over the course of three decades, with input from the public and industry, leading to a comprehensive suite of regulations that have proven effective at preventing large scale spills and providing effective guidance and response strategies for other releases. We appreciate Commissioner Brune's efforts to keep CIRCAC apprised of this review progress since it was launched in October of 2019 and we look forward to working with ADEC to ensure Alaska's oil spill prevention and response regulations continue to protect our sensitive environment and resources in Cook Inlet.

The Board was also given a presentation by Marc Bayer, Vice President, Marine Operations at Marathon Petroleum. Presentations of this sort by experts at our partner organizations are invaluable for the Board's ongoing education regarding best practices, safety standards and technological updates in the marine transport of crude oil.

Other business including adopting CIRCAC's operating budget for 2022 and welcoming new staff to the organization; Cassandra Johnson, Accounting and Grants Manager and Candice Elias, Administrative Assistant.

Our December meeting typically provides an opportunity to look back on accomplishments of the previous 12 months. CIRCAC had many accomplishments in 2021, the most important of which was maintaining safe day-to-day operations amid the ongoing COVID-19 pandemic, and continuing to carry out the mission of the organization despite those challenges.

We very much look forward to meeting again in person in April of 2022; that decision will be made pending the status of the pandemic and with deference to safeguarding the health and safety of the public, our board members and staff.

On behalf of the CIRCAC Board of Directors, have a safe and happy holiday season.



December 7, 2021

GLM Energy Services, LLC.
420 North Willow Street
Kenai, AK 99611

Dear GLM Energy Services,

On behalf of the Kenai Senior Center, a sincere thank you for the \$500.00 donation.

The Kenai Peninsula is one of the fastest growing areas for our aging population. Since 1971, the Kenai Senior Center has been providing services to seniors allowing them to safely remain in the home environment as long as possible. Your contribution to our program will help to continue these efforts.

Again, thank you for your support of the Kenai Senior Center as we work to meet the needs of the aging in our community.

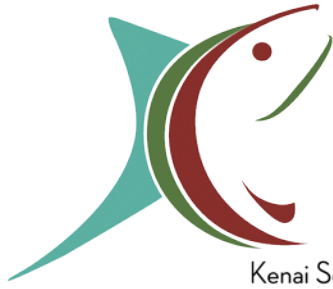
Sincerely,

CITY OF KENAI

Kathy Romain, Director
Kenai Senior Center



The City of Kenai | www.kenai.city



KENAI

Kenai Senior Center | 361 Senior Ct., Kenai, AK 99611 | 907.283.4156 | www.kenai.city

December 7, 2021

Pioneers of Alaska
Igloos 33 & 16
P O Box 1904
Kenai, AK 99611

Dear Pioneers of Alaska,

On behalf of the Kenai Senior Center, a sincere thank you for the \$1,000.00 donation. Pioneers of Alaska has been a longstanding voice for the independent Alaskan who helped make our great state what it is today.

The Kenai Peninsula is one of the fastest growing areas for our aging population. Since 1971, the Kenai Senior Center has been providing services to seniors allowing them to safely remain in the home environment as long as possible. Your contribution to our program will help to continue these efforts.

Again, thank you for your support of the Kenai Senior Center as we work to meet the needs of the aging in our community.

Sincerely,

CITY OF KENAI

Kathy Romain, Director
Kenai Senior Center



The City of Kenai | www.kenai.city