

UNALASKA CITY COUNCIL

Unalaska, Alaska

Regular Meeting
Tuesday, July 24, 2018
6:00 p.m.

AGENDA

Unalaska City Hall
Council Chambers
43 Raven Way

-
1. Call to order
 2. Roll call
 3. Pledge of allegiance
 4. Recognition of visitors
 5. Adoption of agenda
 6. Approve minutes of previous council meeting, July 10, 2018
 7. Reports
 - a. City Manager
 - b. Planning Commission and Platting Board Minutes from June 21, 2018
 8. Community Input and Announcements
 9. Public testimony on agenda items
 10. Public hearing
 - a. Ordinance 2018-08: Creating Budget Amendment #1 to the Fiscal Year 2019 Budget, increasing General Fund transfers to fund FY19 capital project expenditures for the Captains Bay Road Project, and recognizing transfers in and increasing expenditures in the project fund
 11. Work session
 - a. Presentation: Financial Update from Iliuliuk Family Health Services Clinic
 - b. Presentation: PND Engineering with an Engineer's update on the Unalaska Marine Center Project
 - c. Discussion: Organizational options for the Department of Public Safety
 12. Consent agenda
 - a. Resolution 2018-46: A Resolution of the Unalaska City Council approving the renewal of ATS 1444, ADL 72796, a long term lease agreement between the City of Unalaska and Unisea, Inc., for an outfall easement on City owned tidelands
 - b. Resolution 2018-47: A Resolution of the Unalaska City Council approving the renewal of ATS 1444, ADL 79283, a long term lease agreement between the City of Unalaska and Unisea, Inc., for an outfall easement on City owned tidelands
 13. Regular agenda
 - a. Unfinished Business
 - i. Approve Findings of Fact and Conclusions of Law on the appeal of the May 17, 2018 decision of the Unalaska Planning and Zoning Commission denying a variance for a temporary structure located on Lot 2A, Plat no. 97-7 at 226 West Broadway Avenue, appellants Joel and Carrie Collins
 - ii. Ordinance 2018-08: Second Reading, Creating Budget Amendment #1 to the Fiscal Year 2019 Budget, increasing General Fund transfers to fund FY19 capital project expenditures for the Captains Bay Road Project, and recognizing transfers in and increasing expenditures in the project fund
 - b. New Business
 - i. Ordinance 2018-09: First Reading, an Ordinance of the Unalaska City Council amending Chapter 11.16 to prohibit the distribution of disposable plastic shopping bags and amending Chapter 1.24.010 to add a penalty to the minor offense ordinance for the unlawful distribution of plastic shopping bags
 14. Executive Session to receive legal advice from the city attorney regarding contract disputes related to the construction of the wastewater treatment plant
 15. Council Directives to City Manager
 16. Community Input and Announcements
 17. Adjournment

UNALASKA CITY COUNCIL

Unalaska, Alaska

Regular Meeting
Tuesday, July 10, 2018
6:00 p.m.

MINUTES

Unalaska City Hall
Council Chambers
43 Raven Way

1. Call to order. The regular meeting of the Unalaska City Council came to order at 6:00pm, on July 10, 2018, in the Unalaska City Council chambers.

2. Roll call

Present:

Frank Kelty, Mayor

Dennis Robinson, Vice Mayor

Roger Rowland (Telephonic)

James Fitch (Telephonic)

Alejandro Tungul (Telephonic)

David Gregory

Shari Coleman

Absent:

None

3. Pledge of Allegiance. Coleman led the Pledge of Allegiance
4. Recognition of visitors
5. Adoption of agenda

Changes to agenda: Under new business, item iii (Ordinance 2018-08) moved to position iv; and item iv (Resolution 2018-48) moved to position iii, so that Resolution 2018-48 will be addressed before Ordinance 2018-08.

Robinson made a motion to adopt agenda as amended; Gregory seconded. Motion passed by consensus 6-0.

6. Awards / Presentations: GFOA Certificate of Achievement for Excellence in Financial Reporting
Mayor Kelty presented the GFOA Certificate of Achievement for Excellence in Financial Reporting to Clay Darnell, Finance Director and finance staff.
7. Approve minutes of previous meeting, June 26, 2018
Robinson made a motion to approve June 26, 2018 meeting minutes; Gregory second.
Motion passed by consensus 6-0.
8. Reports
 - a. City Manager gave his report; a copy of which was in the council packet. Reports. The City Manager's report was in the council packet.
 - b. Financials (none)
 - c. Board / Commission Minutes (none)

9. Community Input / Announcements

- PCR
 - Artisan Market
 - Party in the Park
 - Ballyhoo Run
- Museum of the Aleutians
 - Community Archeological Program
 - Janet Schaefer – Alaska Volcanic Observatory
- Recognition
 - City Fireworks
 - Ballyhoo Lions Duck Races

10. Public testimony on agenda items: None.

11. Legislative: Oath of Office for Police Officer Liviu Balaceanu
City Clerk administered the Oath of Office: Officer Liviu Balaceanu

12. Public hearings (none)

13. Work session. Robinson made a motion to adjourn to Work Session; Coleman seconded. Motion passed by consensus 6-0.

- a. Discussion: Ordinance banning distribution of plastic shopping bags
- b. Discussion: Funding request from the SE Alaska Regional Development Organization for the Alaska Marine Highway System Reform Project
- c. Discussion: Sponsorship Request from Institute of the North for the Arctic Council's "Conservation of Arctic Flora and Fauna" working group meeting to be held in Unalaska September 5-7, 2018

14. Consent agenda (none)

15. Regular agenda

- a. Unfinished Business (none)
- b. New Business
 - i. Resolution 2018-44: A Resolution of the Unalaska City Council renewing the City's policy on participation in funding electric primary and secondary utility line extensions for Fiscal Year 2019

Robinson made a motion to adopt Resolution 2018-44; Gregory seconded.

Roll Call Vote: Rowland – yes; Robinson – yes; Tungul – yes; Gregory – yes; Fitch – yes; Coleman – yes.

Motion passed 6-0.

- ii. Resolution 2018-45: A Resolution of the Unalaska City Council renewing the City's policy on participation in funding water and sewer utility extension costs for primary and secondary line extensions for Fiscal Year 2019

Coleman made a motion to adopt Resolution 2018-45; Robinson seconded.

Roll Call Vote: Robinson – yes; Tungul – yes; Gregory – yes; Fitch – yes; Coleman – yes; Rowland – yes.

Motion passed 6-0.

- iii. Ordinance 2018-08: Creating Budget Amendment #1 to the Fiscal Year 2019 Budget, increasing General Fund transfers to fund FY19 capital project expenditures for the Captains Bay Road Project, and recognizing transfers in and increasing expenditures in the project fund

Robinson made a motion to move Ordinance 2018-08 as amended to Second Reading and Public Hearing on July 24, 2018; Gregory seconded.

Roll Call Vote: Gregory – yes; Fitch – yes; Coleman – yes; Rowland – yes; Robinson – yes; Tungul – yes.

Motion passed 6-0.

- iv. Resolution 2018-48: A Resolution of the Unalaska City Council authorizing the City Manager to enter into an agreement with HDL Engineering Consultants, LLC to perform Phase 1A Task 1 and 20% of Phase 1A Tasks 2, 3 and 5 Design for the Captains Bay Road and Utilities Improvements Project in the amount of \$195,868

Coleman made a motion to adopt Resolution 2018-48; Robinson seconded.

Roll Call Vote: Tungul – yes; Gregory – yes; Fitch – yes; Coleman – yes; Rowland – yes; Robinson – yes.

Motion passed 6-0.

- v. Resolution 2018-49: A Resolution of the Unalaska City Council authorizing the City Manager to enter into an Agreement with Northern Alaska Contractors, LLC for the construction of Sewer Lift Stations 2 & 5 Discharge Pipe Project for \$338,000

Robinson made a motion to adopt Resolution 2018-49; Gregory seconded.

Roll Call Vote: Fitch – yes; Coleman – yes; Rowland – yes; Robinson – yes; Tungul – yes; Gregory – yes.

Motion passed 6-0.

- vi. Council Sponsorship: Funding request from the SE Alaska Regional Development Organization for the Alaska Marine Highway System Reform Project

Robison made a motion to grant the funding request from the SE Alaska Regional Development Organization for the Alaska Marine Highway System Reform Project at Gold Level - \$3500; Gregory seconded.

Roll Call Vote: Coleman – yes; Rowland – yes; Robinson – yes; Tungul – yes; Gregory – yes; Fitch – yes.

Motion passed 6-0.

- vii. Council Sponsorship: Sponsorship Request from Institute of the North for the Arctic Council's "Conservation of Arctic Flora and Fauna" working group meeting to be held in Unalaska September 5-7, 2018

Coleman made a motion to grant sponsorship request from the Institute of the North for the Arctic Council's "Conservation of Arctic Flora and Fauna" working group meeting in Unalaska on September 5-7, 2018 in the amount of \$3,000; Fitch seconded.

Motion passed by consensus 6-0.

- viii. Travel Approval: Mayor and/or Council Members to attend the Summer Legislative Conference of the Alaska Municipal League and a meeting of the Alaska Conference of Mayors, August 22-23, 2018, hosted by the Denali Borough

Robinson made a motion to grant Mayor Kelty approval to travel and attend the Summer Legislative Conference of the Alaska Municipal League and a meeting of the Alaska Conference of Mayors, August 22-23, 2018; Gregory seconded.
Motion passed by consensus 6-0.

16. Council Directives to City Manager

Mayor Kelty requested an update on Wind Project in next City Manager's report.
Thomas Thomas, City Manager, gave an update on Wind Project

17. Community Input / Announcements (none)

18. Adjournment

Gregory made a motion to adjourn; Robinson seconded.
Motion passed by consensus.
Meeting adjourned at 7:56pm.

Marjie Veeder
City Clerk

rfw

TO: Mayor and Council

FROM: Thomas Thomas, City Manager

SUBJECT: City Manager's Report

DATE: July 24, 2018

Federal Legislative Update: With last year's bipartisan, two-year agreement on overall spending levels in place, we are seeing appropriations bills move through Committee and the House and Senate more quickly and with less controversy than they have in recent memory. We believe that there is a good chance that a number of these bills may pass the Congress by the start of the new fiscal year on October 1. A number of issues could slow their pace, namely, immigration and health care, and the nomination of a new Supreme Court Justice. Last year, President Trump threatened to veto the Omnibus Appropriations Bill but backed off because of its generous increases in defense spending. It is unclear what approach he will take once the bills reach his desk.

Library: The library will again be receiving approximately \$27,000 from the State of Alaska through the OWL (Online with Libraries) Grant. This grant helps to fund the library's public internet connection.

UCSD Playground Renovation: The final plans are being revised due to the small budget to cover the high cost of playground equipment. In order to fall within budget, the project will proceed without some of the more costly playground equipment, which can be added in the future. To help keep costs down, the City will remove the remainder of rusty fence, realign the earthen berm along Bayview Ave and move the school parking lot guardrail back 10 feet to increase the playground area.

Wind Study MET Towers: The City received four right-of-entry agreements from Ounalashka Corporation for the MET Towers. Two locations are in Pyramid Valley, one on Hog Island and one on Little South America.

**CITY OF UNALASKA, ALASKA
PLANNING COMMISSION & PLATTING BOARD
REGULAR MEETING
THURSDAY, JUNE 21, 2018, 6:00 P.M.
UNALASKA CITY HALL COUNCIL CHAMBERS
MINUTES**

CALL TO ORDER: Chair Billie Jo Gehring called the meeting to order at 6:00 PM.

ROLL CALL

Commissioners Physically Present

Billie Jo Gehring
Thomas Bell
Helen Brown
Vicki Williams
Travis Swangel

Commissioners Absent

Staff Present

Bil Homka, Planning Director
Thomas Roufos, Associate Planner
James Price, GIS Administrator
Judy Huling, Administrative Assistant
Christian Schmidt, Planning Intern

REVISIONS TO THE AGENDA: None

Commissioner Swangel made a motion to adopt the agenda. Commissioner Williams seconded the motion. Motion passed unanimously.

ANNOUNCEMENTS: None

MINUTES: Commissioner Williams made a motion to approve the minutes from May 17, 2018. Commissioner Swangel seconded. Motion passed unanimously.

PUBLIC HEARING

Resolution 2018-08 – A RESOLUTION APPROVING A 10 FOOT VARIANCE TO THE 20 FOOT FRONT SETBACK FOR A CONTAINER GREEN HOUSE ON LOT 14A, AERIE SUBDIVISION, PLAT 89-01, AIRD

No public was there to speak on this resolution.

Resolution 2018-09 – A RESOLUTION APPROVING AN 8 FOOT VARIANCE TO THE 10 FOOT SIDE YARD SETBACK FOR AN ARCTIC ENTRY AND DECK ON LOT 1 SEAGULL HILL SUBDIVISION, NICHOLS ADDITION, PLAT 99-05, AIRD

No public was there to speak on this resolution.

Resolution 2018-10 – A RESOLUTION APPROVING A PRELIMINARY PLAT OF PARKSIDE ESTATES PART 2, A RESUBDIVISION OF TRACT D, PARKSIDE ESTATES SUBDIVISION, PLAT 2011-7, AIRD

Mr. Homka explained that **Resolution 2018-10** was on the agenda as a formality. The applicant requested that it be deferred until next month so he could be present.

OLD BUSINESS *None*

NEW BUSINESS

Resolution 2018-08 – A RESOLUTION APPROVING A 10 FOOT VARIANCE TO THE 20 FOOT FRONT SETBACK FOR A CONTAINER GREEN HOUSE ON LOT 14A, AERIE SUBDIVISION, PLAT 89-01, AIRD

Mr. Homka gave the staff report.

Jason Gates, the applicant, spoke to the commission explaining his intentions to put a 20' container, as a greenhouse, against the side of his garage. He had tested various sites on his property the previous year to see which would work best for a greenhouse. The selected location received the best sunlight and was most suitable for greenhouse purposes. The other potential sites were right up against the property line on the north side of the property, or behind the house, which would require walking a crane up General Hill to lift the container over the house.

Commissioner Swangel explained that, considering the shape and topography of the lot, the 20' front yard setback does make it difficult for development. On the other hand, the hardship of getting a crane up the hill to lift a container over the garage is not reason enough to grant a variance.

Mr. Homka asked about the potential spot on the side yard lot line. Mr. Gates explained that the only flat area on that side is right on the lot line, and he was told by staff that he would not receive a variance for that.

Commissioner Swangel asked how much space Mr. Gates was asking for between the container and his garage. Mr. Gates stated the Fire department had suggested he put it right up against the garage. He said he had 24 feet between the garage and the setback. An 8' container would require a 4 foot variance.

Mr. Roufos explained that the Resolution asking for a 10 foot variance had been written using the old imagery. The new imagery allows for more accurate measurement of property. He suggested the Commission could amend the Resolution to correct the amount of variance requested.

Commissioner Swangel thought that would be worth looking at considering the actual amount of variance would only be four feet instead of ten feet.

Chair Gehring thought that would be good as it appeared that would be the only feasible area in the yard.

Commissioner Swangel asked the applicant if he was considering this as a permanent location or if he would prefer it to be somewhere else.

Mr. Gates stated that was the best spot for sunlight.

Commissioner Swangel stated that he would support a four foot variance, only because of the shape of the lot. He felt it would still allow room for snow removal.

Commissioner Bell stated in originally looking at the request on the surface it did not appear to meet the code requirements for a variance. But, because of the difference in the amount of variance required, he would agree with Commissioner Swangel. Because of the amount of frontage on this lot, it could be more acceptable to grant a variance on it.

Commissioner Swangel made a motion to approve **Resolution 2018-08**. Commissioner Brown seconded. Discussion had already occurred.

Commissioner Swangel made a motion to approve **Resolution 2018-08** as amended with a 5 foot variance. Commissioner Brown seconded. Motion passed unanimously.

Resolution 2018-09 – A RESOLUTION APPROVING AN 8 FOOT VARIANCE TO THE 10 FOOT SIDE YARD SETBACK FOR AN ARCTIC ENTRY AND DECK ON LOT 1 SEAGULL HILL SUBDIVISION, NICHOLS ADDITION, PLAT 99-05, AIRD

Commissioner Swangel made a motion to approve **Resolution 2018-09**. Commissioner Bell seconded.

Mr. Homka gave the staff report.

Chair Gehring invited Tyler Zimmerman, the applicant to speak.

Mr. Zimmerman stated that originally with his property there was an arctic entry on the side of the house. It was removed before his time. The house currently has only one entryway. He would like to put a door on the other side to allow for entry into the kitchen instead of the living room, and give another egress for the house. He would like a deck there also. He also owns the lot next door. The adjacent property, belonging to OC, is narrow and would not be easy to develop any time soon.

Commissioner Swangel asked for clarification as to the length of the variance requested.

Mr. Roufos stated that this was another instance where the initial measurements were taken using old imagery. New measurements changed it from a ten foot variance to a six foot variance.

Chair Gehring pointed out that there was a deck on the back of the neighboring structure that looked like it might have been similar to what was on Tyler's structure. It seemed to be within the setback requirements also. She stated that granting the variance did not seem to be much of an issue as there was no need for leaving room for snow removal, or being too close to the road or another structure. This is abutted to a property that may or may not ever be developed.

Mr. Homka stated that one of the nice things of having these gentlemen come in for variances was that it raised this discussion. This community's side yard requirements are large compared to other places.

Commissioner Bell asked for verification whether there was 12 feet at the side of the building or 10. Mr. Roufos stated it was basically 12 feet along the side, and the proposed construction was eight feet. Commissioner Bell asked if Tyler had considered moving the entry and deck to the front of the house instead of the side. Mr. Zimmerman said he'd thought about it, but that would preclude any garage or parking in that area.

Commissioner Swangel stated that typically when something that was noncompliant was torn down, the homeowner was not allowed to rebuild in that area. In this case, there was clearly something there, coming out of the back. As an egress, it would come into the setback whether it were a set of stairs, or an entry. He originally wasn't going to be in support of it, but having it changed to five feet made it reasonable.

Commissioner Swangel made a motion to approve Resolution 2018-09 with a change to 6 foot variance instead of 8 foot variance. Commissioner Bell seconded. Motion passed unanimously.

Resolution 2018-10 - A RESOLUTION APPROVING A PRELIMINARY PLAT OF PARKSIDE ESTATES PART 2, A RESUBDIVISION OF TRACT 3, PARKSIDE ESTATES SUBDIVISION, PLAT 2011-7, AIRD

Commissioner Williams made a motion to table Resolution 2018-10 until the next meeting. Commissioner Brown seconded. Motion passed unanimously.

WORKSESSION

Mr. Homka stated that Andy Dietrich has done a great job with the new imagery, as well as James with our GIS department, and Public Works. They used GPS to set locations to make it easier to lay the imagery across the parcel fabric. He was hoping to make a presentation to Council a month from now showing the new imaging results, and would like to go live with the imaging before August.

Mr. Homka reviewed a supplement given the Commissioners on a study of the downtown area, giving lot sizes in each block of USS 1992. This information can be used when considering whether or not changes need to be made to the zoning code, either for this area specifically, or for all Single Family-Duplex lots. He suggested that they walk around downtown to look at it from a Planning Commission point of view. What works, what doesn't? How can each parcel best be used? What are the parking requirements? What setbacks would work?

There was discussion of some of the potential issues in the downtown area and other areas on the island. It was decided that everyone would visit the downtown area before the next meeting and come back for more discussion.

Residential Boat Lease Policy review discussion. Mr. Homka explained that this had come up because someone was looking at living on a boat as an alternative to traditional housing. Staff added some wording to the current Tideland leasing policy to allow for liveaboards. This would only apply to new docks, not existing private or public docks.

Chair Gehring stated it was her understanding that if everyone was in favor of this it would be on the schedule for the next meeting as a Resolution to approve. The Zoning review discussion would continue for several meetings.

ADJOURNMENT: Commissioner Williams made a motion for adjournment. Commissioner Brown seconded. Meeting was adjourned at 7:21 pm.


PASSED AND APPROVED THIS _____ DAY OF _____, 2018 BY THE CITY OF UNALASKA PLANNING COMMISSION.



Billie Jo Gehring
Commission Chair

7/19/18

Date



Bil Homka, AICP
Secretary of the Commission

7-19-18

Date

Prepared by Judith Huling, Administrative Assistant

CITY OF UNALASKA
UNALASKA, ALASKA

ORDINANCE 2018-08

CREATING BUDGET AMENDMENT #1 TO THE FISCAL YEAR 2019 BUDGET, INCREASING GENERAL FUND TRANSFERS TO FUND FY19 CAPITAL PROJECT EXPENDITURES FOR THE CAPTAINS BAY ROAD PROJECT, AND RECOGNIZING TRANSFERS IN AND INCREASING EXPENDITURES IN THE PROJECT FUND

BE IT ENACTED BY THE UNALASKA CITY COUNCIL

Section 1. Classification: This is a non-code ordinance.
Section 2. Effective Date: This ordinance becomes effective upon adoption.
Section 3. Content: The City of Unalaska FY19 Budget is amended as follows:

A. That the following sums of money are hereby accepted and the following sums of money are hereby authorized for expenditure.

B. The following are the changes by account line item:

Amendment No. 1 to Ordinance #2018-04

		<u>Current</u>	<u>Requested</u>	<u>Revised</u>
I. OPERATING BUDGETS				
A. General Fund				
Sources				
	Current year budget remaining surplus	1,480,854	1,000,000	480,854
Uses				
	Transfers out - Capital Projects Gen Gov	1,401,665	1,000,000	2,401,665

II. CAPITAL BUDGETS

B. Public Works - Project Budget

Sources					
	Transfers in - General fund	PW19A	250,000	1,000,000	1,250,000
Uses					-
	Captains Bay Road & Utility Improvements	PW19A	250,000	1,000,000	1,250,000

PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE UNALASKA CITY COUNCIL ON JULY 25, 2018.

Frank Kelty
Mayor

ATTEST:

Marjie Veeder
City Clerk

**Fiscal Year 2019 Budget Amendment 1
and Schedule of Proposed Accounts**

	<u>Org</u>	<u>Object</u>	<u>Project</u>	<u>Current</u>	<u>Requested</u>	<u>Revised</u>
1) <u>General Fund - Operating Budget</u>						
Sources:						
Current Year Budgeted Surplus				1,480,854.00	(1,000,000.00)	480,854.00
Uses:						
Transfer to Gen Gov Capital Projects Fund	01029854	59920		1,401,665.00	1,000,000.00	2,401,665.00
2) <u>Public Works - Capital Budget</u>						
Sources:						
Transfers in - General Fund	31019848	49100	PW19A	(250,000.00)	(1,000,000.00)	(1,250,000.00)
Uses:						
Captains Bay Road - Engineering	31021553	53240	PW19A	250,000.00	1,000,000.00	1,250,000.00

MEMORANDUM TO COUNCIL

To: Mayor and City Council Members
From: Lori Gregory, DPW/DPU Office Manager
Through: Dan Winters, Acting Director, Department of Public Works
Through: Thomas Thomas, City Manager
Date: July 10, 2018
Re: Ordinance 2018-08, Budget Amendment Request for Captains Bay Road & Utility Improvements Project in the amount of \$1,000,000 to fund Phased Design work

SUMMARY: Captains Bay Road is the most likely area to have industrial development, which will have a positive economic impact to the City. Adding utilities and paving to this road will insure this growth. Staff let an open Request for Qualifications for the Captains Bay Road & Utility Improvements Project (PW19A), and three proposals for the work were received. HDL Engineering Consultants, LLC (HDL) was selected by a team of City Staff to perform the Phase 1 design for this project; however, the cost for all phases of the work set forth in the RFQ exceeds the Project's FY19 budget. This Budget Amendment Ordinance will move \$1,000,000 in funding slated for FY20 and FY21 from the General Fund into the Project's Budget in order to fund Phase 1 Design.

PREVIOUS COUNCIL ACTION: During the Fiscal Year 2019 CMMP discussion with Council, a directive was given to the City Manager to move the Captains Bay Road and Utilities Improvement Project to the F19 CMMP. Council also conveyed that they wanted the project "shovel ready" so the project would be ready for application for grants. Council funded this project via the FY2019-2023 CMMP and the FY19 Operating & Capital Budget Ordinance 2018-04, approved and adopted on May 22, 2018. That Ordinance provided \$250,000 in initial funding for the work. Council approved Resolution 2018-48 earlier this evening, awarding portions of the Phase 1 of the design work to HDL for \$195,868.

BACKGROUND: A Request for Qualifications for design services for the project was sent directly to certain engineering firms and advertised on the City website for 30 days. Three proposals were received, a team of City Staff scored them, interviews were held with the proposers and then a second round of scoring was conducted. HDL Engineering Consultants received the highest overall score.

DISCUSSION: The first portion of the requested scope of services was awarded earlier this evening for \$195,868, leaving a project balance of \$54,132. Staff requests \$1,000,000 in funding that has been scheduled via the CMMP for FY20 and FY21 be added to the current Project budget in order to continue moving forward to the next phases of design. Staff will return to Council for a Contract Addendum to award the remaining phases of the work requested in the RFQ once funding is secured.

ALTERNATIVES: Council has asked the City Manager to fast track the design of this project. In order to accomplish this goal, the funding set for later years needs to be available now. Therefore, Staff sees no alternative to approving the fast tracking of the budget to keep the project on Council's timeframe.

FINANCIAL IMPLICATIONS:

G/L CODE	DESCRIPTION	ORIGINAL BUDGET (FY19)	EXPENSED or ENCUMBERED	CURRENT BUDGET	THIS REQUEST	REVISED BUDGET
3102-1553-53240 PW19A	Engineering & Architectural	\$208,500	\$ 195,868	\$ 12,632	\$ 1,000,000	\$ 1,012,632
3102-1553-53300 PW19A	Other Professional	\$ 10,000	\$ -	\$ 10,000	\$ -	\$ 10,000
3102-1553-53430 PW19A	Survey Services	\$ 10,000	\$ -	\$ 10,000	\$ -	\$ 10,000
3102-1553-55310 PW19A	Telephone	\$ 1,000	\$ -	\$ 1,000	\$ -	\$ 1,000
3102-1553-55901 PW19A	Advertising	\$ 500	\$ -	\$ 500	\$ -	\$ 500
3102-1553-55907 PW19A	Permit Fees	\$ 20,000	\$ -	\$ 20,000	\$ -	\$ 20,000
		\$250,000	\$ 195,868	\$ 54,132	\$ 1,000,000	\$ 1,054,132

LEGAL: Not Applicable

STAFF RECOMMENDATION: Staff recommends Council adopt Ordinance 2018-08.

PROPOSED MOTION: I move to approve Ordinance 2018-08 and schedule it for second reading and public hearing on July 24, 2018.

CITY MANAGER COMMENTS: I recommend approval of Ordinance 2018-08 and setting it for second reading and public hearing on July 24, 2018.

ATTACHMENTS: None.



Iliuliuk Family and Health Services Inc.

Follow-up from Emergency grant request

The request

- ▶ This request is to assist in the funding of the IFHS after hour Urgent Care Services in the amount of \$700,000 - \$500,000 was approved.
- ▶ Losses by Year:
- ▶ FY10: -\$607,006
- ▶ FY11: -\$898,737
- ▶ FY12: -\$722,166
- ▶ FY13: -\$511,677
- ▶ FY14: -\$81,142
- ▶ FY15: \$21,074
- ▶ FY16: -\$371,796
- ▶ FY17: -\$723,821

No City funds were needed

Iluliuk Family and Health Services Finance Report - JUN 2018

Management has elected to omit substantially all of the disclosures required by the generally accepted accounting principles as issued by the US Financial Accounting Standards Board. If the omitted disclosures and the statement of cash flows were included in the financial statements, they might influence the user's conclusions about the organization's financial position, results of operations and cash flows. Accordingly, the financial statements are not designed for those who are not informed about such matters.

	FY 2017 (audited)	Apr 2018	May 2018	Jun 2018	YTD	YTD Budget	Budget Variance Favorable (Unfavorable)	% Fav (Unfav)	Jun 2017	FY18 Budget
Income										
Professional Fees	6,321,180	336,189	199,094	289,636	4,490,221	4,469,347	20,874	0%	394,687	4,469,347
Contractual Adjustments	(2,148,990)	(45,885)	(105,104)	4,054	(987,111)	(857,297)	(129,814)	15%	(156,082)	(857,297)
Sliding Scale	(239,944)	(18,787)	(5,591)	(2,480)	(232,602)	(95,721)	(136,881)		(21,558)	(95,721)
Net Patient Service Revenue	3,932,246	271,518	88,399	291,211	3,270,508	3,516,329	(245,821)	-7%	217,047	3,516,329
Gifts, Grants, and contributions	1,580,766	142,484	138,933	146,034	2,008,186	1,674,382	333,804	20%	138,834	1,674,382
Interest Income	4,919	-	-	-	2,482	137	2,345	1708%	-	137
Rent Income	86,400	7,200	7,200	7,200	72,051	86,400	(14,349)	-17%	7,200	86,400
Other Income	13,528	3,102	66,761	90,368	183,805	149,642	34,163	23%	-	149,642
Total Income	5,617,858	424,303	301,293	534,812	5,537,032	5,426,891	110,141	2%	363,081	5,426,891
Expense										
Salaries and Wages	2,861,542	213,542	205,957	264,488	2,771,869	2,557,448	(214,421)	-8%	227,047	2,557,448
Employee Benefits	892,548	55,649	59,542	68,447	777,796	827,747	49,951	6%	64,802	827,747
Supplies	344,000	5,077	15,612	23,351	279,101	398,724	119,622	30%	21,774	398,724
Professional Services	476,019	23,673	37,975	16,841	586,397	637,613	51,216	8%	45,849	637,613
Occupancy, Rent, and Utilities	294,609	13,196	13,942	17,786	299,745	533,049	233,304	44%	32,012	533,049
Insurance	78,855	4,808	4,808	386	98,013	94,936	(3,078)	-3%	44,390	94,936
Freight and postage	13,215	(4,477)	441	1,093	15,043	15,656	613	4%	1,282	15,656
Other	506,703	104,748	31,887	53,076	367,420	63,418	(304,003)	-479%	3,570	63,418
Bad Debts Expense	369,381	-	-	-	-	147,357	147,357	100%	31,964	147,357
Depreciation	255,173	24,322	26,270	26,270	315,240	262,330	(52,910)	-20%	26,487	262,330
Total Expense	6,092,045	440,537	396,435	471,739	5,510,625	5,538,277	27,652	0%	499,177	5,538,277
Net Income	(474,187)	(16,234)	(95,142)	63,074	26,407	(111,386)	137,794	-124%	(136,096)	(111,386)
Account Balances										
Cash	235,808	531,025	532,304	306,228					235,808	
Investments	600,834	400,834	400,834	400,834					600,834	
	836,642	931,859	933,138	707,062					836,642	
Gross A/R	2,069,711	2,284,277	1,986,697	1,980,159					2,069,711	
Allowance	(1,420,505)	(1,384,763)	(1,360,595)	(1,249,261)					(1,420,505)	
Net A/R	649,206	899,514	626,102	730,898					649,206	
Encounters										
Medical		588	530	357					623	
Dental		46	56	15					34	
BH		13	25	10					61	
Total		647	611	382					718	
					Per EPIC (new system)					

What we stated IFHS would do and accomplished in one year.

- ▶ Patients get a one time 50% adjustment on outstanding balances over 120 days in the month of October
- ▶ The Wall of Support
- ▶ New on site CFO
- ▶ New billing company
- ▶ Lower our fee schedule for Primary Care
- ▶ Re-establish confidence in the community to provide primary care at a fair price
- ▶ Continued City Grant support
- ▶ Done and removed patient from collections and adjusted off balances for a clean start
- ▶ Industry and individuals raised \$17,500
- ▶ Darlene joined IFHS in October 2017
- ▶ Synergy started in January 2018
- ▶ New fee schedule started January 2018
- ▶ Met with many community members looked through issues, lowered prices, and accurate billing

Integration with APIA



Memorandum of Understanding Between Aleutian Pribilof Islands Association And Iliuliuk Family and Health Services

The Iliuliuk Family and Health Services (IFHS) and the Aleutian Pribilof Islands Association (APIA) both agree in principle to work cooperatively to integrate existing health services to better meet the needs of the entire community of Unalaska. This represents a significant opportunity and new beginning for both entities to leverage resources and experiences to redefine Health Care for Unalaska and design a delivery system that is sustainable for entire community.

IFHS and APIA agree that integration efforts will result in the following for the entire community of Unalaska:

- Improved access to care
 - Improved patient experience and satisfaction
 - Leverage strengths, assets, and unique programs
 - Improve cohesiveness of community: Eliminate Native/Non-Native Divide
 - Better coordination across services and providers
 - Improved financial stability for both entities
- The scope of services include, but are not

limited to:

- Wellness/Prevention
- Primary Care
- Care Coordination
- Urgent Care
- Emergency Care
- Behavioral Health

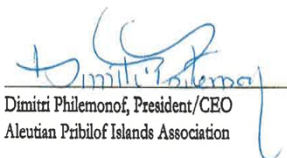
- Dental
- Optometry
- Pharmacy

Both entities agree to engage in efforts to systematically plan, obtain the appropriate approvals and develop collective implementation strategies. Through the direction and approval of the APIA President/ CEO, the IFHS CEO and APIA Health Director in good faith will lead planning efforts and develop strategies.

Because of the complexity of a fully integrated model and the due diligence and time necessary for planning and implementation, both entities agree that action is necessary to demonstrate progress by taking immediate steps that are low risk and yield the most results. Both entities will evaluate the integration aides and apply learnings towards upcoming and more complex integration activities.

This document reflects a sincere determination to work together to build on the respective profession and vision statements of each organization, to meet the challenges of the future, and ensure that the community of Unalaska has access to timely, efficient, effective, culturally appropriate care.


James Kaech, CEO Date 7-18-18
Iliuliuk Family and Health Services


Dimitri Philemonof, President/CEO
Aleutian Pribilof Islands Association
Date 7-18-18

MEMORANDUM TO COUNCIL

To: Mayor and City Council Members
From: Thomas Thomas, City Manager
Date: July 24, 2018
Re: Public Safety Organizational Structure

SUMMARY: Many options exist for the Department of Public Safety from no change at all to creating a standalone Fire Department. The one option under review this evening is creating a standalone Fire Department.

PREVIOUS COUNCIL ACTION: City Council has discussed various options for the future of the Department Public Safety over the last few years. City Council has taken no formal action on this item, after having determined to wait for any final decisions until the new City Manager arrived.

BACKGROUND: The Director of Public Safety position, who also serves as the Police Chief, is vacant. A vacancy in this position provides an opportunity to analyze the organizational structure of DPS and the role of the director.

Over the last few months, the City Manager has discussed various organizational options for the Department of Public Safety internally with the Assistant City Manager, Acting Public Safety Director, and Fire Chief. City Council's involvement is required for related code changes, and amendments to existing plans and agreements (Emergency Operations). The City Manager and Assistant City Manager then met with members of Council to review the options and garner feedback on a possible way forward.

DISCUSSION: The only option outlined in this memo for the Department of Public Safety is to create a standalone Fire Department with the Fire Chief and Director of Public Safety (Police Chief) reporting directly to City Manager. This memo highlights the benefits of this option, the challenges, and outlines some of the necessary actions associated with the implementation of this option.

The development of a new or improved facility will help address the challenges associated with the current building and improve the effectiveness of the department. The new or improved building could be designed to better meet the unique needs of all divisions and provide for the efficient use of shared resources.

City Manager Option: Create Fire Department Separate from the Department of Public Safety with the Fire Chief and Director of Public Safety (Police Chief) reporting directly to City Manager.

Benefits. The Director of Public Safety (Police Chief) and Fire Chief would be on equal footing organizationally. This reporting structure would provide a direct line of communication from Police and Fire to the City Manager. The potential exists for a cost savings if the reorganization results in reclassification of the pay scale of the Director of Public Safety (Police Chief) due to shifting supervisory responsibility for the Fire Department.

The Fire Department would be able to specifically set goals, budget and CMMP Projects with the City Manager catered to their needs.

Challenges. This option would need to address the reporting structure for the Office Manager, who currently reports to the Director of Public Safety (Police Chief) and has the DMV agent reporting to her. The reporting structure of Dispatch/Communications, currently under the Fire Division but mostly handling enforcement calls, would be better suited in the Police Division.

Actions. Suggested refinements and necessary actions associated with City Manager Option include:

- Revise Organization Chart
 - Director of Public Safety (Police Chief) and Fire Chief reporting to City Manager
 - Office Manager technically reporting to the Director of Public Safety (Police Chief) (For evaluation purposes, this position would be the same as Office Manager for DPU and DPW. That Officer Manager technically reports to the DPW Director).
 - Dispatch/Communications Division shifts from the Fire Division to the Police Division
- Revise and Develop Job Descriptions
 - Update who the Dispatch Sergeant and the Office Manager reports to in their job descriptions.
- Revise Title 2 with Council's Approval
 - Amend Chapter 2.44: Department of Public Safety to allow Director of Public Safety and Police Chief to retain two titles.

FINANCIAL IMPLICATIONS: The cost associated with the development of a new or improved facility would be determined on the specific needs and defined scope. Attorney fees for assistance in drafting, interpreting and reviewing documents, programs and agreement would be likely as well.

LEGAL: The City Attorney has provided a legal opinion regarding Title 2 and PERS. The City Attorney will assist with the development, interpretation, and review of documents and agreements, such as ordinance changes.

STAFF RECOMMENDATION: Staff has no recommendations at this point.

PROPOSED MOTION: No motion is required at this point.

CITY MANAGER'S COMMENTS: I recommend Council approve the City Manager option.

ATTACHMENTS:

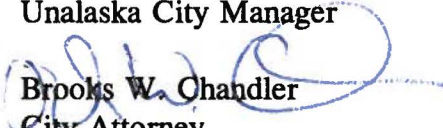
- July 11, 2018 Memo from City Attorney regarding impact of Title 2 Amendments
- Proposed Organizational Chart

BOYD, CHANDLER & FALCONER, LLP
ATTORNEYS AT LAW
SUITE 302
911 WEST EIGHTH AVENUE
ANCHORAGE, ALASKA 99501
TELEPHONE: (907) 272-8401
FACSIMILE: (907) 274-3698
bcf@bcfaklaw.com

MEMORANDUM

CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION

TO: Thomas Thomas
Unalaska City Manager

FROM:  Brooks W. Chandler
City Attorney

RE: Impact of Potential Title 2 Amendments on City Obligations to PERS

DATE: July 11, 2018

You asked whether amending Title 2 to reorganize the fire department as a stand alone city department would result in the City being required to amend its participation agreement with PERS and conduct a "termination study" for the position of public safety director. In our opinion, the answer is NO. The reasons for this conclusion are set forth in greater detail below.

Facts

The City of Unalaska police chief has two titles. Police chief and director of the public safety department. The director/police chief supervises the fire department and hires the fire chief.

The City of Unalaska is considering reorganizing the public safety department by making what is currently the fire division a separate fire department. Instead of being supervised by the public safety director, the fire chief would be supervised by the city manager. There could still be a public safety director who will serve as the department head of the public safety department. The public safety director may supervise up to four divisions (police, dispatch, animal control and corrections) depending on the final form of the reorganization ordinance. Alternatively, references to the public safety director could be deleted from the code. In either instance, the City will continue to employ a police chief.

The City participates in the State of Alaska Public Employees Retirement System (PERS). The participation agreement between the City and PERS identifies employees in the

plan as all city employees who work at least 30 hours per week and are not seasonal employees¹.

In 2013, the City adopted a classification plan as part of a compensation study intended to evaluate the City's pay scale. The classification of positions in that study was organized using "Bands", "Grades" and "Subgrades". The public safety director is not specifically mentioned in the 2013 classification plan, however the DPS Director is classified as Band E, Grade 8, Subgrade 3. There are 5 city employees within this pay classification².

Law

State Law. AS 39.35.625 requires municipal employers to make a payment to PERS whenever the employer "terminates participation of a department, group, or other classification of employees in the plan". The amount of the payment is determined based upon a "study" and is a mechanism for PERS to reduce its unfunded liability for future payments to retirees. 2 AAC 35.235(a). The phrase "classification of employees" is not defined in either state statute or regulation.

City Code. UCO 2.44.020 states the Director of the Department of Public Safety "shall be appointed by the City Manager and shall hold office at the discretion of the City Manager. The Director of Public Safety shall also hold the title of Chief of Police . . .",

Chapter 3.16 establishes the city's classification plan described as the "grouping of positions into appropriate classes which are sufficiently similar with respect to duties and responsibilities." The classification plan is set by city council resolution and "shall be periodically updated"³.

UCO 3.56.010 requires executive positions to be "included in the classification plan and allocated to an executive pay level as defined in the pay plan". The code section also states, "Should the City Manager reassign the duties of an executive position in such a manner as to necessitate placement at a higher or lower executive pay level, such action shall require approval of the City Council."

Some positions are "wholly or partially exempt" from the "classified service". Whether a position is exempt depends on whether the person holding the position serves "at

¹ Amendment 1 to PERS Agreement - May 26, 1999; Resolution No. 99-01.

² 7/11/18 email from Ms. Reinders. The others are also department heads.

³ UCO 3.16.010

the discretion of the appointing authority” and whether the position has been established by ordinance⁴.

Analysis

The purpose of the AS 39.35.625 termination study requirement is to prevent increases in the PERS unfunded liability that would otherwise result from reducing the number of city employees covered by PERS. The most common examples are “contracting out” the functions of a city department or declaring that one particular position will no longer be covered by a city’s participation agreement.

The plan to reorganize the Department of Public Safety does not terminate the participation of the director of public safety in PERS. The DPS director has always served as the chief of police and will continue to do so. The City will have the same number of employees in PERS if the proposed reorganization takes place as it does today. Changing the duties of a chief of police is not the equivalent of the termination of a classification of employees under AS 39.65.625. Requiring a termination study when a city employee with two titles has their job description changed to hold one title would not be consistent with the purpose of AS 39.35.625.

In addition, the Director of Public Safety is not a distinct “classification” under the city’s pay plan. There are presently 5 employees in classification E(8)(3) in the executive pay plan. Even if the change in duties results in a reclassification to a lower pay scale at least 4 employees will remain in classification E(8)(3). Therefore the City is not terminating participation of the E(8)(3) employee classification in PERS. AS 39.35.625 is not applicable to this potential reorganization.

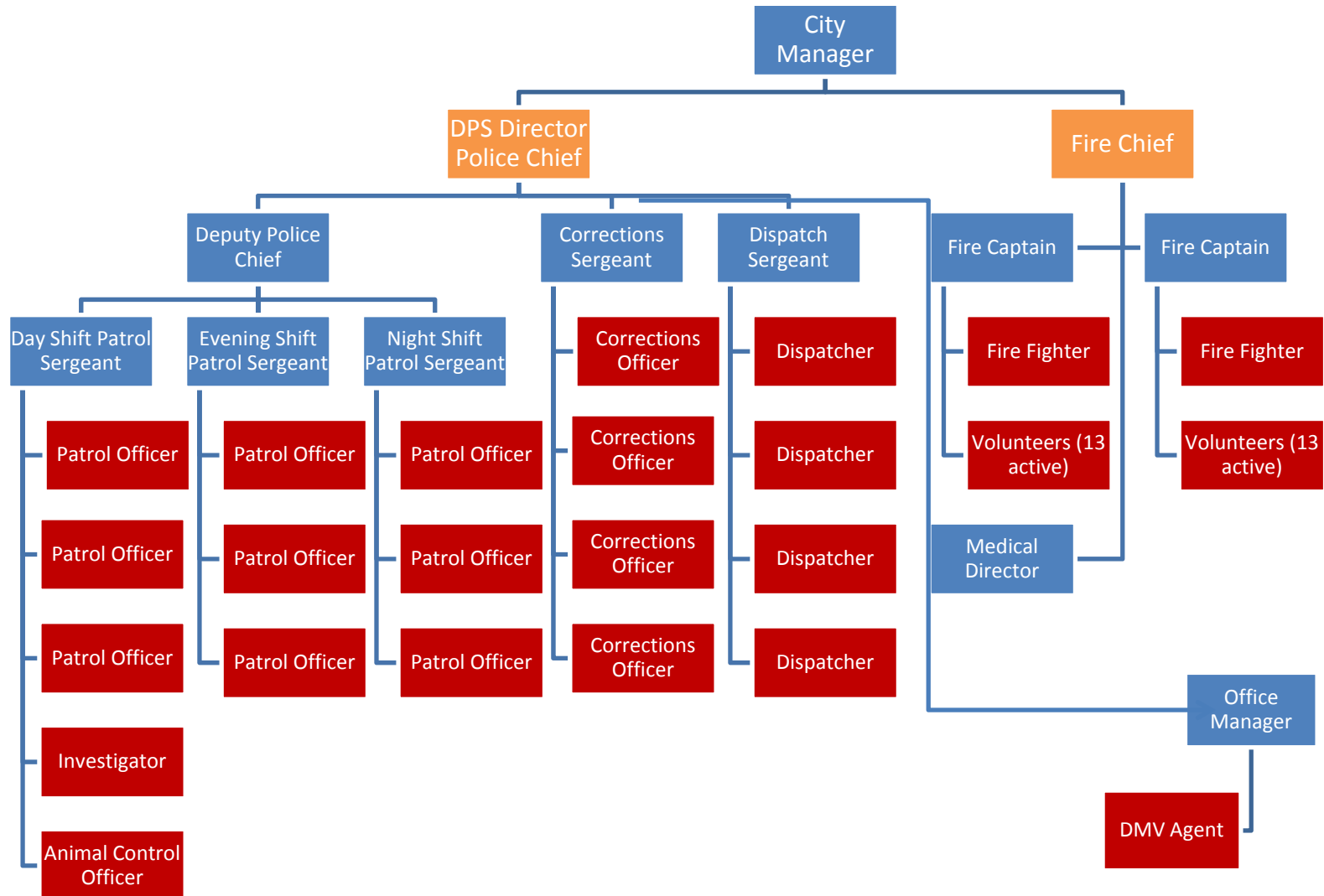
Recommendation

If the City remains concerned about possible termination study requirements resulting from reorganization it is possible to amend Chapter 2.44 in a manner that allows the police chief to retain two titles. This can be done by creating another division within the Department of Public Safety (such as the Dispatch Division or the Corrections Division). Proceeding in this fashion will add to what we believe is already an ironclad case should the PERS administrator assert a termination study is required.

Let me know if you have any additional questions on this topic.

⁴ UCO 3.16.010.

City Manager Option



CITY OF UNALASKA
UNALASKA, ALASKA

RESOLUTION NO. 2018-46

A RESOLUTION OF THE UNALASKA CITY COUNCIL APPROVING THE RENEWAL OF ATS 1444, ADL 72796, A LONG TERM LEASE AGREEMENT BETWEEN THE CITY OF UNALASKA AND UNISEA, INC., FOR AN OUTFALL EASEMENT ON CITY OWNED TIDELANDS

WHEREAS, the City of Unalaska is the owner of Alaska Tidelands Survey (ATS) 1444, Plat 94-5, Aleutian Island Recording District and;

WHEREAS, Unisea, Inc. (Unisea) operates a seafood processing facility In Unalaska and;

WHEREAS, Unisea desires to renew its lease for a Category C Tidelands Easement per Unalaska Code of Ordinances Title 8, Section 8.12.170 and the City of Unalaska Tidelands Leasing Policy, for an area identified as measuring 10' wide by about 225' in length, within SW ¼ of Section 3, Township 73 South, Range 118 West, Seward Meridian, with an area of 2,247 square feet and

WHEREAS, Unisea and the City worked together to renegotiate an existing easement resulting in an increase of \$2,150 per year from \$100 annually to the city's required minimum of \$2,250 for areas less than one (1) acre and;

WHEREAS, Unalaska City Code requires Council to approve any long term lease agreement (defined as exceeding five years) which is the intent of this contract and;

WHEREAS, the annual rent is negotiated to be \$2,250, with reappraisal every five years, and payable to the City of Unalaska.

NOW THEREFORE BE IT RESOLVED THAT THE UNALASKA CITY COUNCIL approves a long term lease between the City of Unalaska and Unisea, Inc., for a term of twenty-five years subject to other applicable terms as proffered within the lease agreement.

PASSED AND ADOPTED by a duly constituted quorum of the Unalaska City Council on July 24, 2018.

Frank Kelty
Mayor

ATTEST:

Marjie Veeder
City Clerk

MEMORANDUM TO COUNCIL

To: Mayor and City Council Members
From: Bil Homka, Planning Director
Through: Thomas Thomas, City Manager
Date: July 24, 2018
Re: Resolution 2018-46, a Resolution of the Unalaska City Council approving the renewal of ATS 1444, ADL 72796, a long term lease agreement between the City of Unalaska and Unisea, Inc., for an outfall easement on city owned tidelands

SUMMARY: The City of Unalaska administers developable tidelands pursuant to Unalaska Code of Ordinances (UCO) Title 8, Section 8.12.140 Developable Tidelands District. The attached resolution enables the city to enter into a long term lease (also referred to as a Right of Way Permit) with Unisea, Inc. of Redmond, Washington for a discharge outfall classified as a Tidelands Category C lease. The company's existing lease expired in December, 2016. The new lease period is for twenty-five (25) years. The new lease amount will increase from \$100 annually to \$2,250 annually.

PREVIOUS COUNCIL ACTION: The City Council endorsed the current City Manager Regulations for Tidelands Leasing, License, Exchange or Sale by passing Resolution 2012-28 on April 24, 2012.

BACKGROUND: Unisea, Inc. presently has a discharge line in the city's tidelands. The previous lease agreement was originally an agreement between the State of Alaska and Unisea, Inc. The State owned ATS 1444 when they made the agreement with Unisea in 1992. When the City obtained ownership of ATS 1444 in 1994, the City took over that existing lease. In July, 2018 Unisea, Inc. contacted the Planning Department to request a new lease, the old lease having expired in December, 2016. Together with the city's legal counsel, Unisea and Planning worked together to obtain the required documentation to draft and present this lease to city council. The area is less than one (1) acre in size and thus qualifies for the minimum cost lease. This is in accordance with the city's Tidelands Lease Policy. The easement measures less than one acre in size, about 10' x about 225'. The total area is 2,247 sq. ft. As required by the policy, the attached Exhibit 'A' was stamped by Terry P. Irwin, a Registered Professional Land Surveyor, and indicates the location of the easement. A new survey will be obtained by Unisea and provided to the City by no later than June 30, 2019. Prior to the City signing the agreement, Unisea will provide proof of insurance as required by the ROW agreement.

ALTERNATIVES: Not applicable.

FINANCIAL IMPLICATIONS: The city could receive annual income of \$2,250 for twenty-five years. Provisions exist in the contract to adjust the rent after the first and subsequent five (5) year lease periods. If no changes are made to the lease value then the final amount collected after a 25 year lease would be \$ 56,250.

LEGAL: City Attorney, Charles Cacciola reviewed the lease.

STAFF RECOMMENDATION: Staff recommends the Council approve Resolution 2018-46, approving a twenty-five (25) year lease agreement for a 2,247 square foot area of a city owned tideland located off of Airport Beach Road for a total period not to exceed 25 years.

PROPOSED MOTION: I move to adopt Resolution 2018-46.

CITY MANAGER'S COMMENTS: I recommend adoption of Resolution 2018-46.

ATTACHMENTS:

- Location Map
- Lease

CITY OF UNALASKA
PRIVATE NON-EXCLUSIVE
RIGHT-OF-WAY AGREEMENT
ATS No. 1444, ADL 72796
FOR CITY OWNED TIDELANDS

THIS AGREEMENT made and entered into this _____ day of _____, 2018 by and between the City of Unalaska hereinafter referred to as the Grantor and Unisea, Inc., whose address is 15110 90th St., P.O. Box 97019, Redmond, WA 98073-0719, hereinafter referred to as the Permittee.

In accordance with the provisions of the City of Unalaska Code of Ordinances the Permittee has filed for a private non-exclusive right-of-way permit for an outfall/intake line to be located within tide and submerged lands patented to the City of Unalaska.

Whereas, it is understood and agreed by the Permittee that, as a condition to granting the right-of-way applied for, the land covered by the right-of-way shall be used for no purpose other than the location, construction, operation and maintenance of the said right-of-way, over and across the following City of Unalaska tide and submerged lands:

An outfall line in ATS 1444 which is 10 feet in width and running about 225 feet in length within SW ¼ of Section 3, Township 73 South, Range 118 West, Seward Meridian, Alaska containing 0.05 acres, more or less, as shown on Exhibit "A".

1. Term. This right-of-way permit shall run for a term of 25 years and shall expire on December 31, 2041 subject to the conditions listed below.
2. Non-Exclusive. The easement granted under this right-of-way is designated as private non-exclusive. The Grantor retains control of the easement and reserves the right to grant compatible easements within, overlapping or adjacent to the subject easement area.
3. Rent. The annual rental fee is \$2,250.00 per year. The rental fee is payable on or before December 31 of each year. Said rental fee is subject to periodic review and adjustment every 5 years during the term of the right-of-way.
4. Public Trust Doctrine. The Alaska Constitution guarantees any citizen of the United States or resident of the state the right of access to navigable and public waters of the state. The Public Trust Doctrine further guarantees the public right to use navigable waters and the land beneath them for navigation, commerce, fishing, and other purposes. This right-of-way is subject to the principles of the Public Trust Doctrine. The Grantor reserves the right to grant other interests to the subject lands consistent with the Public Trust Doctrine as long as said interests will not unreasonably interfere with the use of the parcel by the permittee.
5. Restricted to Proposed Use. The Permittee shall utilize the lands herein granted consistent with the purposes of the proposed use, as revealed by the application therefor, and

shall maintain the premises in a neat and orderly manner and shall adopt and apply such safety measures as shall be necessary, proper and prudent with respect to the use to which the land is subjected. In case the necessity for the right-of-way shall no longer exist, or the Permittee should abandon or fail to use the same, then this permit shall terminate.

6. Comply with Laws. The Permittee in the exercise of the rights and privileges granted by this permit shall comply with all regulations established by the Grantor and all other federal, state or City of Unalaska laws, regulations or ordinances applicable to the area herein granted.

7. Termination. Upon abandonment, termination, revocation or cancellation of this indenture, the Permittee shall within 90 days remove all structures and improvements from the area herein granted, except those owned by the Grantor, and shall restore the area to the same or similar condition as the same was upon the issuance of this permit. Should the Permittee fail or refuse to remove said structures or improvements, within the time allotted, they shall revert to and become the property of the Grantor. However, the permittee shall not be relieved of the cost of the removal of the structures, improvements and/or the cost of restoring the area. Provided further, however, that the Grantor, in its discretion, may alter or modify the requirements contained in this provision if it is to the best interest of Grantor to do so.

8. State and Federal Permits. Prior to any construction or development that will use, divert, obstruct, pollute or utilize any of the waters of the State, the Permittee shall first obtain approval therefor from the Commissioner of the Department of Fish and Game and the Corps of Engineers and file image copies thereof with the Grantor.

9. Limitation of Liability. The Grantor shall be forever wholly absolved from any liability for damages which might result to the Permittee herein on account of this permit having been cancelled, forfeited or terminated prior to the expiration of the full time for which it was issued.

10. Insurance.

(a) Insurance shall be placed with companies acceptable to the Grantor; such companies shall be licensed to do business in Alaska or shall be a surplus carrier approved by the State of Alaska, and shall be rated "A-" or better in Best's Key Rating Guide.

(b) Deductibles or Self-Insureds. Any deductibles or self-insured retentions must be declared to and approved by the Grantor. At the option of the Grantor, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Grantor, its administrator, officers, officials, employees, and volunteers; or Permittee shall provide a financial guarantee satisfactory to the Grantor guaranteeing payment of losses and related investigations, claim administration, and defense expense.

(c) Changes in Coverage and Cancellations. Each insurance policy required by this permit shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after 30 days prior written

notice for nonpayment of premium or 60 days prior written notice for any other reason, by certified mail, return receipt requested, has been given to the Grantor.

(d) Verification of Coverage. Prior to the commencement of this permit, Permittee shall furnish certificates of insurance, preferably on standard Acord insurance forms, to the Grantor evidencing that the insurance policy provisions required are in force. Acceptance by the Grantor of deficient evidence does not constitute a waiver of permit requirements. The Grantor reserves the right to request complete, certified copies of all required insurance policies.

(e) Minimum Scope of Insurance. Permittee shall procure and maintain throughout the life of this permit the following insurance at the amounts and coverages specified hereunder.

- Commercial General Liability: \$1,000,000 combined single limit per occurrence \$2,000,000 General Aggregate for bodily injury and property damage claims;
- Pollution Liability: \$2,000,000 site pollution coverage including third party Coverage
- Workers' Compensation as required by the State of Alaska, and
- Employers' Liability: coverage is to be in compliance with any other statutory obligations, whether State or Federal, pertaining to the compensation of injured employees assigned to work, including but not limited to Voluntary Compensation, Federal Longshoremen and Harbor Workers' Act Maritime and the Outer Continental Shelf's Land Act.

(f) Commercial General Liability and Pollution Liability. Permittee shall maintain limits no less than those specified herein for Commercial General and Pollution Liability. The Grantor, its administrator, officers, officials, employees and volunteers are to be covered as additional insureds. Permittee's insurance coverage shall be primary insurance as respects the Grantor, its administrator, officers, officials, employees and volunteers. All rights of subrogation must be waived against the Grantor, its administrator, officers, officials, employees and volunteers.

11. Survey. Lessee shall obtain, at Lessee's sole expense, a record of survey for the outfall line in ATS 1444, ADL 72796. The survey of outfall line shall be performed by a professional land surveyor registered in Alaska. Completed record of survey required shall be obtained and provided to the City not later than June 30, 2019.

THEREFORE, in accordance with the provisions of The City of Unalaska Code of Ordinances and the rules and regulations promulgated thereunder and in accordance with the conditions heretofore set forth or attached hereto and made a part hereof, the Permittee herein

IN WITNESS WHEREOF, the City of Unalaska, as Grantor, acting through the City Manager or his lawfully designated representative, and otherwise being lawfully authorized, and the Permittee have caused this permit to be signed in duplicate, and have hereunto set their respective hands, agreeing to keep, observe and perform the applicable ordinances, as amended, the rules and regulations promulgated thereunder, and the terms, conditions and provisions herein contained or attached, which on the Grantor's or Permittee's respective parts are to be kept, observed and performed.

PERMITTEE

Tom Enlow
President, Unisea, Inc.

The foregoing instrument was acknowledged before me this _____ day of _____, 2018, Tom Enlow, President of Unisea, Inc., an Alaska corporation, on behalf of the corporation.

Notary Public
State of _____
My Commission expires _____

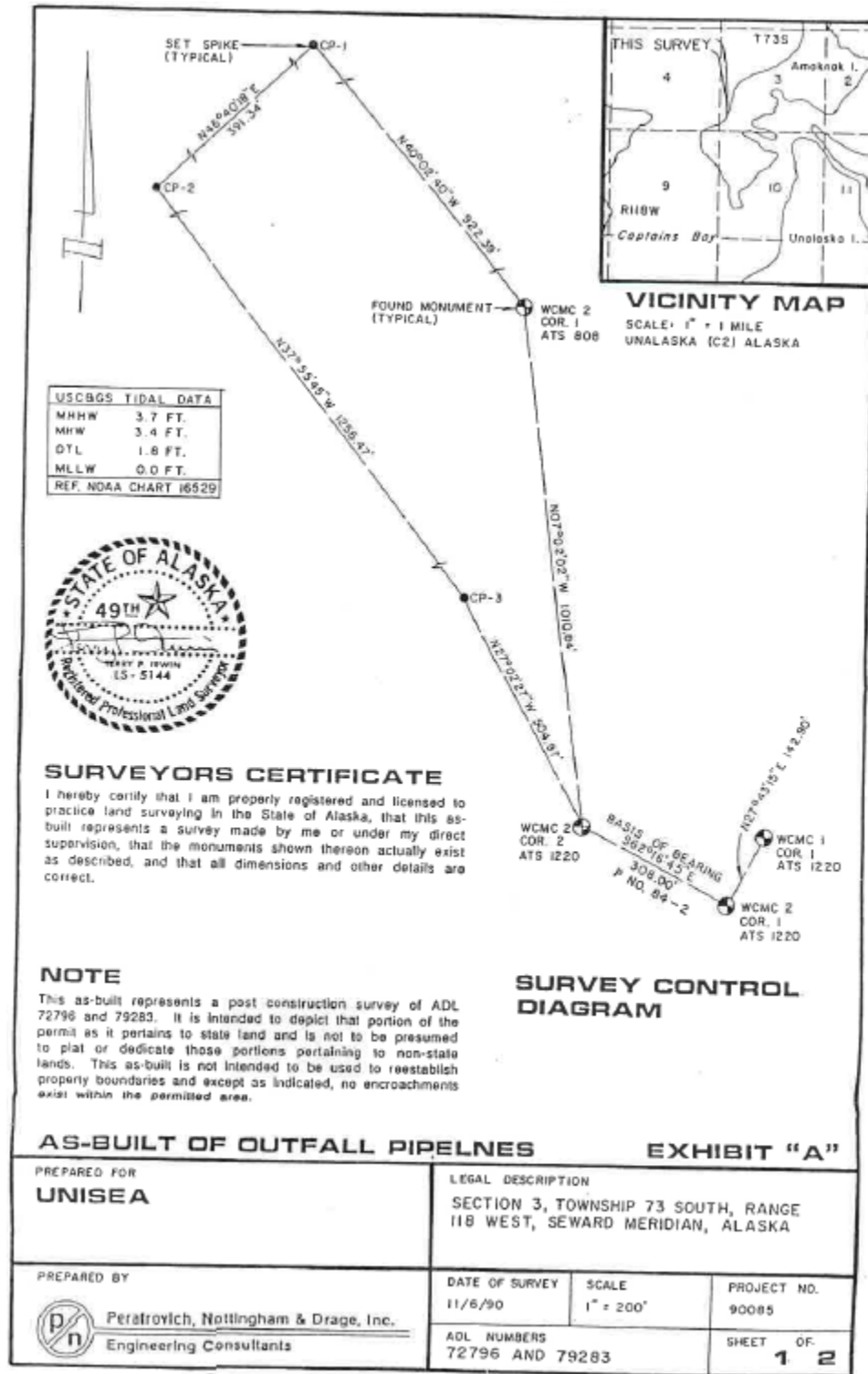
The foregoing instrument was acknowledged before me this _____ day of _____, 2018, by THOMAS THOMAS, City Manager for the City of Unalaska, a First Class Alaska Municipal Corporation, on behalf of the City of Unalaska.

Notary Public
State of Alaska
My Commission expires _____

Return to:
City of Unalaska
P.O. Box 610
Unalaska, AK 99685

ATTACHMENT A

As Built Survey



CITY OF UNALASKA
UNALASKA, ALASKA

RESOLUTION NO. 2018-47

A RESOLUTION OF THE UNALASKA CITY COUNCIL APPROVING THE RENEWAL OF ATS 1444, ADL 79283, A LONG TERM LEASE AGREEMENT BETWEEN THE CITY OF UNALASKA AND UNISEA, INC., FOR AN OUTFALL EASEMENT ON CITY OWNED TIDELANDS

WHEREAS, the City of Unalaska is the owner of Alaska Tidelands Survey (ATS) 1444, Plat 94-5, Aleutian Island Recording District and;

WHEREAS, Unisea, Inc. (Unisea) operates a seafood processing facility In Unalaska and;

WHEREAS, Unisea desires to renew its lease for a Category C Tidelands Easement per Unalaska Code of Ordinances Title 8, Section 8.12.170 and the City of Unalaska Tidelands Leasing Policy, for an area identified as measuring 20' wide by 226' in length, within SW ¼ of Section 3, Township 73 South, Range 118 West, Seward Meridian, with an area of 4,520 square feet and;

WHEREAS, Unisea and the City worked together to renegotiate an existing easement resulting in an increase of \$2,150 per year from \$100 annually to the city's required minimum of \$2,250 for areas less than one (1) acre and;

WHEREAS, Unalaska City Code requires Council to approve any long term lease agreement (defined as exceeding five years) which is the intent of this contract and;

WHEREAS, the annual rent is negotiated to be \$2,250, with reappraisal every five years, and payable to the City of Unalaska.

NOW THEREFORE BE IT RESOLVED THAT THE UNALASKA CITY COUNCIL approves a long term lease between the City of Unalaska and Unisea, Inc., for a term of twenty-five years subject to other applicable terms as proffered within the lease agreement.

PASSED AND ADOPTED by a duly constituted quorum of the Unalaska City Council on July 24, 2018.

Frank Kelty
Mayor

ATTEST:

Marjie Veeder
City Clerk

MEMORANDUM TO COUNCIL

To: Mayor and City Council Members
From: Bil Homka, Planning Director
Through: Thomas Thomas, City Manager
Date: July 24, 2018
Re: Resolution 2018-47, a Resolution of the Unalaska City Council approving the renewal of ATS 1444, ADL 79283, a long term lease agreement between the City of Unalaska and Unisea, Inc., for an outfall easement on city owned tidelands

SUMMARY: The City of Unalaska administers developable tidelands pursuant to Unalaska Code of Ordinances (UCO) Title 8, Section 8.12.140 Developable Tidelands District. The attached resolution enables the city to enter into a long term lease (also referred to as a Right of Way Permit) with Unisea, Inc. of Redmond, Washington for a discharge outfall classified as a Tidelands Category C lease. The company's existing lease expired in December, 2016. The new lease period is for twenty-five (25) years. The new lease amount will increase from \$100 annually to \$2,250 annually.

PREVIOUS COUNCIL ACTION: The City Council endorsed the current City Manager Regulations for Tidelands Leasing, License, Exchange or Sale by passing Resolution 2012-28 on April 24, 2012.

BACKGROUND: Unisea, Inc. presently has a discharge line in the city's tidelands. The previous lease agreement was originally an agreement between the State of Alaska and Unisea, Inc. The State owned ATS 1444 when they made the agreement with Unisea in 1992. When the City obtained ownership of ATS 1444 in 1994, the City took over that existing lease. In July, 2018 Unisea, Inc. contacted the Planning Department to request a new lease, the old lease having expired in December, 2016. Together with the city's legal counsel, Unisea and Planning worked together to obtain the required documentation to draft and present this lease to city council. The area is less than one (1) acre in size and thus qualifies for the minimum cost lease. This is in accordance with the city's Tidelands Lease Policy. The easement measures less than one acre in size, about 20' x 226'. The total area is 4,520 sq. ft. As required by the policy, the attached Exhibit 'A' was stamped by Terry P. Irwin, a Registered Professional Land Surveyor, and indicates the location of the easement. A new survey will be obtained by Unisea and provided to the City by no later than June 30, 2019. Prior to the City signing the agreement, Unisea will provide proof of insurance as required by the ROW agreement.

ALTERNATIVES: Not applicable.

FINANCIAL IMPLICATIONS: The city could receive annual income of \$2,250 for twenty-five years. Provisions exist in the contract to adjust the rent after the first and subsequent five (5) year lease periods. If no changes are made to the lease value then the final amount collected after a 25 year lease would be \$ 56,250.

LEGAL: City Attorney, Charles Cacciola reviewed the lease.

STAFF RECOMMENDATION: Staff recommends the Council approve Resolution 2018-47, approving a twenty-five (25) year lease agreement for a 4,520 square foot area of a city owned tideland located off of Airport Beach Road for a total period not to exceed 25 years.

PROPOSED MOTION: I move to adopt Resolution 2018-47.

CITY MANAGER'S COMMENTS: I recommend adoption of Resolution 2018-47.

ATTACHMENTS:

- Location Map
- Lease

CITY OF UNALASKA
PRIVATE NON-EXCLUSIVE
RIGHT-OF-WAY AGREEMENT
ATS No. 1444 ADL 79283
FOR CITY OWNED TIDELANDS

THIS AGREEMENT made and entered into this _____ day of _____, 2018 by and between the City of Unalaska hereinafter referred to as the Grantor and Unisea, Inc., whose address is 15110 90th St., P.O. Box 97019, Redmond, WA 98073-0719, hereinafter referred to as the Permittee.

In accordance with the provisions of the City of Unalaska Code of Ordinances the Permittee has filed for a private non-exclusive right-of-way permit for an outfall/intake line to be located within tide and submerged lands patented to the City of Unalaska.

Whereas, it is understood and agreed by the Permittee that, as a condition to granting the right-of-way applied for, the land covered by the right-of-way shall be used for no purpose other than the location, construction, operation and maintenance of the said right-of-way, over and across the following City of Unalaska tide and submerged lands:

An outfall line in ATS 1444 which is 20 feet in width and running about 226 feet in length within SW ¼ of Section 3, Township 73 South, Range 118 West, Seward Meridian, Alaska containing 0.10 acres, more or less, as shown on Exhibit "A".

1. Term. This right-of-way permit shall run for a term of 25 years and shall expire on December 31, 2041 subject to the conditions listed below.
2. Non-Exclusive. The easement granted under this right-of-way is designated as private non-exclusive. The Grantor retains control of the easement and reserves the right to grant compatible easements within, overlapping or adjacent to the subject easement area.
3. Rent. The annual rental fee is \$2,250.00 per year. The rental fee is payable on or before December 31 of each year. Said rental fee is subject to periodic review and adjustment every 5 years during the term of the right-of-way.
4. Public Trust Doctrine. The Alaska Constitution guarantees any citizen of the United States or resident of the state the right of access to navigable and public waters of the state. The Public Trust Doctrine further guarantees the public right to use navigable waters and the land beneath them for navigation, commerce, fishing, and other purposes. This right-of-way is subject to the principles of the Public Trust Doctrine. The Grantor reserves the right to grant other interests to the subject lands consistent with the Public Trust Doctrine as long as said interests will not unreasonably interfere with the use of the parcel by the permittee.
5. Restricted to Proposed Use. The Permittee shall utilize the lands herein granted consistent with the purposes of the proposed use, as revealed by the application therefor, and

shall maintain the premises in a neat and orderly manner and shall adopt and apply such safety measures as shall be necessary, proper and prudent with respect to the use to which the land is subjected. In case the necessity for the right-of-way shall no longer exist, or the Permittee should abandon or fail to use the same, then this permit shall terminate.

6. Comply with Laws. The Permittee in the exercise of the rights and privileges granted by this permit shall comply with all regulations established by the Grantor and all other federal, state or City of Unalaska laws, regulations or ordinances applicable to the area herein granted.

7. Termination. Upon abandonment, termination, revocation or cancellation of this indenture, the Permittee shall within 90 days remove all structures and improvements from the area herein granted, except those owned by the Grantor, and shall restore the area to the same or similar condition as the same was upon the issuance of this permit. Should the Permittee fail or refuse to remove said structures or improvements, within the time allotted, they shall revert to and become the property of the Grantor. However, the permittee shall not be relieved of the cost of the removal of the structures, improvements and/or the cost of restoring the area. Provided further, however, that the Grantor, in its discretion, may alter or modify the requirements contained in this provision if it is to the best interest of Grantor to do so.

8. State and Federal Permits. Prior to any construction or development that will use, divert, obstruct, pollute or utilize any of the waters of the State, the Permittee shall first obtain approval therefor from the Commissioner of the Department of Fish and Game and the Corps of Engineers and file image copies thereof with the Grantor.

9. Limitation of Liability. The Grantor shall be forever wholly absolved from any liability for damages which might result to the Permittee herein on account of this permit having been cancelled, forfeited or terminated prior to the expiration of the full time for which it was issued.

10. Insurance.

(a) Insurance shall be placed with companies acceptable to the Grantor; such companies shall be licensed to do business in Alaska or shall be a surplus carrier approved by the State of Alaska, and shall be rated "A-" or better in Best's Key Rating Guide.

(b) Deductibles or Self-Insureds. Any deductibles or self-insured retentions must be declared to and approved by the Grantor. At the option of the Grantor, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Grantor, its administrator, officers, officials, employees, and volunteers; or Permittee shall provide a financial guarantee satisfactory to the Grantor guaranteeing payment of losses and related investigations, claim administration, and defense expense.

(c) Changes in Coverage and Cancellations. Each insurance policy required by this permit shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after 30 days prior written

notice for nonpayment of premium or 60 days prior written notice for any other reason, by certified mail, return receipt requested, has been given to the Grantor.

(d) Verification of Coverage. Prior to the commencement of this permit, Permittee shall furnish certificates of insurance, preferably on standard Acord insurance forms, to the Grantor evidencing that the insurance policy provisions required are in force. Acceptance by the Grantor of deficient evidence does not constitute a waiver of permit requirements. The Grantor reserves the right to request complete, certified copies of all required insurance policies.

(e) Minimum Scope of Insurance. Permittee shall procure and maintain throughout the life of this permit the following insurance at the amounts and coverages specified hereunder.

- Commercial General Liability: \$1,000,000 combined single limit per occurrence \$2,000,000 General Aggregate for bodily injury and property damage claims;
- Pollution Liability: \$2,000,000 site pollution coverage including third party Coverage
- Workers' Compensation as required by the State of Alaska, and
- Employers' Liability: coverage is to be in compliance with any other statutory obligations, whether State or Federal, pertaining to the compensation of injured employees assigned to work, including but not limited to Voluntary Compensation, Federal Longshoremen and Harbor Workers' Act Maritime and the Outer Continental Shelf's Land Act.

(f) Commercial General Liability and Pollution Liability. Permittee shall maintain limits no less than those specified herein for Commercial General and Pollution Liability. The Grantor, its administrator, officers, officials, employees and volunteers are to be covered as additional insureds. Permittee's insurance coverage shall be primary insurance as respects the Grantor, its administrator, officers, officials, employees and volunteers. All rights of subrogation must be waived against the Grantor, its administrator, officers, officials, employees and volunteers.

11. Survey. Lessee shall obtain, at Lessee's sole expense, a record of survey for the outfall line in ATS 1444, ADL 79283. The survey of outfall line shall be performed by a professional land surveyor registered in Alaska. Completed record of survey required shall be obtained and provided to the City not later than June 30, 2019.

THEREFORE, in accordance with the provisions of The City of Unalaska Code of Ordinances and the rules and regulations promulgated thereunder and in accordance with the

conditions heretofore set forth or attached hereto and made a part hereof, the Permittee herein is hereby authorized to locate, construct, operate and maintain said right-of-way over and across the lands herein described.

IN WITNESS WHEREOF, the City of Unalaska, as Grantor, acting through the City Manager or his lawfully designated representative, and otherwise being lawfully authorized, and the Permittee have caused this permit to be signed in duplicate, and have hereunto set their respective hands, agreeing to keep, observe and perform the applicable ordinances, as amended, the rules and regulations promulgated thereunder, and the terms, conditions and provisions herein contained or attached, which on the Grantor's or Permittee's respective parts are to be kept, observed and performed.

GRANTOR

PERMITTEE

Thomas Thomas
City Manager, City of Unalaska

Tom Enlow
President, Unisea, Inc.

STATE OF _____)
) ss.
County of _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2018, Tom Enlow, President of Unisea, Inc., an Alaska corporation, on behalf of the corporation.

Notary Public
State of _____
My Commission expires _____

STATE OF ALASKA)
) ss.
Third Judicial District)

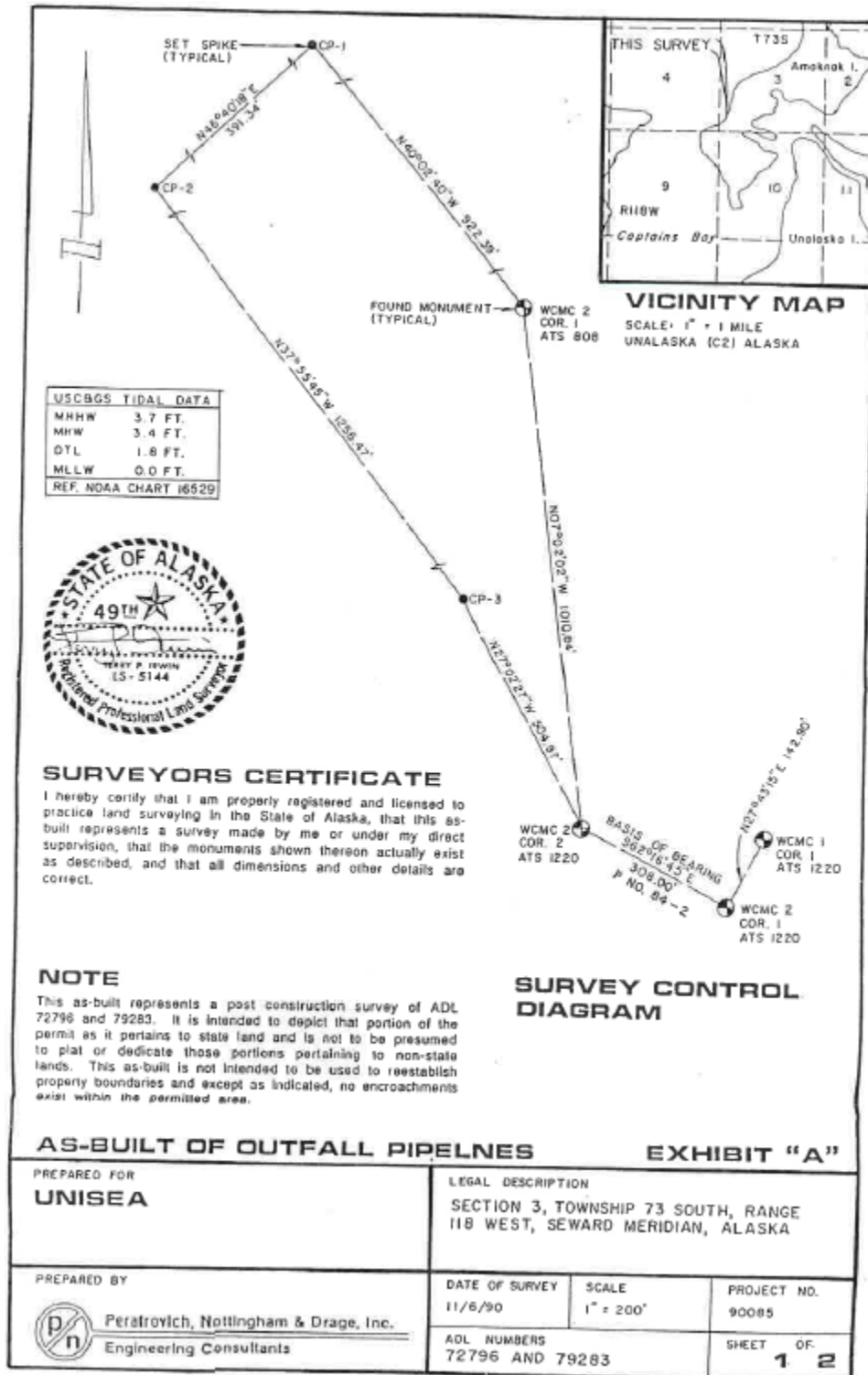
The foregoing instrument was acknowledged before me this _____ day of _____, 2018, by THOMAS THOMAS, City Manager for the City of Unalaska, a First Class Alaska Municipal Corporation, on behalf of the City of Unalaska.

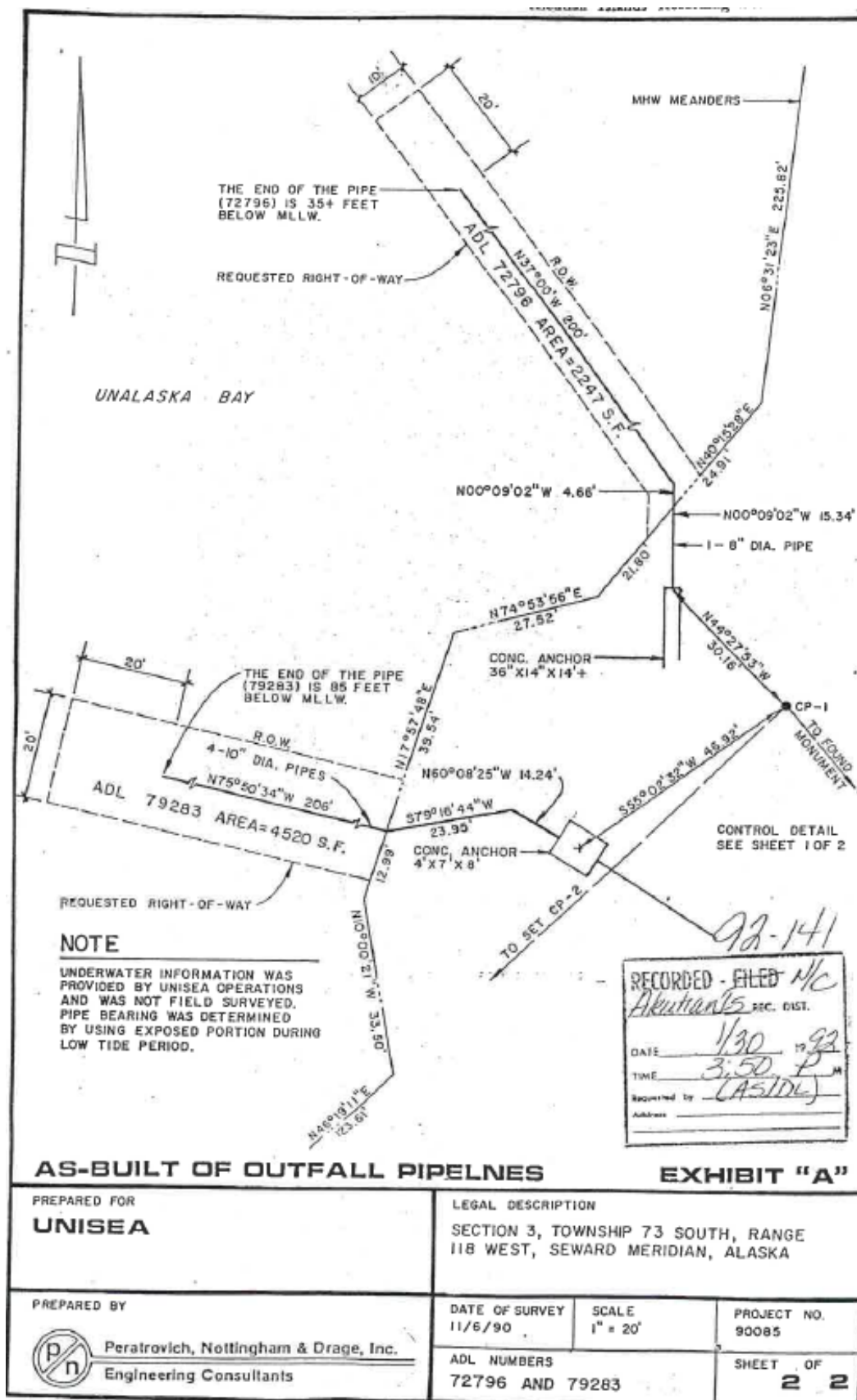
Notary Public
State of Alaska
My Commission expires _____

Return to:
City of Unalaska
P.O. Box 610
Unalaska, AK 99685

ATTACHMENT A

As Built Survey





IN THE MATTER OF

APPEAL OF THE MAY 17, 2018 DECISION OF
THE UNALASKA PLANNING AND ZONING COMMISSION
DENYING A VARIANCE FOR A TEMPORARY STRUCTURE LOCATED ON LOT 2A,
PLAT NO. 97-7 AT 226 WEST BROADWAY AVENUE

Appellant: Joel and Carrie Collins
Appellant's Representative: Joel Collins

Appellee: City of Unalaska Planning Commission and Platting Board
Appellee's Representative: Bil Homka, Planning Director City of Unalaska

Having considered an appeal submitted by Mr. and Mrs. Collins pursuant to Section 8.12.210(F) of the Unalaska Code of Ordinances and held a properly noticed public hearing on June 26, 2018, considered all of the evidence in the record as identified in this decision and all of the additional information provided at the appeal hearing and having voted to affirm the decision of the Planning Commission denying the requested variance, the City Council of the City of Unalaska adopts the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

FINDINGS OF FACT

1. The property involved in this appeal is Lot 2A, 1995 and 1996 Broadway Right of Way Acquisition Plat, Plat No. 97-7 within the city limits of the City of Unalaska ("the Property").
2. The variance applicant is Joel Collins. He owns the Property jointly with his wife Carrie Collins.
3. The Property is located in a land use district designated on the City of Unalaska Zoning Map as a Single Family/Duplex Residential District.
4. On March 27, 2018, Mr. Collins submitted an application for a variance from the set back requirements of UCO 8.12.040(H) for a 3/4 enclosed gazebo for protection of a hot tub on the Property. The variance was requested for a period not to exceed two (2) years.

5. The variance requested was to allow construction of an accessory structure about 3.5 ft. from the rear lot line and about 3 feet from the side lot line. However, there is a dispute about the correct location of the lot lines for the Property. At least one corner marker may not have been accurately located.

6. The Property fronts on Broadway Avenue and is adjacent to two native allotment parcels. There was undisputed evidence in the record regarding existing encroachment of a mound of gravel on an adjacent property, an issue not determinative of this appeal.

7. There is an existing deck built in connection with the temporary installation of a hot tub on the Property. Mr. Collins indicated during the public hearing on the appeal that it is possible to move the deck so as to allow construction of the gazebo within the 10 foot set back required by UCO 8.12.040(H).

8. On May 17, 2018, the Planning Commission & Platting Board held a public hearing and then voted on the application for a variance. The Commission's vote on a motion to approve the variance was 0 "yes" and 3 "no", (Commissioner Williams was excused from voting as she owned an adjacent property) so the variance was denied. The minutes of the Planning Commission meeting indicate the Commission did not believe a variance should be granted until the disputed location of a lot line had been resolved and that the Commission was not sure the standard of limiting a variance to the minimal dimensions required had been met.

9. A timely appeal was filed by Mr. Collins on May 29, 2018.

10. Notice of the public hearing on the appeal was provided to all landowners of record within 300 feet of the proposed variance as shown on the City of Unalaska real property tax roll.

CONCLUSIONS OF LAW

1. The following items, in addition to those presented by Appellant and Appellee at the appeal hearing, are considered part of the record of this proceeding:

- A. Materials numbered pages 33-63 included in the packet provided to the City Council for review and consideration at the City Council meeting of June 26, 2018.
- B. Recording of that portion of the June 26, 2018 City Council meeting during which the appeal was considered.

- C. Recording of that portion of the May 17, 2018 Planning Commission meeting at which the variance application for the Property was considered.

2. The Single Family/Duplex residential district is intended to stabilize and protect the one- and two-family dwelling residential character of the district and to promote and encourage a safe and suitable environment for family life.

3. Section 8.12.040(E) allows the Planning Commission to approve an application for a variance by finding the request conforms to AS 29.40.040 land use regulations and by finding:

- a. Special conditions that require the variance are not caused by the person seeking the variance; and
- b. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zoning district; and
- c. The exceptional and extraordinary circumstances result from lot size, shape, topography, or other circumstances over which the applicant has no control; and
- d. The variance is necessary for the preservation of a property right of the applicant substantially the same as is possessed by other landowners in the same zoning district; and
- e. The granting of the variance will not materially affect the health or safety of persons residing or working in the neighborhood; and
- f. The granting of the variance will not be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood; and
- g. The variance will not be materially detrimental to the intent of Chapter 8.12; and
- h. The variance will not be materially detrimental to properties in the same zoning district in which the property is located; and
- I. The variance will not conflict with the objectives of the Comprehensive Plan; and
- j. The variance requested is the minimum variance which would alleviate the hardship.

4. Finding that even one of the above standards is not met requires the variance application to be denied without consideration as to whether any of the other general standards are met.

5. The City Council agrees with the Planning Commission decision but for reasons separate and distinct from the encroachment and lot line disputes which the City Council believes are a separate issue for the property owner to work out with the neighboring lot owners.

6. The City Council concludes the fact the deck can be moved so as to allow construction of the gazebo within the existing legally required set back means the requirements for a variance set forth in UMC 8.12.210(E) have not been met and that the Planning Commission acted properly in denying the application for a variance. By moving the deck, the need for a variance can be avoided.

7. The fact the deck can be moved so as to allow construction of the gazebo within the legally required set backs means the requested variance is not the minimum variance necessary to eliminate any hardship resulting from the dimensions of the Property and does not result from circumstances over which Mr. Collins has no control. The Commission's decision should be upheld.

Wherefore, having set forth findings of fact and conclusions of law, the City Council of the City of Unalaska sitting as an appeal body under section 8.12.210(F) of the Unalaska Code of Ordinances hereby affirms the decision of the Unalaska Planning Commission and Platting Board denying the application for a variance from the setback requirements of UCO 8.12.040(H) so as to allow temporary construction of a gazebo on the Property.

Duly adopted this ____ day of July, 2018.

Hon. Frank Kelty
Mayor, City of Unalaska

NOTICE OF RIGHT TO APPEAL

This is the final administrative action on this appeal. Any party participating in this proceeding may appeal this decision by filing a notice of appeal with the city clerk and the

Superior Court of the State of Alaska within thirty (30) days of the date of this decision. Failure to file a notice of appeal by the deadline is a waiver of all rights to appeal.

Marjorie Veeder
City Clerk
City of Unalaska

CITY OF UNALASKA
UNALASKA, ALASKA

ORDINANCE 2018-09

AN ORDINANCE OF THE UNALASKA CITY COUNCIL AMENDING CHAPTER 11.16 TO PROHIBIT THE DISTRIBUTION OF DISPOSABLE PLASTIC SHOPPING BAGS AND AMENDING CHAPTER 1.24.040 TO ADD A PENALTY TO THE MINOR OFFENSE ORDINANCE FOR THE UNLAWFUL DISTRIBUTION OF PLASTIC SHOPPING BAGS

WHEREAS, disposable plastic shopping bags burden the City's solid waste disposal facility, sewer and natural drainage systems, and degrade the environment; and

WHEREAS, it is in the best interest of the City of Unalaska and its residents to reduce the use of disposable plastic shopping bags;

BE IT ENACTED by the City Council of the City of Unalaska, as follows:

Section 1: Form. This is a Code ordinance.

Section 2: Amendment of UCO §11.16. Chapter 11.16 Litter; Sanitation Measures of the Unalaska Code of Ordinances is hereby amended by the addition of a new Section 11.16.040 to read as follows:

11.16.40 Disposable Plastic Shopping Bags.

(A) Sellers are prohibited from distributing disposable plastic shopping bags to buyers.

(B) As used in this section:

(1) "Buyer" means a person who is a purchaser of goods or services;

(2) "Disposable plastic shopping bag" means a bag made from plastic, including plastic marketed or labeled as "biodegradable" or "compostable", that is not suitable for repeated reuse if made of or containing plastic that is less than .004" (4 mils) thick, is unable to be cleaned and disinfected regularly, and is designed to carry buyer purchases from a seller's premises. "Disposable plastic shopping bag" does not include bags used by buyers inside stores to package bulk items such as fruit, vegetables, nuts, grains, candy, or small hardware items, such as washers and bolts; bags used to contain dampness or leaks from items such as frozen foods, meat or fish, flowers or potted plants; bags used to protect prepared foods or bakery goods; bags provided by pharmacists to contain prescription drugs; laundry or dry cleaning bags; bags sold for buyer's use off a seller's premises for such purposes as the collection and disposal of garbage, pet waste, or yard waste, or newspaper bags;

(3) "Seller" means every entity or person, whether acting as principal, agent, broker, or lessor, making sales at retail or rental of property to a consumer and who is required and responsible to collect and remit sales taxes levied by the City of Unalaska.

(C) Any person or entity violating this section is guilty of a minor offense and shall be subject to a penalty of \$100 per violation.

Section 3: Amendment of UCO §1.24.040. Section 1.24.040 of the Unalaska Code of Ordinances is hereby amended to read as follows: [new language is underlined]:

Code Section	Offense Description	Fine Amount
<u>11.16.040(A)</u>	<u>Unlawful distribution of plastic shopping bags</u>	<u>100</u>

Section 4: Effective Date: This ordinance shall be effective as of January 1, 2019.

PASSED AND ADOPTED by a duly constituted quorum of the Unalaska City Council on August 14, 2018.

Frank Kelty
Mayor

ATTEST:

Marjie Veeder
City Clerk

MEMORANDUM TO COUNCIL

To: Mayor and City Council Members
From: Erin Reinders, Assistant City Manager
Through: Thomas Thomas, City Manager
Date: July 24, 2018
Re: Ordinance 2018-09, an Ordinance of the Unalaska City Council Amending Chapter 11.16 to Prohibit the Distribution of Disposable Plastic Shopping Bags and Amending Chapter 1.24.040 to Add a Penalty to the Minor Offense Ordinance for the Unlawful Distribution of Plastic Shopping Bags

SUMMARY: Ordinance 2018-09 banning the distribution of plastic shopping bags was created at the direction of City Council and supported during the work session on July 10, 2018. Staff recommends approval of Ordinance 2018-09.

PREVIOUS COUNCIL ACTION: Members of the Unalaska Community Task Force to Ban Single-Use Plastics shared a presentation on single use plastics with City Council at the April 10, 2018 Council meeting. At the end of the meeting, the City Council directed the City Manager to move toward developing an ordinance banning the use of plastic grocery bags.

The draft ordinance banning the distribution of plastic grocery bags was discussed at the July 10, 2018 work session. All member of the public choosing to speak spoke in favor of the ordinance. Several members of the public encouraged City Council to expand the ordinance to other single use items, such as straws. All members of council spoke in favor of the ordinance, some also noting that this should be expanded to include other plastics and even a recycling program in the future.

BACKGROUND: The City Manager and Assistant City Manager met with members of the Unalaska Community Task Force to Ban Single-Use Plastics to discuss ways to address reducing the use of plastic grocery bags.

The City Manager and Assistant City Manager then met with Safeway's store manager to discuss potential local implications of a plastic grocery bag ban. The conversation mainly focused on the increased need for storage and shipping space associated with paper bags if they replaced plastic bags, bag for bag.

Staff had a follow up teleconference with Safeway's Director of Public and Government Affairs in Seattle, Sara Osborne. The discussion focused on what Safeway has done in other communities that banned the distribution of single use plastic grocery bags. The primary example was a reusable bag give away for a limited time to help with the transition away from single use plastic grocery bags. Although City Staff requested follow up figures and program statistics from Safeway, no additional details have been provided to date.

Wishing to keep this issue moving forward, the City Manager requested City Attorney's office to develop an ordinance banning the distribution of plastic shopping grocery bags.

DISCUSSION: The City Attorney's office has prepared an ordinance that amends Titles 11 and 1 of City Code to prohibit sellers from distributing disposable plastic shopping bags. The ordinance also defines seller, buyer and disposable plastic shopping bags for future clarification. The ordinance defines a violation as a minor offense and sets the fine at \$100 for each violation. As written, the ordinance would become effective on January 1, 2019.

The ordinance has been updated since the July 10, 2018 meeting discussion in order to correct the thickness measurement and to have a title more representative of the action taken.

FINANCIAL IMPLICATIONS: Implementing this ordinance results in no significant financial impact to the City of Unalaska.

LEGAL: The City Attorney prepared the ordinance.

STAFF RECOMMENDATION: Staff recommends approval of Ordinance 2018-09.

PROPOSED MOTION: I move to approve Ordinance 2018-09 and schedule it for second reading and public hearing on August 14, 2018.

CITY MANAGER'S COMMENTS: The City Manager recommends Council approve this ordinance.

ATTACHMENT: Ordinance 2018-09 amending Chapter 11.16 and Chapter 1.24.040.