

City of Unalaska
UNALASKA CITY COUNCIL

P. O. Box 610 • Unalaska, Alaska 99685
(907) 581-1251 • www.ci.unalaska.ak.us

Regular Meeting
Tuesday, November 27, 2018
6:00 p.m.

Unalaska City Hall
Council Chambers
43 Raven Way

Council Members
James Fitch
Roger Rowland
David Gregory

Frank Kelty, Mayor

Council Members
Dennis Robinson
Alejandro Tungul
Shari Coleman

AGENDA

1. Call to order
2. Roll call
3. Pledge of allegiance
4. Recognition of visitors
5. Adoption of agenda
6. Awards / Presentations
7. Approve minutes of previous meetings: October 23, 2018 and October 30, 2018
8. Reports: City Manager
9. Community Input / Announcements
10. Public testimony on agenda items
11. Work session
 - a. Presentation from the Unalaska Department of Public Safety regarding the Alaska Shield Exercise scheduled for April 10-13, 2019; and emergency management issues
 - b. Presentation from Caroline Nevak, Tobacco Prevention Coordinator from the Aleutian Pribilof Islands Association, requesting that the City of Unalaska increase sales tax on tobacco products
 - c. Department of Corrections Transition to Work program in Unalaska
12. Regular agenda
 - a. Resolution 2018-60: A Resolution of the Unalaska City Council expressing conditional support of the State of Alaska Department of Corrections Transition to Work program in Unalaska
 - b. Resolution 2018-68: A Resolution of the Unalaska City Council supporting the United States Army Corps of Engineers (USACE) proposed dredging of the Iliuliuk Entrance Chanel to a depth of 58 feet plus a margin of 2 additional feet
 - c. Ordinance 2018-11, First Reading: An Ordinance amending Unalaska Municipal Code Title 2 by adding Chapter 2.46 creating the Department of Fire and Emergency Medical Services; to amend various sections of 2.44 to update the Department of Public Safety, Chief of Police and Deputy Chief of Police provisions; to amend Sections 2.96.050 and 2.96.060 to update titles in regard to Emergency Management Coordination and succession; to amend subsection 13.04.060(E) to make the Department of Fire and Emergency Medical Services responsible for the issuance of burn permits; to amend subsection 2.04.010(C) to update the list of City Manager appointees; to amend section 2.04.020 to update the list of City Officers required to take an oath of office; to amend Sections 2.20.110, 9.12.010(G), 12.04.010(D) and 14.04.010(E) to update the title of Chief of Police; and to authorize the transfer of FY2019 appropriations from the Department of Public Safety to the Department of Fire and Emergency Medical Services
13. Council Directives to City Manager
14. Community Input / Announcements
15. Adjournment

UNALASKA CITY COUNCIL

Unalaska, Alaska

Regular Meeting
Tuesday, October 23, 2018
6:00 p.m.

MINUTES

Unalaska City Hall
Council Chambers
43 Raven Way

-
1. Vice Mayor Robinson called the Regular Council meeting to order at 6:00pm, October 23, 2018, in the Unalaska City Hall council chambers.
 2. The Clerk called the roll, and a quorum was established.
Present:
Frank Kelty, Mayor (Telephonic)
Dennis Robinson, Vice Mayor
James Fitch
David Gregory
Shari Coleman

Absent:
Roger Rowland (Excused)
Alejandro Tungul (Excused)
 3. Pledge of Allegiance - Council Member Fitch led the Pledge of Allegiance.
 4. Recognition of visitors – None.
 5. Adoption of agenda
Council adopted the agenda by consensus with no changes.
 6. Awards / Presentations: City of Unalaska Extra Mile Award
Vice Mayor Robinson presented the “Extra Mile Award” to Dustin Ruckman and Luke Shaishnikoff
 7. Approve minutes of previous meeting, October 9, 2018
Coleman made a motion to approve the October 9, 2018 meeting minutes; Fitch seconded.
The motion passed by consensus.
 8. Reports: City Manager Thomas Thomas gave his report to the council.
 9. Community Input / Announcements
 - USAVF – Gratitude Gathering
 - Recognition of Interagency Cooperative Program to free an entangled whale near Broad Bay
 - Qawalangin Tribe – in partnership with UCF, APICDA, and APIA, and other entities: Food and Clothing Drive for St. George
 - Grant Aviation – St. George route
 - Unalaska City Fire Department
 - In conjunction with Ballyhoo Lions: Operation Smoke Detector
 - Fire Safety Prevention Month
 - 2018 State General Election – Absentee Voting

- Ballyhoo Lions – Halloween Party Tickets available for purchase
- Conference of Alaska Leaders – Jennifer Shockley
- Get Well wishes to Mayor Frank Kelty

10. Public testimony on agenda items – None.

11. Legislative

a. Appointment of Vice Mayor

Coleman nominated Council Member Robinson as Vice Mayor; Fitch seconded.
Roll Call Vote: Gregory – yes; Fitch – yes; Coleman – yes; Robinson – yes.
Motion passed 4-0.

b. Proclamation Declaring November 1, 2018 *Extra Mile Day* in Unalaska
Vice Mayor Robinson read the proclamation into the record

c. Proclamation Declaring October 2018 *Domestic Violence Awareness Month* in Unalaska
Vice Mayor Robinson read the proclamation into the record
M. Lynn Crane, USAFV Director, read a statement into the record.

12. Vice Mayor Robinson Opened the Public Hearing on Ordinance 2018-12.

Public hearing on Ordinance 2018-12: Creating Budget Amendment #3 to the Fiscal Year 2019 budget, increasing General Fund transfers to capital projects to fund proprietary fund capital project expenditures for the Wind Energy Project and decreasing the current year budget surplus, recognizing capital project fund transfers from General Fund and increasing capital expenditures; increasing Electric Enterprise Fund transfer to capital Projects to fund capital project expenditures for the Old Powerhouse Battery Replacement Project, and recognizing transfers from enterprise fund and increasing expenditures in capital project fund; increasing Electric Line Repair & Maintenance operating expenditures to fund increased costs to purchase rolling stock

Hearing no testimony, the Public Hearing closed.

13. Work session

- a. Presentation: CMMP Schedule
- b. Presentation: All Hazard Mitigation Plan
- c. Presentation: Transportation Study

14. Regular agenda

a. Unfinished Business

- i. Second Reading Ordinance 2018-12: Creating Budget Amendment #3 to the Fiscal Year 2019 budget, increasing General Fund transfers to capital projects to fund proprietary fund capital project expenditures for the Wind Energy Project and decreasing the current year budget surplus, recognizing capital project fund transfers from General Fund and increasing capital expenditures; increasing

Electric Enterprise Fund transfer to capital Projects to fund capital project expenditures for the Old Powerhouse Battery Replacement Project, and recognizing transfers from enterprise fund and increasing expenditures in capital project fund; increasing Electric Line Repair & Maintenance operating expenditures to fund increased costs to purchase rolling stock

Coleman made a motion to adopt Ordinance 2018-12; Gregory seconded.
Roll Call Vote: Fitch – yes; Coleman – yes; Robinson – yes; Gregory – yes.
Motion passed 4-0.

b. New Business

- i. Resolution 2018-59: A Resolution of the Unalaska City Council Adopting the City of Unalaska All Hazard Mitigation Plan 5 Year Update

Coleman made a motion to adopt Resolution 2018-59; Gregory seconded.
Roll Call Vote: Coleman – yes; Robinson – yes; Gregory – yes; Fitch – yes.
Motion passed 4-0.

- ii. Resolution 2018-61: A Resolution of the Unalaska City Council in Support of Maintaining the Current 5 Vessels used for the NOAA Federal Groundfish Surveys that Supports the Groundfish Stock Assessments for the Bering Sea, Aleutian Islands, and Gulf of Alaska Fisheries

Fitch made a motion to adopt Resolution 2018-16; Gregory seconded.
Roll Call Vote: Robinson – yes; Gregory – yes; Fitch – yes; Coleman – yes.
Motion passed 4-0.

- iii. Resolution 2018-62: A Resolution of the Unalaska City Council Authorizing the City Manager to enter into an Agreement with Northern Alaska Contractors, LLC to Construct the Unalaska Marine Center (UMC) Laydown Project for \$3,837,342

Fitch made a motion to adopt Resolution 2018-62; Coleman seconded.
Roll Call Vote: Robinson – yes; Gregory – yes; Fitch – yes; Coleman – yes.
Motion passed 4-0.

15. Council Directives to City Manager – None.

16. Community Input / Announcement

- 20th Annual Fireman's Ball tickets available

17. Adjournment – the meeting adjourned at 7:28 pm.

Marjie Veeder
City Clerk

rfw

UNALASKA CITY COUNCIL
Unalaska, Alaska

Special Meeting
Tuesday, October 30, 2018
6:00 p.m.

MINUTES

Unalaska City Hall
Council Chambers
43 Raven Way

1. Call to order – Vice Mayor Dennis Robinson called the Special Council meeting to order at 6:00pm, October 30, 2018, in the Unalaska City Hall council chambers.

2. The Clerk called the roll and a quorum was established.

Present:

Frank Kelty, Mayor (Telephonic)
Dennis Robinson, Vice Mayor
James Fitch
David Gregory
Shari Coleman

Absent:

Roger Rowland (Excused)
Alejandro Tungul (Excused)

3. Pledge of Allegiance - Council Member Gregory led the Pledge of Allegiance

4. Recognition of visitors

- Dean Williams, Commissioner of Corrections
- David Bacher, Special Assistant to the Commissioner
- Michael Zener, Adult Probation Officer, Correctional Center Wildwood, Kenai
- Delila Schmidt, Adult Probation Officer, Pre-Trial Services, Fairbanks
- Miguel Imbert, Correction Officer, Correctional Center, Fairbanks

5. Adoption of agenda

6. Public testimony on agenda items

7. Work session:

- a. Alaska Department of Corrections, Transition to Work Program in Unalaska

Commissioner Williams gave an opening statement and summary of the state wide “Transition to Work Program” in which the community of Unalaska has been invited to participate.

Commissioner Williams answered Council and community questions.

The following community members provided public comment via public testimony or written statement:

- Emily Gibson, UniSea
- Fernando Alvarez, UniSea
- Larry Morris
- Daniel Loy
- Alysha Richardson
- Rose Sevilla
- Jana Lekanoff
- Michelle Murdock
- Natalia Lekanoff
- Rachelle Hatfield, Adult Basic Education, UAF
- Mary Lekanoff
- Janice Krukoff
- Gussy Lekanoff
- Eugenie Lekanoff
- Elaine Blankenship
- Mike Hanson

8. Regular agenda

- a. Resolution 2018-60: A Resolution of the Unalaska City Council expressing conditional support of the State of Alaska Department of Corrections Transition to Work program in Unalaska

Fitch made a motion to adopt Resolution 2018-60; Coleman seconded.

Roll Call Vote: Fitch – yes; Coleman - yes; Robinson – yes; Gregory – no.

Motion fails 3-0.

9. Community Input / Announcements – None.

10. Adjournment – The meeting adjourned at 8:33pm.

Marjie Veeder
City Clerk

rfw

TO: Mayor and Council
FROM: Thomas Thomas, City Manager
SUBJECT: City Manager's Report
DATE: November 27, 2018

Alaskan Municipal League (AML) Working Group – Online Municipal Sales Tax

During the AML Conference we formed a working group to review, research and discuss outstanding online sales tax questions, and provide a potential pathway for implementation in Alaska that is responsive to municipal interests.

Goals of Working Group

Ensure local tax authority and choice is respected
Maximize municipal government revenue options
Balance municipal revenue with costs to citizens
Avoid statewide sales tax by State of Alaska, or displacement of local rates

Background on Online Sales Tax

Recent Supreme Court Wayfair decision extinguishes physical presence requirement
Case establishes some requirements for implementation
Alaska one of five states where municipalities have taxing authority, and only one without statewide sales tax
Sales tax in Alaska is implemented by a majority of incorporated municipalities, and a significant source of their annual budget

Working Group Recommendations to AML

AML will work with members toward the establishment of an independent authority, operated as an arm of AML as a service program or in close association

Sitka Spruce Park

In September 2018, the City of Unalaska contracted with Travis/Peterson Environmental Consulting, Inc. to conduct a site characterization of soils and groundwater at Sitka Spruce Park. The goals of the site characterization were to determine whether a health hazard existed within the park and the extent of contamination.

Seven test pits were dug to an average depth of 4' with a total of 35 on-site screening samples conducted with a PID meter. All on-site PID readings were very low. One representative soil sample was taken from each test pit and subsequent lab analysis showed that none of the soil samples reached ADEC cleanup levels. Three temporary groundwater wells were installed. Two of the groundwater samples did not reach ADEC cleanup levels. One groundwater sample did exceed the cleanup level by 0.35 mg/Kg, however, that well location is next to the existing restroom / playground area so the human health risk will decrease with the playground moved to the proposed new location. We are waiting for final concurrence from ADEC on the proposed new playground location.



APIA

ALEUTIAN PRIBILOF ISLANDS ASSOCIATION

October 29, 2018

Frank Kelty
P.O. Box 610
Unalaska, AK 99685

With Spirit and Strength

Hello Mayor Kelty,

I have put together the materials for the upcoming council meeting in November as you requested.

Enclosed are the following:

- Local Tobacco Price Increase Revenues in Alaska
- Tobacco Taxes are a WIN-WIN-WIN for Alaskan Communities
- Press Release from the State of Alaska Department of Health and Social Services
- Ketchikan & Barrow Raised Local Tobacco Tax Article

Please feel free to contact me with any questions or concerns you may have either by email or phone at (907) 222-4237.

Sincerely,

Caroline Nevak
Tobacco Prevention Coordinator



FINANCIAL WIN

Income from taxes on cigarettes, smokeless tobacco, and other tobacco products containing nicotine can be a significant source of revenue for a community.

Local Tobacco Price Increase Revenues in Alaska

City of Bethel, 2015 - A new tobacco excise tax in the Southwest Alaska hub of Bethel brought the city more than \$25,000 during the month of March 2016, the first month the tax was put into effect. At that time, city finance officials continued to monitor the numbers for April, but they could go even higher.

The new \$2.21 per pack tax on cigarettes, along with a 45-percent tax on all other tobacco products, including chewing tobacco, was passed by the Bethel City Council in December 2012. But with an election looming, city officials have yet to decide what to do with the money.

The tax brought the average price for a pack of cigarettes to nearly \$11, made tobacco products among the priciest in the nation.

City of Juneau, 2015 – The tax in Juneau, Alaska is the 5th highest in the nation at \$5 per pack with the state benefitting from its \$2 for the statewide tax and \$3 for the local government.

City and Borough of Sitka, 2015 – the Assembly doubled the tobacco tax to \$2.46 and 90% OTP, including electronic cigarettes. By the end of FY2017, the revenue for all tobacco products was \$879,157.

Ketchikan Gateway Borough, 2016 – the Assembly passed the bill in 2016 and was ratified by the voters that fall. For FY2017, the local tobacco price increase generated \$447,487. The local tax is set at \$2 per pack for cigarettes and 75% OTP.

As of October, 2018, there are 19 local governments in Alaska that have passed local tobacco price increases.

Cost of Tobacco Use in Alaska	
Annual health care cost in Alaska directly caused by smoking	\$438 million
Medicaid costs caused by smoking in Alaska	\$93.2 million
Residents' state & federal tax burden from smoking-caused government expenditures	\$1,058 per household
Smoking-cause productivity losses in Alaska	\$205.9 million

Source: Campaign for TobaccoFree Kids



HEALTH WIN

Raising the price of tobacco is one of the **best methods** to lower the number of people who smoke and the long-term effects of tobacco. It is definitely the most effective with youth and pregnant women.

Nationally, for every 10% increase in cigarette prices reduces youth smoking by about 7% and total cigarette consumption by about 4%. Decreasing smoking rates among workers reduces public and private sector employers' health insurance costs – while also decreasing business productivity losses from smoking-caused job performance declines and work absences, and from losing productive workers to smoking-caused disease or disability.

Quitting smoking has immediate, as well as long-term, health benefits, including reducing risks for smoking-related diseases such as cancer, heart disease, stroke, and some respiratory illnesses.

The Toll of Tobacco on Alaskans	
High school students who smoke	10.9% (4,000)
High school students who use electronic cigarettes	15.7%
Kids (under 18 who become daily smokers each year	200
Adults in Alaska who smoke	19.0% (105,400)
Proportion of cancer deaths in Alaska attributable to smoking	31.4%

Source: Campaign for TobaccoFree Kids

Deaths in Alaska from Smoking

Adults who die each year from their own smoking	600
Kids now under 18 and alive in Alaska who will ultimately die prematurely from smoking	14,000

Source: Campaign for TobaccoFree Kids



POLITICAL WIN

A \$1 - \$2 per pack cigarette tax increase and a comparable percentage tax on Other Tobacco Products (OTP) is popular with the general public. Tobacco taxes generate income and improve the quality of health of the community.

The results of numerous polls conducted nationally and in states throughout the country have consistently shown broad, bipartisan voter support for tobacco tax increases. For example, a January 2010 nationwide poll found that **67** percent of voters favor a \$1 increase in their state tobacco tax rates. The support extends across party lines and throughout all regions of the country. Moreover, voters support tobacco taxes over other tax increases or budget cuts, and support dedicating a portion of tobacco tax revenue to tobacco prevention efforts or a program(s) that promote health and wellness.

Thank You!

Caroline Nevak
Tobacco Prevention Coordinator
Aleutian Pribilof Islands Association
Phone: (907) 222-4237
Email: carolinen@apiai.org

Tobacco Taxes are a **WIN-WIN-WIN** for Alaskan Communities



WIN

HEALTH WIN

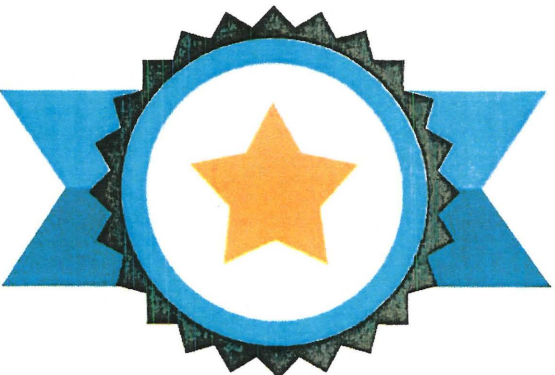
Raising the price of tobacco is one of the **best** ways to lower the number of people who smoke. It is especially effective with youth and pregnant women.



WIN

FINANCIAL WIN

Income from taxes on cigarettes and other tobacco products can be a significant source of revenue for a community.



WIN

POLITICAL WIN

A \$1 - \$2 per pack cigarette tax increase is popular with the public. Tobacco taxes generate income and improve the health of the community.

Karleen Jackson
Commissioner

P.O. Box 110601
Juneau, AK 99011-0601

www.hss.state.ak.us



Sherry Hill
Assistant Commissioner
for Public Affairs
907-465-1618
cell: 907-321-2838
sherry.hill@alaska.gov

Press Release

COMMISSIONER'S OFFICE

FOR IMMEDIATE RELEASE : November 30, 2007

Contact: Sarana Schell, (907) 269-8041, Cell (907) 240-7462
Ross Soboleff, (907) 465-1611, Cell (907) 321-3838

Health and Social Services lauds decision as Alaska Supreme Court upholds state's duty to protect public from harm

Tobacco use harmful, license holders may be held accountable for employee sales to minors

(Anchorage, AK) — Today the Health and Social Services Behavioral Health Director praised the recent Alaska Supreme Court decision affirming businesses are responsible for harm that may result from the products — in this case tobacco — they sell.

"This decision clarifies responsibilities for stakeholders in our mutual efforts to keep minors tobacco-free," Behavioral Health Director Melissa Stone said. "The decision strongly supports the Health and Social Services mission 'to promote and protect the health and well-being of Alaskans.'"

The court issued a decision on Nov. 23, 2007, upholding Alaska Statute 43.70.075 in a case involving cigarette sales to minors. The court determined that a business owner can be held accountable for an employee's underage tobacco sale based on the employee's conviction, regardless of negligence on the part of the owner or employee.

The court concluded that "when an industry engages in commercial activity that routinely exposes the public to significant harm, the legislature has a legitimate interest in holding the industry's licensed participants accountable for all conduct in exercising the license, not just for the licensee's personal negligence or fault."

The 2007 Youth Risk Behavior Survey revealed that more than half of Alaska high school students said they'd smoked cigarettes daily. Of students who said they smoked currently, 61 percent reported they'd tried to quit in the past year. Tobacco use remains by far the leading cause of preventable death in the United States.

"Curbing illegal tobacco sales to minors is an essential component of the best practices for state tobacco programs set by the national Centers for Disease Control and Prevention," said Lisa Aquino, program manager Alaska Tobacco Prevention and Control Program.

The business owner in the case had argued the statute violated due process. While the case progressed, the state Legislature updated the statute to address retailers' concerns and reward conscientious employers' education efforts, while retaining the same basic penalty structure.

For more information on the effects of tobacco on the health of Alaskans, go to <http://www.hss.state.ak.us/dph/chronic/tobacco/>.

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STATEWIDE: 907-278-0234

[Select Page](#)

Ketchikan & Barrow Raised Local Tobacco Taxes

by akhealthfair | Oct 16, 2016 | News |

Congratulations to Ketchikan and Barrow for recently raising local tobacco taxes. Alaska has the unique distinction of having 9 out of 16 communities with the highest tobacco taxes in the nation; including Juneau, Sitka, Anchorage, Mat-Su, Bethel, Kotzebue, Petersburg, Ketchikan and Barrow.



Alaska is one of the few states in the nation, along with Illinois and New York that are not “pre-emption” states. That means that local communities are free to pass local ordinances governing tobacco.

Juneau’s tobacco tax is the 5th highest in the nation at \$5 per pack (\$2 state tax plus \$3 local tax). Ketchikan, Petersburg and Barrow, the communities which most recently raised their tobacco taxes, bring up the bottom of the list at \$4 per pack. Juneau and Petersburg are also two of the first communities in the nation to tax electronic-cigarettes by labeling and taxing them as “other tobacco products”.

After Juneau increased its tobacco taxes in 2009 the smoking rate for the Juneau school district decreased 38% over the next two years. At the time Anchorage’s youth smoking rate did not change. In 2011 Anchorage followed suit and over the next two years the Anchorage

Page 14

school district's smoking rate also declined 38%. Today the youth smoking rate in Juneau is 9% and in Anchorage it is 7.5%, both of which are lower than the national average of 11%.

The Centers for Disease Control recommends raising the price of tobacco products by 20% of retail to decrease smoking rates by 10%. Raising prices is one of the most effective ways to reduce smoking rates and to prevent tobacco initiation in young people. As the cost of tobacco products go up, consumption goes down in a direct relationship.

According to the state's behavior survey (Alaska Tobacco Facts, 2015), the majority of smokers (71%) want to quit. But addiction is a powerful force. The craving for an immediate cigarette overwhelms fears of heart disease or lung cancer in the future. A high tax brings at least the financial cost to the present, in the hopes that people quit smoking, or never start.

For anyone ready to quit, the state funds Alaska's Tobacco Quit Line (1-800-QUIT-NOW), which is a free, anonymous service available to every Alaskan adult. Alaska's Tobacco Quit Line provides counseling by professional quit counselors as well as free Nicotine Replacement Therapies (NRT). Also, mandated by the Affordable Care Act, Alaskans should have access to cessation services through their regular health practitioner, which are preventative services covered by their insurance companies and Medicare/Medicaid.

For more information, stop by Alaska's Tobacco Quit Line table at the Alaska Health Fair.

Article submitted by:

Dr. Kristin Cox, ND

Tobacco Prevention and Control

National Council on Alcoholism and Drug Dependence

907-463-3750

Search

Recent Posts

Alaska Health Fair is Seeking Diverse and Dynamic Professionals to join its Board – Apply by October 22

Anchorage Senior Activity Center helps Prevent Falls and Encourage Independence

Traditional Food Challenge in Rural Community Leads to Positive Health Changes

Watch Alaska kids get out and play in many ways and all kinds of weather

CITY OF UNALASKA
UNALASKA, ALASKA

RESOLUTION 2018-60

A RESOLUTION OF THE UNALASKA CITY COUNCIL EXPRESSING CONDITIONAL SUPPORT OF THE STATE OF ALASKA DEPARTMENT OF CORRECTIONS TRANSITION TO WORK PROGRAM IN UNALASKA

WHEREAS, the State of Alaska Department of Corrections has asked the City of Unalaska to support a trial transition to work program for State of Alaska prisoners that are nearing the end of their sentences and want to be prepared to reenter the work place; and

WHEREAS, an Unalaska seafood processing facility has shown interest in participating in the transition to work program; and

WHEREAS, the Department of Corrections staff including Commissioner Williams have briefed the Unalaska City Council and the public twice on the program and stated that only four prisoners would be allotted to Unalaska for this first trial run of the program; and

WHEREAS, staff of the Department of Corrections have briefed the Unalaska Department of Public of Safety on the equipment that Department of Corrections provides such as ankle bracelets and other monitoring equipment; and

WHEREAS, the Unalaska Department of Public Safety supports the program and has been assured that any costs to handle prisoner violations will be covered by the State of Alaska, sparing the resources of the Unalaska Department of Public Safety; and

WHEREAS, the City Council and the community have voiced opposition to any sex offenders being placed in the community through the transition to work program; and

WHEREAS, Commissioner Williams has assured the Council and the community that all inmates will be carefully selected and near the end of their sentences and motivated not to return to the prison system; and

WHEREAS, if the Council feels the program is not working and isn't in the best interest of Unalaska, the city will be able to opt out of the program at any time.

NOW THEREFORE BE IT RESOLVED that the Unalaska City Council supports a trial transition to work program for four Department of Corrections prisoners that are nearing the end of their sentences, to be placed at an Unalaska seafood processing facility.

PASSED AND ADOPTED by a duly constituted quorum of the Unalaska City Council on November 27, 2018.

Frank Kelty
Mayor

ATTEST:

Marjie Veeder
City Clerk

MEMORANDUM TO COUNCIL

To: Unalaska City Council Members; and Thomas Thomas, City Manager
From: Mayor Frank Kelty
Date: November 27, 2018
Re: Resolution 2018-60, a Resolution of the Unalaska City Council expressing conditional support of the State of Alaska Department of Corrections trial Transition to Work program in Unalaska

SUMMARY: The State of Alaska Department of Corrections has asked the City of Unalaska to support a trial transition to work program for four State of Alaska prisoners that are nearing the end of their sentences at one of the local seafood processing plants.

PREVIOUS COUNCIL ACTION: None.

BACKGROUND: The City of Unalaska has no formal experience with this type of program, but the Unalaska Department of Public Safety does supervise felons on probation in the community.

The State Department of Corrections has had experience and success with placing prisoners in seafood processing plants in other fishery dependent communities. Unalaska has one seafood processing plant which has shown interest in participating in the transition to work program with the Department of Corrections. The City Council and the community have had two visits with Corrections Commissioner Williams and his staff and they have pointed out that they need community support before they can move forward with this trial transition to work program in Unalaska. The Commissioner pointed out the amount of return offenders to the prison system is mostly due to lack of housing, and jobs both of which are very hard to come by for convicted felons. The work available at seafood processing plants that provide housing, meals, and a paycheck goes a long way towards getting prisoners back on their feet when their sentence is finished and also provides the possibility of continued employment. The earnings that the prisoners make at these jobs, allow the State of Alaska to require payroll deductions, to cover prisoner obligations, such as child support, fines, and restitution to victims.

DISCUSSION: The City Council and the community have voiced opposition to any sex offenders being placed in the community as well as other potentially dangerous prisoners. Commissioner Williams has assured the Council and the community that 1) all inmates will be carefully selected and near the end of their sentences and very motivated to not return to prison; and 2) if the community feels the program is not working and isn't in the best interest of the community, we are able to opt out of the program at any time.

It was also pointed out at the first public meeting that there are resources located in the community that could assist this program and the prisoners involved. They include education, mental health and drug and alcohol programs. The Unalaska Department of Public Safety has voiced its support for this trial program with a start of only four prisoners.

UNALASKA CITY COUNCIL ALTERNATIVES: The Council may choose to approve Resolution 2018-60; to amend Resolution 2018-60; vote down Resolution 2018-60; or take no action.

FINANCIAL IMPLICATIONS: The Unalaska Department of Public Safety has been assured by the Department of Corrections that 1) any costs to handle prisoner violations will be covered by the State of Alaska, sparing Unalaska Public Safety Department resources; and 2) if costs are incurred, that Unalaska will be reimbursed.

LEGAL: When a formal agreement is brought forward, it will be reviewed by City Attorney Brooks Chandler.

MAYORS RECOMMENDATION: I support the passage of Resolution 2018-60.

November 14, 2018 PRESS RELEASE
From Lindsey Graham, U.S. Senator for South Carolina

Graham Statement on President Trump's Support for Bipartisan Sentencing Reform

WASHINGTON – U.S. Senator Lindsey Graham (R-South Carolina) today made this statement on President Donald Trump announcing support for the First Step Act, a bipartisan sentencing and prison reform bill.

“I am very excited to have President Trump’s support for the First Step Act.

“This bipartisan legislation gives nonviolent offenders an earned second chance and should dramatically reduce the recidivism rate by focusing on skills necessary for people to stay out of prison.

“We can and should pass this bill before Congress adjourns for the year.”

Background on the First Step Act:

The First Step Act will reform America’s prisons to make our communities safer and our justice system fairer.

- Nearly all incarcerated Americans will one day leave prison and the goal of this legislation is to make sure they do not return.
- The First Step Act uses a targeted approach toward a specific population of Federal prisoners who will eventually be released.
- The First Step Act will promote prisoner participation in vocational training, educational coursework, or faith-based programs, and in turn help them successfully reenter society.
- Prisoners will be able to earn credits that reduce the amount of time spent in prison.
- As a result, prisoners will gain job skills, drug treatment, and education that prepare them to reenter American communities as productive members of society.
- The legislation also seeks to place Federal inmates closer to their communities in order to facilitate family visitation.
- This is a true first step in creating a fairer justice system by reforming mandatory minimums, which have created racially disparate outcomes and increased overcrowding and costs.
- The legislation reduces the enhanced penalties for certain non-violent repeat drug offenders and eliminates the three-strike mandatory life provision.
- Certain nonviolent offenders will be able to petition courts for a review of their sentence, which can be reduced only after the judge reviews all circumstances, including public safety, criminal history, and the nature of the offense.

Taking steps to better prepare inmates for reentry into our society and communities will help reduce recidivism.

- We can improve society for all by better equipping prisoners being released for successful reintegration into society.
- Today one-in-three American adults has some type of criminal record and more than two million Americans are in prisons, including 181,000 in Federal prison.
- More than 95% of these prisoners will eventually leave prison and face the challenge of restarting their lives.
- Our prisons can do much more to prepare inmates for release, addressing the fact that roughly 77% of state inmates and 38% of federal inmates are rearrested within five years of release.

The First Step Act enjoys widespread support across the political spectrum.

- Many of the reforms included in this legislation passed the House in an overwhelming, bipartisan vote of 360–59 in May 2018.
 - Republicans and Democrats in the Senate worked with the White House to craft a bipartisan sentencing reform compromise, which has been added to the legislation.
 - So far, seven major police organizations, over 2,700 faith and evangelical leaders, and hundreds of conservative organizations and leaders support this legislation.
-

WHO IS LOBBYING ON FIRST STEP ACT:

A wide range of groups have lobbied for and against the bill. Among them, according to third quarter disclosure filings:

Americans for Prosperity, LIBRE Initiative, Gun Owners of America, Campaign for Youth Justice, Leadership Conference on Civil and Human Rights, the American Bar Association, the American Civil Liberties Union, the Associated Builders and Contractors, the Brennan Center for Justice at NYU School of Law, FreedomWorks, Heritage Action for America, Families Against Mandatory Minimums, Due Process Institute, Friends Committee on National Legislation, American Conservative Union, Prison Fellowship Ministries, the American Psychological Association, the National Association of Police Organizations, and the National Employment Law Project.

CITY OF UNALASKA
UNALASKA, ALASKA

RESOLUTION 2018-68

A RESOLUTION OF THE UNALASKA CITY COUNCIL SUPPORTING THE UNITED STATES ARMY CORPS OF ENGINEERS (USACE) PROPOSED DREDGING OF THE ILIULIUK ENTRANCE CHANEL TO A DEPTH OF 58 FEET PLUS A MARGIN OF 2 ADDITIONAL FEET

WHEREAS, the City of Unalaska entered into an agreement with USACE to conduct a feasibility study to determine the benefits of deepening the Iliuliuk Entrance Channel; and

WHEREAS, the USACE studied the seafloor, reviewed marine mammal activity, reviewed currents and storm surge patterns and impacts to Front Beach as a result of increased depth, gathered geotechnical data for the location to be dredged, and conducted navigation simulations to determine benefits and impacts of dredging; and

WHEREAS, USACE presented the initial findings to the Unalaska City Council and to the public; and

WHEREAS, USACE solicited public input and review for the findings of the draft study; and

WHEREAS, the USACE is prepared to present the results of their feasibility study on December 5, 2018 to USACE Headquarters with the recommendation of dredging the Entrance Channel to 58 feet with a margin of 2 additional feet; and

WHEREAS, the City of Unalaska target was a depth of no less than 55 feet at the Entrance Channel to accommodate deep draft vessels and benefit commerce; and

WHEREAS, the USACE proposed depth at the Iliuliuk Entrance Channel considers best practices of navigation and safety margins; and

WHEREAS, the City of Unalaska is confident that the 58 feet plus 2 additional feet will meet the needs of commerce and safety.

NOW THEREFORE BE IT RESOLVED that the Unalaska City Council fully supports the USACE recommendation of dredging the Iliuliuk Entrance Channel to a depth of 58 feet plus 2 additional feet.

PASSED AND ADOPTED by a duly constituted quorum of the Unalaska City Council on November 27, 2018.

Frank Kelty
Mayor

ATTEST:

Marjie Veeder
City Clerk

MEMORANDUM TO COUNCIL

To: Mayor and City Council Members
From: Peggy McLaughlin, Port Director
Through: Thomas Thomas, City Manager
Date: November 27, 2018
Re: Resolution 2018-68 supporting the United States Army Corps of Engineers proposed dredging of the Iliuliuk Entrance Channel to a depth of 58 feet plus a margin of 2 additional feet

SUMMARY: Resolution 2018-68 is a resolution of support. By passing this resolution, the City Council is supporting the USACE recommendation to dredge the Iliuliuk Entrance Channel to 58 feet plus a margin of an additional 2 feet. This does not commit the City of Unalaska to the design or construction of this project. This does not commit the City to additional funds. It simply provides an approval of the depth recommendation determined through the feasibility study. By supporting this resolution the City Council acknowledges that the depth recommended meets the needs of commerce and safety.

PREVIOUS COUNCIL ACTION: City Council funded 50% of the USACE Feasibility Study not to exceed \$1,500,000.

BACKGROUND: The USACE selected the Iliuliuk Entrance Channel Dredging as a new start-up project, and entered into a three-year feasibility study with the City of Unalaska. They have completed the study and are prepared to present the results to the USACE Headquarters. This presentation will recommend a dredging depth of 58 feet plus a margin of 2 additional feet. This resolution from the City of Unalaska supports the USACE's recommendation.

DISCUSSION: The City of Unalaska entered into a three-year feasibility study with the USACE to the research dredging of the Iliuliuk Entrance Channel. The USACE reviewed a long list of factors to determine if dredging the entrance channel was realistic, including marine mammal activity, the seafloor, potential areas for placement of dredging material, geotechnical information, currents and storm surge impacts. They also ran navigation simulations to determine the depth that would best meet the safety requirements for under keel clearance, and ran those simulations with varying storm surge, wind conditions, and squat calculations.

The Corps of Engineers is approaching the depth decision-making milestone which will be in the form of a presentation to the USACE Headquarters on December 5, 2018. During this presentation, they will review all of the findings of the feasibility study including the information gathered on impacts to front beach, navigation, methods of dredging, and cost of the project.

The USACE is seeking a formal submission of support for the recommended dredging depth of 58 feet plus a margin of 2 additional feet, which is made with consideration to all of the environmental data collected, geotechnical information, and best practices of navigation. This depth will reasonably accommodate transit of any commercial vessel that could realistically call in Iliuliuk Bay or Dutch Harbor proper.

The City of Unalaska began the feasibility study with a desired depth of 55 feet. The USACE was looking at 48 feet. The simulation study really brought home the benefit to the nation by proposing a dredging depth that would accommodate deep-draft vessels. The “sweet spot” is 58 feet. This provides an economic benefit both for vessels that call the port today and for companies with deep-draft vessels in their shipping fleet. This depth also allows the Marine Pilot Association to maintain under keel clearance that supports best practices and safety margins.

The recommendation of 58 feet represents the USACE recommended depth and the additional 2 feet provides a margin of error should the USACE exceed the 58 feet. The depth will not be less than 58 feet and should the additional 2 feet be necessary, would be at no additional cost to the Sponsor (City of Unalaska).

By supporting the recommended depth, the City Council is not committing to the design or the construction of this project. Those steps will come later and individually. The design agreement will come after the feasibility study is finalized and approved. Should the project go to design and is completed, another agreement will be required for construction. The Council is not committing any additional resources to this project by supporting the recommended depth of 58 feet.

The cost of the project is likely to change, but the project on the high end is estimated to be no more than \$30 million with the City’s portion to fall somewhere between \$12.5-15 million. This is just a look-ahead estimate and not an absolute.

ALTERNATIVES: Council may choose to support, or not to support, Resolution 2018-68; or may modify the proposed resolution.

FINANCIAL IMPLICATIONS: The passage of this resolution does not obligate the City of Unalaska to any payments.

LEGAL: Not applicable.

STAFF RECOMMENDATION: I recommend passage of Resolution 2018-68.

PROPOSED MOTION: I move to approve Resolution 2018-68

CITY MANAGER COMMENTS: I recommend passage of Resolution 2018-68.

ATTACHMENTS: Corps of Engineers presentation.

UNALASKA (DUTCH HARBOR) CHANNELS NAVIGATION IMPROVEMENTS AGENCY DECISION MILESTONE MEETING

LTC Penny Bloedel and Cindy Upah, Chief of Planning
U.S. Army Corps of Engineers – Alaska District
December 5, 2018

"The views, opinions and findings contained in this report are those of the authors(s) and should not be construed as an official Department of the Army position, policy or decision, unless so designated by other official documentation."

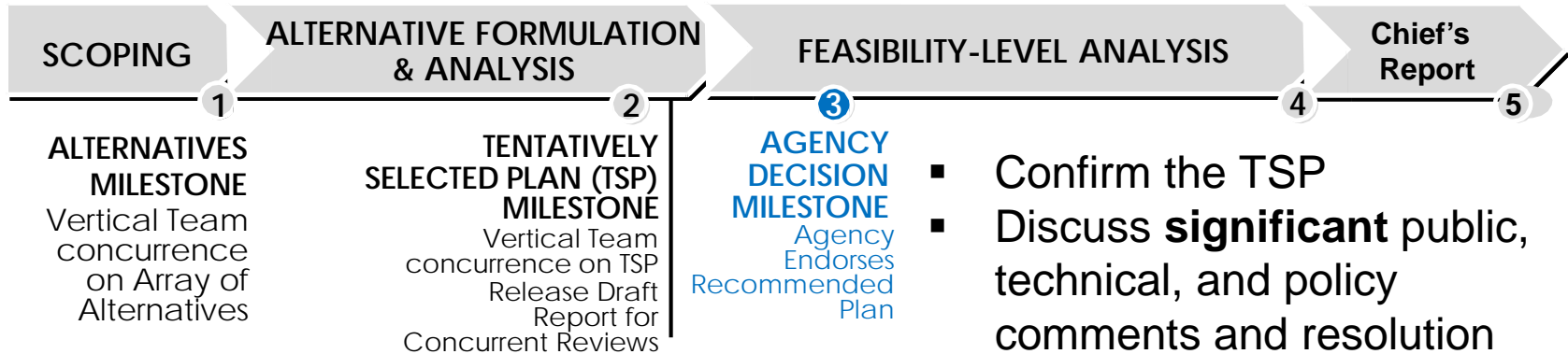


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Agency Decision Milestone Purpose

BUILDING STRONG



- Confirm the TSP
- Discuss **significant** public, technical, and policy comments and resolution
- Discuss **significant risks** being carried forward
- Confirms a willing non-Federal sponsor
- Request Panel endorsement of the TSP
- Request feedback and guidance on path forward
- Request approval to proceed to feasibility level design



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Page 25



Study Overview

Authority:

This feasibility study is being conducted under authority granted by Section 204 of the Flood Control Act of 1948, Public Law 80-858, as amended:

“The Secretary of the Army is hereby authorized and directed to cause preliminary examinations and surveys for flood controls and allied purposes... to be made under the direction of the Chief of Engineers, in drainage areas of the United States and Territorial possessions, which include the following named localities... Harbors and Rivers in Alaska, with a view to determining the advisability of improvements in the interest of navigation, flood control, hydroelectric power, and related water uses.”

Non-Federal Partner: City of Unalaska

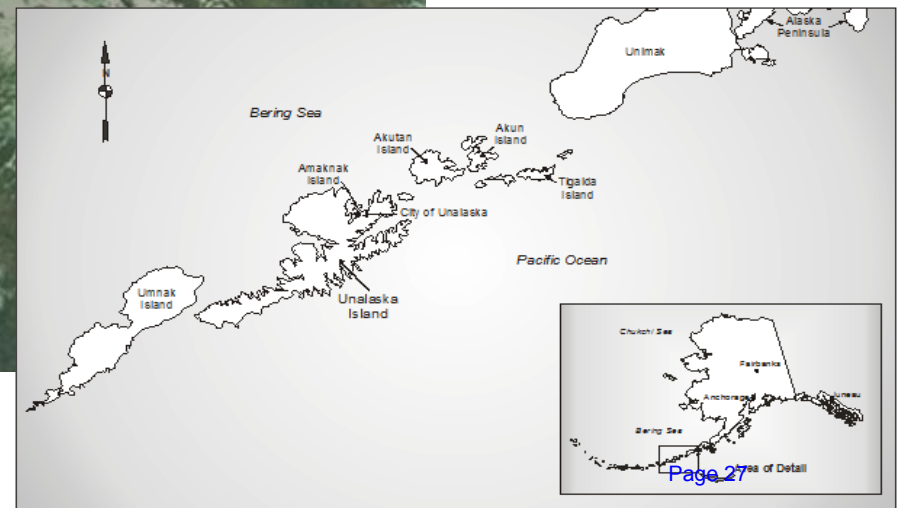
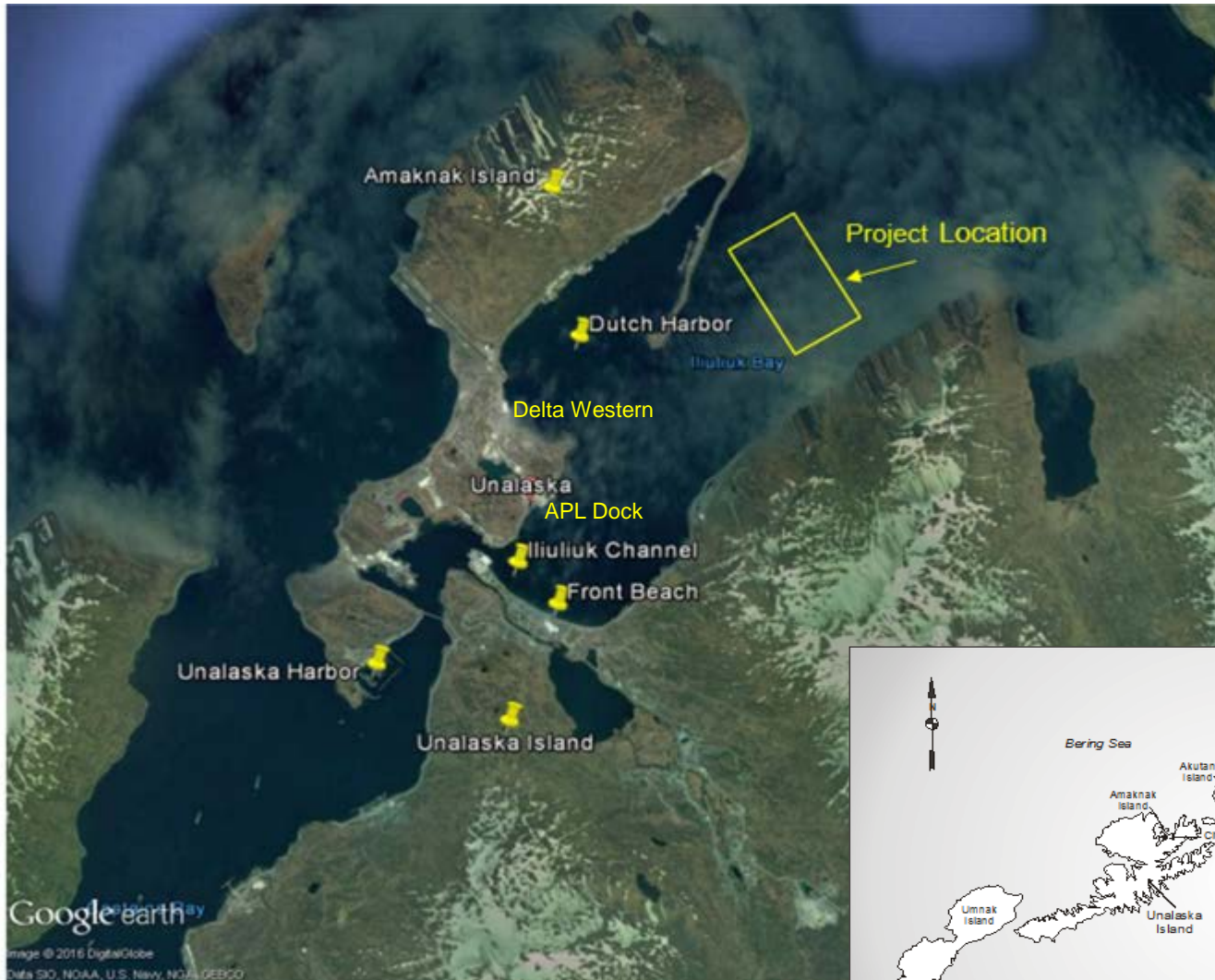


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Page 26

Project Location



Unalaska/Dutch Harbor

- Population of 4,605
- Qawalangin Tribe of Unalaska – Federally recognized tribe
- #1 U.S. commercial fishing port by quantity of catch since 1997
- For more than 30 years, Unalaska's economy has been based on commercial fishing, seafood processing, fleet services, and marine transportation
- 2.2M short tons of total commodities transported through the port in 2015
- Contains numerous sites designated as a Potential Places of Refuge by Alaska Department of Environmental Conservation (ADEC)
- Only deep draft, year-round ice-free port along 1,200 mile Aleutian Islands, serving the North Pacific and Bering Sea



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Page 28

Objectives

- Improve access to Unalaska/Dutch Harbor to decrease transportation inefficiencies in the region
- Improve access to Unalaska/Dutch Harbor to increase safety in the region



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Page 30

Alternatives

Alternative 1: No Action

Alternative 2: Deepening the bar in two-foot increments beginning at 42-feet



Tentatively Selected Plan (TSP)

- TSP – Dredging the bar remains unchanged
- 44' Design vessel draft remains as basis for NED analysis
- Channel Depth – Revised based on modeling post-TSP



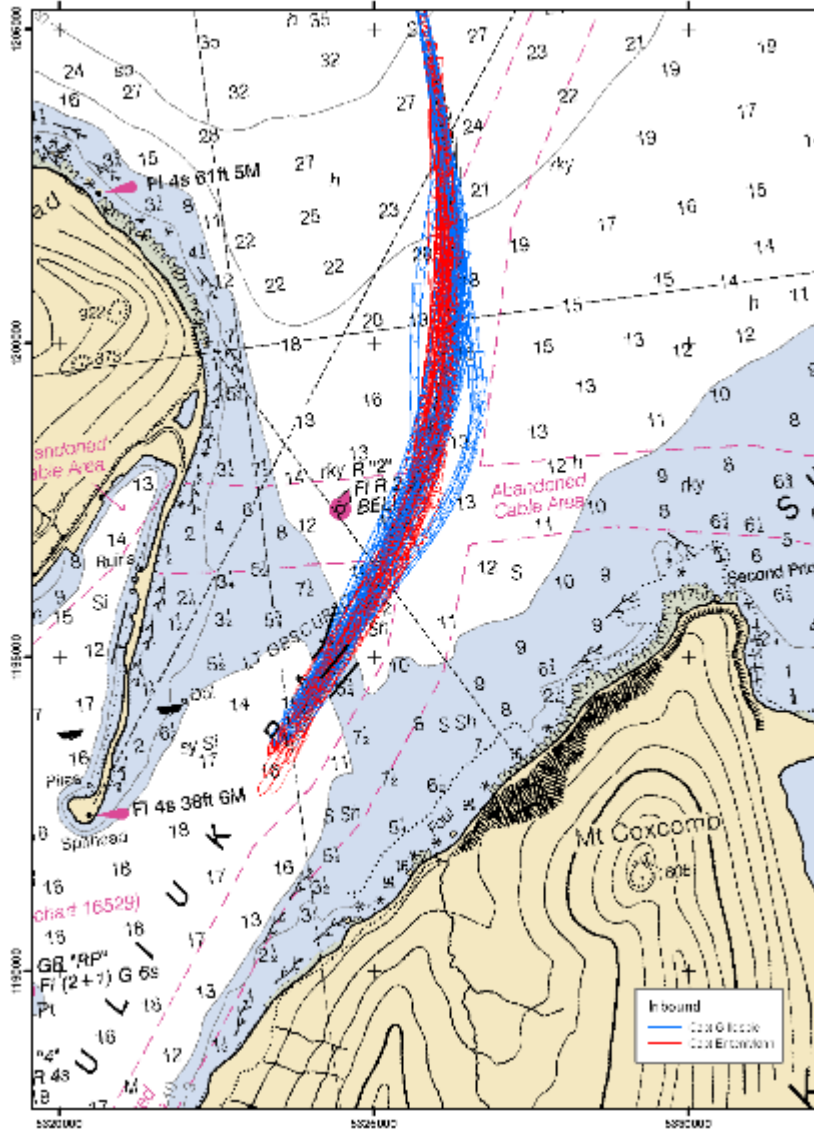
Risks & Uncertainties Addressed Since TSP



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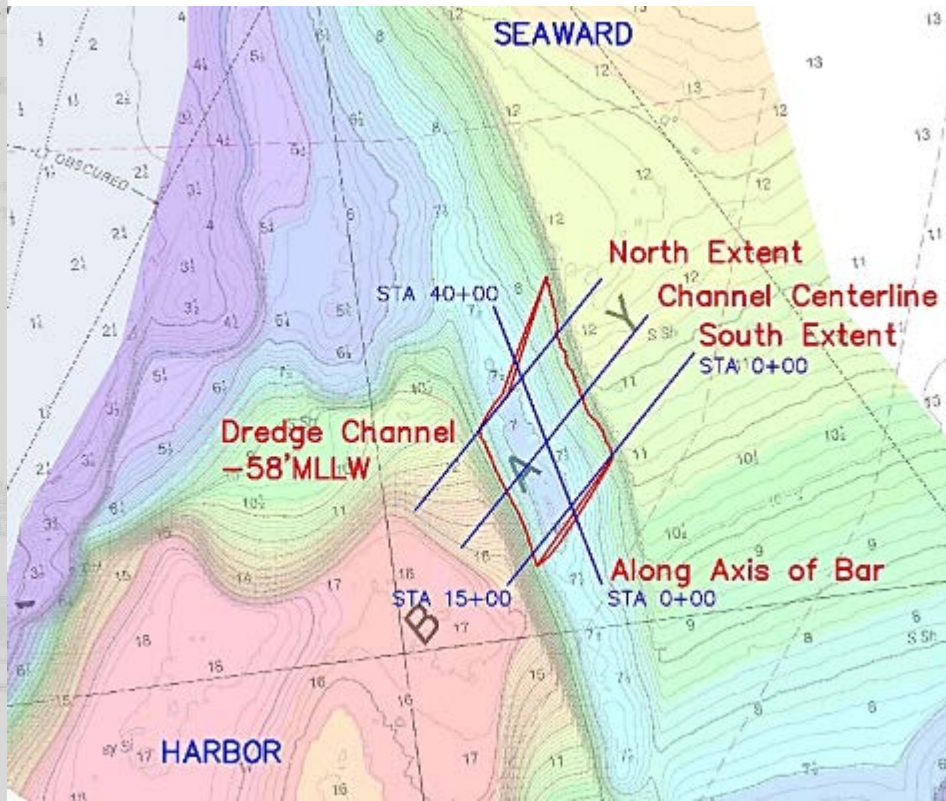
Ship Simulation (Post-TSP)



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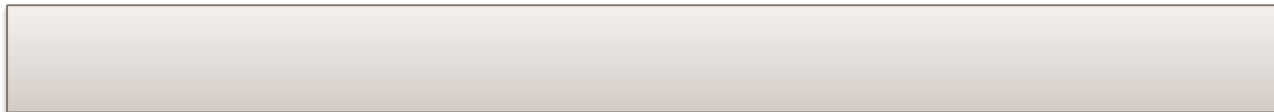
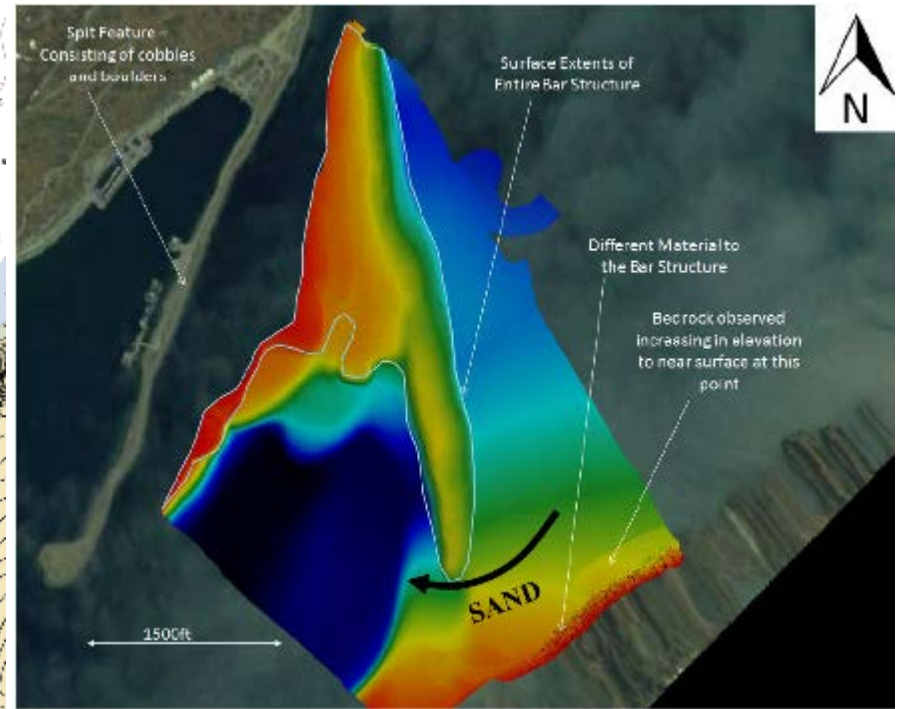
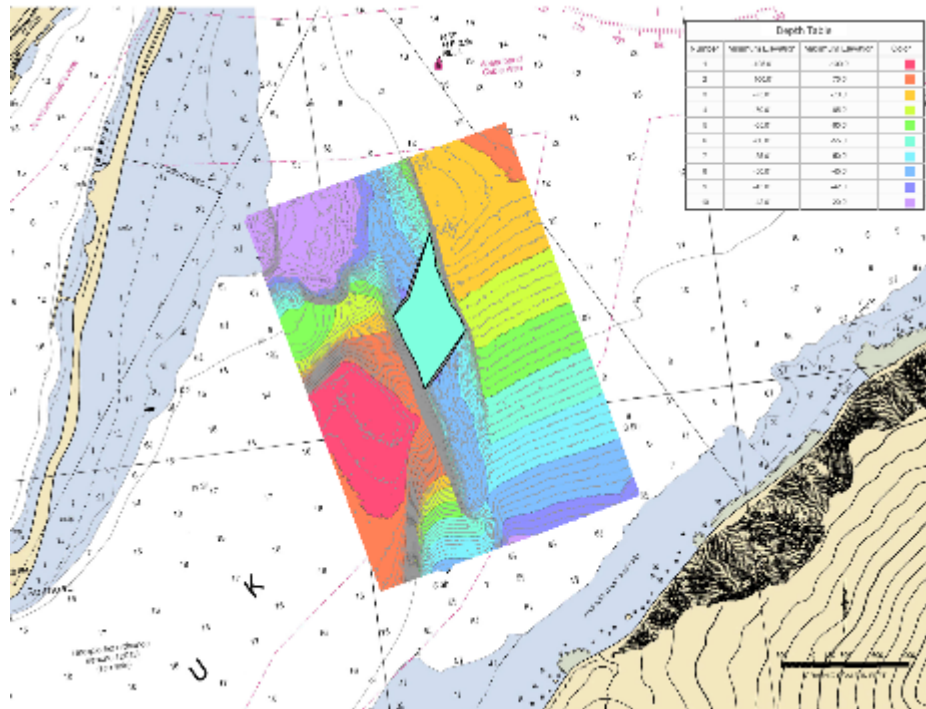
Channel Design (Post-TSP)



Changes included adding a 22° flare to the north extent of the channel



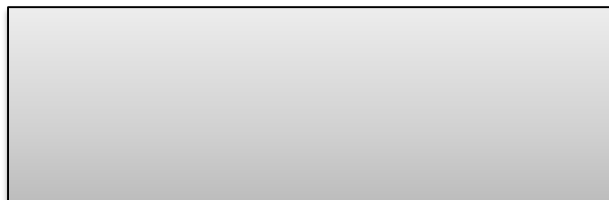
Risk Items Addressed - Sand Migration



Risk Items Addressed - Front Beach

	30 Year Wave - No Channel			
	270° - 0°		0° - 90°	
	<i>Feet</i>	<i>Period (s)</i>	<i>Feet</i>	<i>Period (s)</i>
Wave at WIS Point	51.8	16	37.5	14
Wave at Entrance	22.0	13	13.1	14
Wave at Bar	6.8	13	9.2	13
Wave at Front Beach	1.3	12	2.0	12

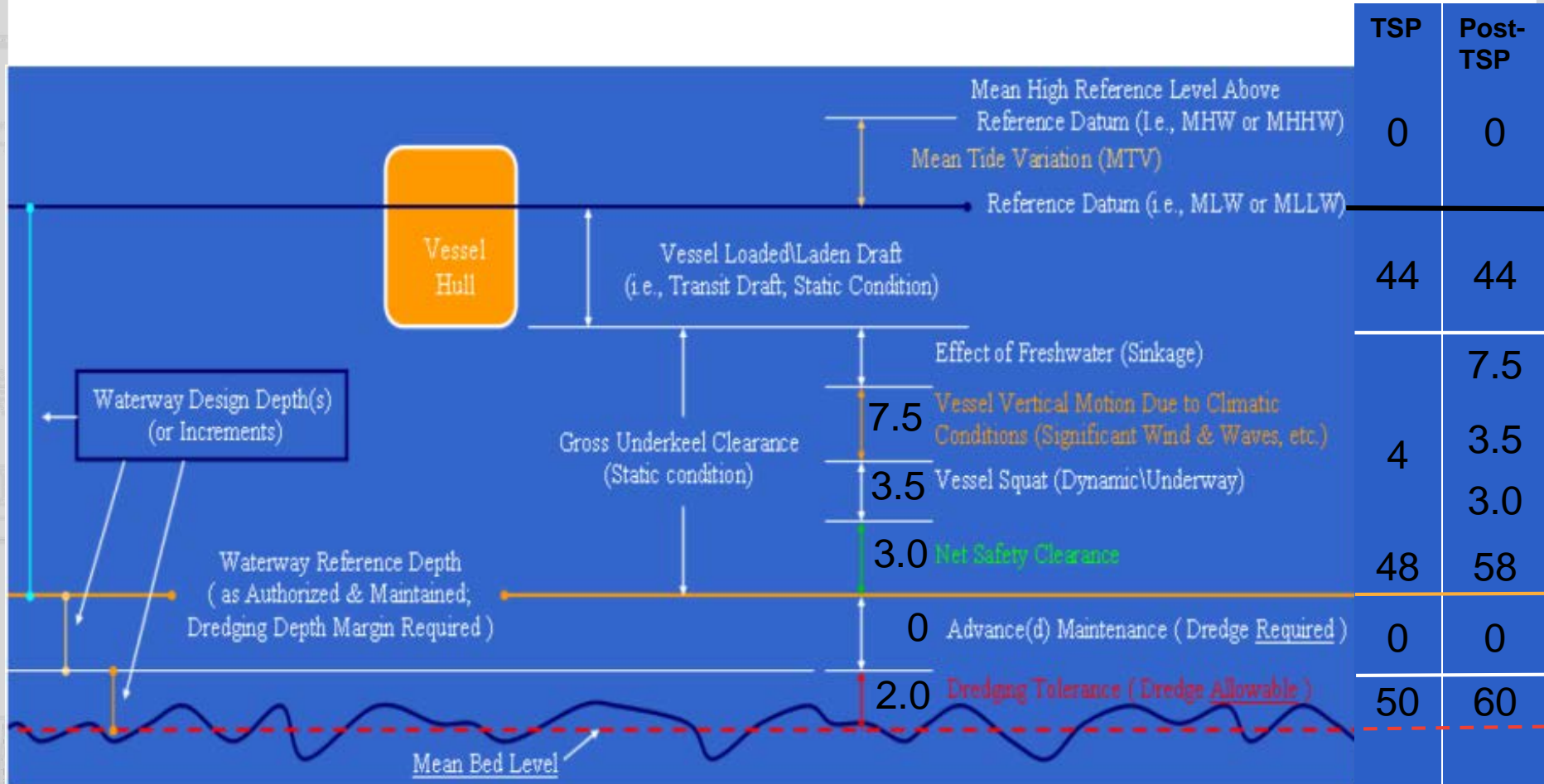
	30 Year Wave - Channel			
	270° - 0°		0° - 90°	
	<i>Feet</i>	<i>Period (s)</i>	<i>Feet</i>	<i>Period (s)</i>
Wave at WIS Point	51.8	16	37.5	14
Wave at Entrance	22.0	13	13.1	14
Wave at Bar	7.0	13	9.5	13
Wave at Front Beach	1.3	12	2.0	12



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Channel Design



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National Economic Development Analysis

add in TSP vs post-TSP

Alternative	Total AAEQ Costs	Total AAEQ Benefits	Total Net Benefits	BCR
56ft Channel	\$1,550,377	\$2,157,811	\$607,434	1.4
58ft Channel	\$1,462,173	\$2,809,965	\$1,347,792	1.9



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Tentatively Selected Plan (TSP)

- add in TSP vs post-TSP
- Reasonably maximizes net NED benefits at 58ft depth: \$1,347,792
- BCR: 1.9
- First Costs: \$30.5M
- Initial dredge is approx. 182,000 CY; maintenance dredging at year 25 assumes 1ft sandy material (16,000 CY)



Significant Comments: Public

- Erosion at Front Beach - resolved



Significant Comments: ATR

- Dredged Material Disposal Site Discussion
- Discrepancy in channel depth and underkeel clearance



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Page 42



Significant Comments: MSC QA Review

- POD involvement throughout the study starting with the Planning Charette in September 2016
- Review Plan approved in April 2017
- Signed IEPR Exclusion memo April 2018
- Legal Review – POA OC legal review signed on 24 May 2018
- Technical Reviews
 - District Quality Control in June 2018 – all comments resolved
 - Agency Technical Review Report August 2018 – all comments resolved
- HQUSACE Policy Review in July 2018 – responses provided for all comments



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Page 43

**Dutch Harbor (Unalaska)
Feasibility Study
Draft Feasibility Report/EA
HQUSACE Policy Review**



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Page 44

Significant HQ Comments

➤ 28 comments total

- 4 High: Environmental
 - EA Sufficiency
 - Environmental Compliance
 - Dredge Disposal (2 comments)
- 3 Medium-High: Engineering
 - Utility and Completeness of FWP
 - Underkeel Clearance (2 comments)



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Page 45

1. EA Sufficiency

Concern: The level of environmental data and release of the EA separate from the Draft Report.

Basis for Concern: Unable to find policy, regulation, or guidance that would have prohibited issuance of a draft integrated feasibility report/EA on the basis that there was not enough detail on marine mammal impacts in the report.

Path Forward: POA has pursued additional data on marine mammal and blasting regimens to inform significance determination. Data is presented in a technical paper provided to the vertical team and agencies, and to the public at an October meeting. Integrated Report with updated environmental information will be released concurrent with 2nd ATR, and edits combined into Final Integrated Report.



3. Compliance with Environmental Statutes

Concern: The draft feasibility report does not include appropriate documentation of compliance, such as Section 404(b), SHPO, FWCA, EFH or ESA.

Basis for Concern: Compliance with other Federal environmental statutes is part of the P&G/water resources planning requirements, in addition to NEPA.

Path Forward: A 404(b)(1) analysis will be performed using best available information. Ongoing coordination has identified potential open water disposal sites inside existing closing lines and within the Corps' 404 authority. Correspondence will be provided to document Agency coordination.



9. Base Plan/Federal Standard & 15. Disposition of Dredged Material

Concern: The report does not clearly lay out the base plan for disposal of the dredged material. Present report does not appear to declare applicable authority under which the proposed in-water sites.

Basis for Concern: ER 1105-2-100 Para E-15a.(3) - "...policy to accomplish the disposal of dredged material associated with the construction or maintenance dredging of navigation projects in the least costly manner."

Path Forward: Response: Ongoing coordination has identified 5 potential open water disposal sites located inside of existing closing lines and lie within the Corps' 404 authority. These were sampled on a seasonal basis. All five are within a few miles of the dredge site and represented a variety of depths and bottom compositions. The closest site was selected since it was both the lowest cost (shortest distance) and appeared to have the lowest environmental impacts.



14. Utility and Completeness of FWP

Concern: Is there a target wave threshold (height, period, direction) that is used to define “calm” conditions?

Basis for Concern: requirement for calm conditions appears to be misaligned with the expectation for improved project performance, based on existing condition bar crossing.

Path Forward: Calm conditions are seas with a wave height of 0 feet. The report is being updated for a channel depth of 58 feet; this will allow vessels to cross at speeds of up to 8 knots with a maximum wave over the bar of 5.6 feet.



23. Definition of UKC & 24. Operability of Design Vessel for FWPC

Concern: What is UKC based on? It is unclear how the conditions presented in the section of the report will affect the design vessel for FWP, as compared to the present condition.

Basis for Concern: The UKC discussion should address how FWP UKC was defined to address existing condition deficiency considerations and project objectives.

Path Forward: The UKC section of the report has been significantly reworked due to ship simulation and STWAVE modeling results. The 58 foot channel depth was reached by calculating 7.5 feet of vertical motion due to the 5.6 foot wave, 3.5 feet of squat, and 3 feet of safety clearance. Current practice dictates vessels wait until winds <25 knots and seas <6 feet to cross the bar. The 58 foot design channel will allow vessels with up to 6 additional feet of draft to travel with 35 knot winds and a 5.6 foot wave over the bar (the one-year wave).



Sponsor Views



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Page 51



Remaining Risks and Uncertainties



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Path Forward for Feasibility Level Analysis

- See slide from QUANA
- \Economic Analysis
 - Address technical questions from reviews
- Engineering
 - Obtain cost certification, address technical questions from reviews
- Environmental
 - Integrated Report will be out for public review 1 Feb 2019
 - Marine Mammal Protection Act and Endangered Species Act Coordination ongoing during PED for confined underwater blasting



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Page 53





Project Funds Status

	Received	Expended	Total Remaining
Federal	\$1,650,000	\$900,220	\$749,780
Sponsor	\$1,141,103	\$900,220	\$240,883
Total			\$990,663



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Study Milestones

Milestone Number	Title	Date
CW130	Execute Feasibility Cost Sharing Agreement	Aug 2016
CW261	Alternatives Milestone	Jan 2017
CW262	Tentatively-Selected Plan Milestone	Jan 2018
CW263	Agency Decision Milestone	Dec 2018
	2 ND ATR	Feb 2019
	Final Submittal	Apr 2019
	Senior Leader Brief	May 2019
CW270	Signed Chief's Report to Congress	Aug 2019

This study is fully funded to \$1,650,000, including IEPR funds.



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Page 56



Lessons Learned



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Page 57



QUESTIONS?



“Building and Preserving Alaska’s Future”

CITY OF UNALASKA
UNALASKA, ALASKA

ORDINANCE 2018-11

AN ORDINANCE AMENDING UNALASKA MUNICIPAL CODE TITLE 2 BY ADDING CHAPTER 2.46 CREATING THE DEPARTMENT OF FIRE AND EMERGENCY MEDICAL SERVICES; TO AMEND VARIOUS SECTIONS OF 2.44 TO UPDATE THE DEPARTMENT OF PUBLIC SAFETY, CHIEF OF POLICE AND DEPUTY CHIEF OF POLICE PROVISIONS; TO AMEND SECTIONS 2.96.050 AND 2.96.060 TO UPDATE TITLES IN REGARD TO EMERGENCY MANAGEMENT COORDINATION AND SUCCESSION; TO AMEND SUBSECTION 13.04.060(E) TO MAKE THE DEPARTMENT OF FIRE AND EMERGENCY MEDICAL SERVICES RESPONSIBLE FOR THE ISSUANCE OF BURN PERMITS; TO AMEND SUBSECTION 2.04.010(C) TO UPDATE THE LIST OF CITY MANAGER APPOINTEES; TO AMEND SECTION 2.04.020 TO UPDATE THE LIST OF CITY OFFICERS REQUIRED TO TAKE AN OATH OF OFFICE; TO AMEND SECTIONS 2.20.110, 9.12.010(G), 12.04.010(D) AND 14.04.010(E) TO UPDATE THE TITLE OF CHIEF OF POLICE; AND TO AUTHORIZE THE TRANSFER OF FY2019 APPROPRIATIONS FROM THE DEPARTMENT OF PUBLIC SAFETY TO THE DEPARTMENT OF FIRE AND EMERGENCY MEDICAL SERVICES

BE IT ENACTED by the City Council of the City of Unalaska:

Section 1: Form. Sections 2-21 of this Ordinance contain Code Ordinances; Section 22 is a Non-Code Ordinance.

Section 2: Amendment of Title 2. Title 2 of the Unalaska Code of Ordinances is hereby amended by the addition of a new Chapter 2.46 to read as follows:

2.46.010 DEPARTMENT OF FIRE AND EMERGENCY MEDICAL SERVICES.

There is created a Department of Fire and Emergency Medical Services, the head of which shall be the Fire Chief.

2.46.020 FIRE CHIEF.

The City Manager shall hire and supervise a Fire Chief to administer the Department of Fire and Emergency Medical Services.

2.46.030 DUTIES OF THE FIRE CHIEF.

Under the supervision of the City Manager, the Fire Chief shall have the following duties:

(A) Develop and manage the budget, operation and personnel of the Department of Fire and Emergency Medical Services;

(B) Appoint and supervise fire officers as needed for effective operation of the Department;

(C) Maintain adequate volunteer membership in the Department;

(D) Direct and manage all activities of the Department;

(E) Direct and manage the investigation of the cause, origin and circumstances of all fires;

(F) Establish Standard Operating Guidelines necessary to govern the discipline, training, and operation of the Department.

(G) Report Department status and activities to the City Manager; and

(H) Perform other such duties as may be necessary to ensure compliance with the requirements of applicable Alaska Statutes and Alaska Administrative Code including but not limited to 13 AAC 52.030, or as required by the City Manager.

2.46.040 DUTIES OF THE DEPARTMENT OF FIRE AND EMERGENCY MEDICAL SERVICES.

It shall be the duty of the Department of Fire and Emergency Medical Services to do the following:

(A) Provide fire suppression, fire prevention, rescue, and emergency medical services;

(B) Enforce ordinances relating to fires, fire prevention, and safety of persons from fire;

(C) Investigate fires to determine cause and origin as required by 13 AAC 52.030;

(D) Coordinate emergency response to hazardous materials incidents and natural or manmade disasters;

(E) Coordinate and perform search and rescue functions undertaken by the City of Unalaska;

(F) Provide fire safety, fire prevention, health, and safety education to attempt to reduce the risk and consequences of emergencies;

(G) Assist in the review of building plans and permits to include code inspections as requested by the Planning Director or the Alaska State Fire Marshal;

(H) Provide other services intended to protect life and property;

(l) Perform such other duties as shall be required of the Department by the City Manager.

2.46.050 OATH OF OFFICE.

The following members of the Department of Fire and Emergency Medical Services will be required to take and sign an Oath of Office prior to assuming duties of the position:

- (A) Fire Chief;
- (B) Fire Officers.

2.46.060 CODE OF ETHICS.

The fire and EMS service is founded on mutual respect and trust between responders and the citizens they serve. To ensure the continuing integrity of the fire and EMS service, the highest standards of ethical conduct must be maintained at all times. Therefore, all members of the Department of Fire and Emergency Medical Services must attest and subscribe to the Firefighter/EMT Code of Ethics as adopted by the Department.

Section 3: Amendment of Section 2.44.010. Section 2.44.010 of the Unalaska Code of Ordinances is hereby amended to read as follows: [additions are underlined, deletions are overstruck]

2.44.010 DEPARTMENT OF PUBLIC SAFETY.

There is created a Department of Public Safety, the head of which shall be the Chief of Police ~~Director of Public Safety~~.

Section 4: Amendment of Section 2.44.020. Section 2.44.020 of the Unalaska Code of Ordinances is hereby amended to read as follows: [additions are underlined, deletions are overstruck]

2.44.020 CHIEF OF POLICE ~~DIRECTOR OF PUBLIC SAFETY~~.

The Chief of Police ~~Director of Public Safety~~ shall be appointed by the City Manager and shall hold office at the discretion of the City Manager. The Chief of Police ~~Director of Public Safety~~ shall also ~~hold the title of Chief of Police and~~ serve as the Sergeant at Arms during City Council meetings.

Section 5: Amendment of Section 2.44.030. Section 2.44.030 of the Unalaska Code of Ordinances is hereby amended to read as follows: [additions are underlined, deletions are overstruck]

2.44.030 DUTIES OF THE CHIEF OF POLICE ~~DIRECTOR OF PUBLIC SAFETY~~.

Under the supervision of the City Manager, the Chief of Police ~~Director of Public Safety~~ shall have the following duties:

(A) Supervise all activities of the Department;

(B) Establish a set of rules and regulations governing the discipline, training, and operation of the Department, including Standard Operating Guidelines necessary to govern the discipline, training, and operation of the Division of Police Services;

(C) Direct and manage dispatch services;

(D) Direct and manage the community contract jail;

(E) Direct and manage contract DMV services;

(F) Report Department status and activities to the City Manager;

(GG) Perform other such duties as may be specified in this Code or by the City Manager.

Section 6: Amendment of Section 2.44.040. Section 2.44.040 of the Unalaska Code of Ordinances is hereby amended to read as follows: [additions are underlined, deletions are overstruck]

2.44.040 SUCCESSION TO THE ~~DIRECTOR OF PUBLIC SAFETY~~ CHIEF OF POLICE.

Should the Chief of Police ~~Director of Public Safety~~ position become vacant or should the Chief of Police ~~Director~~ be absent or unable to perform the duties of the office, the order of interim succession of the Chief of Police ~~Director of Public Safety~~ shall be as follows:

(A) The Deputy Chief of Police;

~~(B) The Fire Chief~~

(BG) The Police Sergeants in order of seniority.

Section 7: Amendment of Section 2.44.060. Section 2.44.060 of the Unalaska Code of Ordinances is hereby amended to read as follows: [additions are underlined, deletions are overstruck]

2.44.060 DEPUTY CHIEF OF POLICE.

The Chief of Police ~~Director of Public Safety~~ shall hire and supervise a Deputy Chief of Police to administer the Division of Police Services.

Section 8: Amendment of Section 2.44.070. Section 2.44.070 of the Unalaska Code of Ordinances is hereby amended to read as follows: [additions are underlined, deletions are overstruck]:

2.44.070 DUTIES OF THE DEPUTY CHIEF OF POLICE.

Under the supervision of the Chief of Police ~~Director of Public Safety~~, the Deputy Chief of Police shall have the following duties:

- (A) Manage the budget, operation and personnel of the Division of Police Services;
- (B) Direct and manage all activities of the Division;
- ~~(C) Direct and manage the community contract jail;~~
- ~~(D) Direct and manage Animal Control;~~
- ~~(E) Direct and manage contract DMV services;~~
- ~~(F) Establish Standard Operating Guidelines necessary to govern the discipline, training, and operation of the Division;~~
- (G) Report Division status and activities to the Chief of Police ~~Director of Public Safety~~; and
- (H) Perform other such duties as may be necessary to ensure compliance with the requirements of applicable Alaska Statutes and Alaska Administrative Code, or as required by the Chief of Police ~~Director of Public Safety~~.

Section 9: Amendment of Subsection 2.44.080(J). Subsection 2.44.080(J) of the Unalaska Code of Ordinances is hereby amended to read as follows: [additions are underlined, deletions are overstruck]

(J) Perform such other duties as shall be required of the Division by the Chief of Police Director.

Section 10: Repeal of Sections 2.44.100-2.44.130. Sections 2.44.100, 2.44.110, 2.44.120, and 2.44.130 are hereby repealed and deleted in their entirety.

Section 11: Amendment of Section 2.44.140. Section 2.44.140 of the Unalaska Code of Ordinances is hereby amended to read as follows: [additions are underlined, deletions are overstruck]

2.44.140 OATH OF OFFICE.

The following members of the Department of Public Safety will be required to take and sign an Oath of Office prior to assuming duties of the position:

- (A) ~~Deputy~~ Chief of Police;
- (B) ~~Fire~~ Deputy Chief of Police;
- (C) Police Officers;
- (D) Corrections Officers;
- (E) ~~Fire Officers.~~

Section 12: Amendment of Section 2.44.150. Section 2.44.150 is hereby amended to read as follows: [deletions are overstruck]

2.44.150 CODE OF ETHICS.

Certain members of the Department of Public Safety will be required to attest and subscribe to a Code of Ethics:

(A) In accordance with 13 AAC 85.040 members required to hold a basic, intermediate, or advanced police certificate must attest and subscribe to the law enforcement Code of Ethics.

(B) In accordance with 13 AAC 85.235 members required to hold a basic, municipal correctional officer certificate must attest and subscribe to the municipal correctional officer Code of Ethics.

~~(C) The fire and EMS service is founded on mutual respect and trust between responders and the citizens they serve. To ensure the continuing integrity of the fire and EMS service, the highest standards of ethical conduct must be maintained at all times. Therefore, all members of the Division of Fire and EMS must attest and subscribe to the Firefighter/EMT Code of Ethics as adopted by the City of Unalaska Department of Public Safety.~~

Section 13: Amendment of Section 2.96.050. Section 2.96.050 of the Unalaska Code of Ordinances is hereby amended to read as follows: [additions are underlined, deletions are overstruck]

2.96.050 EMERGENCY MANAGEMENT COORDINATOR.

(A) The City Manager shall appoint an Emergency Management Coordinator who shall be a person well versed and trained in planning operations involving the activities of many different agencies which will operate to protect the public health, safety, and welfare in the event of danger from enemy action or disaster as defined in this Chapter.

(B) If the City Manager elects to appoint someone other than the Chief of Police ~~Director of Public Safety~~ as Emergency Management Coordinator, the Chief of Police ~~Director of Public Safety~~ will assist the appointed individual in the planning operations of Emergency Management including mitigation, preparedness, response, and recovery procedures.

(C) The Emergency Management Coordinator shall be responsible to the City Manager in regard to all phases of emergency preparedness activity in the city. Under the supervision of the City Manager, the Emergency Management Coordinator shall maintain liaison with the state and federal authorities and the authorities of other nearby political preparedness plans, and, during a proclaimed disaster emergency, shall maintain operational control of emergency activities from an Emergency Operations Center.

Section 14: Amendment of Section 2.96.060. Section 2.96.060 of the Unalaska Code of Ordinances is hereby amended to read as follows: [additions are underlined, deletions are overstruck]

2.96.060 SUCCESSION TO OFFICE OF EMERGENCY MANAGEMENT COORDINATOR.

Should the Office of Emergency Management Coordinator become vacant or should the Coordinator be absent or unable to perform their duties, the order of interim succession of the office of Emergency Management Coordinator shall be determined as follows:

- (A) The Chief of Police ~~Director of Public Safety~~;
- (B) The Deputy Chief of Police ~~of the Department of Public Safety~~;
- (C) The Fire Chief ~~of the Department of Public Safety~~;
- (D) Such other person as may be designated by the City Council or the City Manager.

Section 15: Amendment of Subsection 13.04.060(E). Subsection 13.04.060(E) of the Unalaska Code of Ordinances is hereby amended to read as follows: [additions are underlined, deletions are overstruck]

(E) Permits may be obtained from the Department of Fire and Emergency Medical Services ~~Public Safety located at 29 Safety Way, in Unalaska.~~

Section 16: Amendment of Subsection 2.04.010(C). Subsection 2.04.010(C) of the Unalaska Code of Ordinances is hereby amended to read as follows: [additions are underlined, deletions are overstruck]

(C) The following employees shall be appointed by the City Manager and shall serve at the discretion of the City Manager:

- (1) Assistant City Manager;
- (2) City Clerk;
- (3) Director of Finance;
- (4) Director of the Department of Planning;
- (5) Chief of Police ~~Director of the Department of Public Safety~~;
- (6) Director of the Department of Public Works;
- (7) Director of the Department of Parks, Culture and Recreation;
- (8) Director of Public Utilities;
- (9) Fire Chief
- (~~9~~10) Port Director; and
- (~~10~~11) Such other employees as may be authorized by the City Council.

Section 17: Amendment of Section 2.04.020. Section 2.04.020 of the Unalaska Code of Ordinances is hereby amended to read as follows: [additions are underlined, deletions are overstruck]

2.04.020 OATH OF OFFICE.

City officers, before taking office, shall affirm in writing that they will honestly, faithfully, and impartially perform their duties. The oath shall be filed with the City Clerk. The following city officials are required to sign the oath:

- (A) All elected officials;
- (B) Planning Commission members;
- (C) City Manager;
- (D) Assistant City Manager;
- (E) City Clerk;
- (F) Director of Finance;
- (G) Public Safety employees identified in 2.44.140 ~~Director of the Department of Public Safety;~~
- (H) Fire and Emergency Medical Services employees identified in 2.46.050
- (~~H~~) City Attorney.

Section 18: Amendment of Section 2.20.110. Section 2.20.110 of the Unalaska Code of Ordinances is hereby amended to read as follows: [additions are underlined, deletions are overstruck]

2.20.110 DUTIES OF THE SERGEANT AT ARMS AT CITY COUNCIL MEETINGS.

The Sergeant At Arms shall maintain order during City Council meetings at the direction of the Mayor. If Council members or meeting attendees are disruptive, the Sergeant may warn them and, in extreme cases, escort them out of the meeting. The Sergeant At Arms is also responsible for security during the meeting. The Chief of Police ~~Director of Public Safety~~ shall serve as the Sergeant At Arms during Council meetings.

Section 19: Amendment of Subsection 9.12.010(G). Subsection 9.12.010(G) of the Unalaska Code of Ordinances is hereby amended to read as follows: [additions are underlined, deletions are overstruck]

(G) “Director of Department of Public Safety” or “Director” means the Chief of Police ~~Director of the Unalaska Department of Public Safety~~ or their his or her designee.

Section 20: Amendment of Subsection 12.04.010(D). Subsection 12.04.010(D) of the Unalaska Code of Ordinances is hereby amended to read as follows: [additions are underlined, deletions are overstruck]

12.04.010 DEFINITIONS.

In this chapter, unless the context otherwise requires:

(D) “Director” means the Chief of Police ~~Director of the Unalaska Department of Public Safety~~ or his or her designee

Section 21: Amendment of Subsection 14.04.010(E). Subsection 14.04.010(E) of the Unalaska Code of Ordinances is hereby amended to read as follows: [additions are underlined, deletions are overstruck]

(E) “DIRECTOR OF PUBLIC SAFETY” means the Chief of Police ~~Director of Public Safety~~ and any designee of the Chief of Police ~~Director of Public Safety~~.

Section 22: Authorization for Transfer of FY2019 Appropriations.

Pursuant to Section 6.12.050 of the Unalaska Code of Ordinances, the City Council authorizes and approves the transfer of previously appropriated money from the Department of Public Safety to the Department of Fire and Emergency Medical Services to the extent necessary to fund the Department of Fire and Emergency Medical Services for the balance of FY2019 without increasing the total amount of the FY2019 appropriation for the Department of Public Safety. The City Manager shall submit a more specific proposed budget amendment for the balance of FY2019 reflecting the amount of funds transferred to the Department of Fire and Emergency Medical Services for Council approval no later than January 31, 2019.

Section 23: Effective Date. This ordinance shall be effective upon adoption.

PASSED AND ADOPTED by a duly constituted quorum of the Unalaska City Council on December 11, 2018.

Frank Kelty
Mayor

ATTEST:

Marjie Veeder
City Clerk

MEMORANDUM TO COUNCIL

To: Mayor and City Council Members
From: Thomas Thomas, City Manager
Date: November 27, 2018
Re: Ordinance 2018-11, Public Safety Organizational Structure

SUMMARY: Ordinance 2018-11 amends Title 2, creating a Fire and EMS Department separate from the Department of Public Safety, with the Fire Chief and Police Chief reporting directly to the City Manager. The City Manager recommends approval.

PREVIOUS COUNCIL ACTION: City Council has discussed various options for the future of the Department Public Safety over the last few years. City Council took formal action at their meeting on July 24 to move forward with creating a standalone Fire Department.

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.

DISCUSSION: The City Attorney prepared Ordinance 2018-11 amending Title 2 to create a Fire Department separate from the Department of Public Safety with the Fire Chief and Police Chief reporting directly to City Manager. Specifically, this Ordinance:

- 1) Adds Section 2.46 to form a Department of Fire and Emergency Medical Services, the head of which will be the Fire Chief;
- 2) Amends Section 2.44 to state that the Police Chief is the head of Public Safety, and updates the Public Safety Department, Police Chief and Deputy Chief of Police provisions;
- 3) Amends Sections 2.96.050 and 2.96.060 to update titles in regard to emergency management coordination and succession;
- 4) Amends Section 13.04.060 to make the Department of Fire and Emergency Medical Services responsible for the issuance of burn permits;
- 5) Amends Subsection 2.04.010(C) to update the list of City Manager appointees;
- 6) Amends Section 2.04.020 to update the list of city officers required to take an oath of office;

- 7) Amends Sections 2.20.110, 9.12.010(G), 12.04.010(D) and 14.04.010(E) to update the title to Chief of Police; and
- 8) Authorizes the transfer of FY19 appropriations from the Department of Public Safety to the Department of Fire and Emergency Medical Services.

This memo highlights the benefits, the challenges, and outlines some of the necessary actions associated with the implementation of this Title 2 change.

The development of a new or improved facility will help address the challenges associated with the current building and improve the effectiveness of the departments and security requirements. 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.

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 both Police and Fire to the City Manager. The potential exists for 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 the Department's 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 the Office Manager. The reporting structure of Dispatch and 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 implementing these Title 2 changes include:

- 1) Address Security Issues
 - a. Consider additional technical or physical limitations to restrict access to certain computer systems.
 - b. Assist Fire Department full time employees to have individual security clearances from the State.
 - c. Coordinate escorts for Fire personnel and volunteers without security clearance with the Police Chief when necessary.
- 2) Revise Organization Chart
 - a. Director of Public Safety (Police Chief) and Fire Chief reporting to City Manager.
 - b. Office Manager technically reporting to the Director of Public Safety (Police Chief). For evaluation purposes, this would be the same as the Office Manager for DPU and DPW. That Officer Manager technically reports to the DPW Director.
 - c. Dispatch/Communications Division shifts from the Fire Division to the Police Division.
- 3) Revise and Develop Job Descriptions
 - a. Update who the Dispatch Sergeant and the Office Manager report to in their job descriptions.

FINANCIAL IMPLICATIONS: The costs associated with the development of a new or improved facility would be determined on the specific needs and a defined scope of work. Attorney fees for assistance in drafting, interpreting and reviewing documents, programs and agreements are likely. The Finance Director will provide a proposed budget amendment regarding creating a standalone Fire Department.

LEGAL: The City Attorney prepared the proposed Ordinance, and has provided legal opinions regarding the City's obligations to PERS and security issues. The City Attorney will assist with the development, interpretation, and review of related documents and agreements.

PROPOSED MOTION: I move to approve Ordinance 2018-11 and schedule it for a second reading and public hearing on December 11, 2018.

CITY MANAGER'S COMMENTS: I recommend approval of Ordinance 2018-11.

ATTACHMENTS:

City Attorney's memo of October 2, 2018 regarding security issues

City Attorney's memo of July 11, 2018 regarding impact on city's obligation to PERS

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: Security Issues Related to Potential Title 2 Amendments

DATE: October 2, 2018 [update of September 18, 2018 memorandum]

In response to general concerns about “security” raised during consideration of proposed amendments to Title 2 you asked whether there were any legal impediments to reorganizing fire/EMS services from a division of the public safety department to an independent city department. Provided dispatch services are transferred from the fire division to the police department (as proposed by the current draft ordinance), in our opinion, the answer is NO. The reasons for this conclusion are set forth in greater detail below.

Facts

The City of Unalaska currently combines firefighting, EMS and police services within a single public safety department. The director/police chief supervises the fire department and hires the fire chief. The fire chief is responsible for dispatch services covering both police services and fire/EMS services.

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, dispatchers and operate a community jail.

The City participates in the State of Alaska Public Safety Information Network (APSIN). APSIN stores criminal history and related information in a computer database application and also serves as a “portal” to access criminal justice information stored on databases maintained by other states. Nearly all of this information is treated as confidential in varying degrees.

Authorization to use APSIN is on an “employee by employee” basis. Employees authorized to use APSIN must be individually approved by the State. Once approved access requires an individual password.

Currently fire division personnel and police services division personnel share the same building. That would continue regardless of whether this ordinance was adopted. When entering the police station fire division personnel could theoretically have physical access to computer terminals used to access APSIN or could have an opportunity to see information printed out from the APSIN system.

Law

State Law. AS 12.62 provides authorization for the State of Alaska Department of Public Safety to operate and maintain a criminal justice information system “in a manner that protects victims of crime, allows the proper administration of justice, and avoids vigilantism.”¹ The Unalaska Public Safety Department is required to input information regarding crimes committed in Unalaska to the system (known as APSIN)². The department is required to:

provide adequate procedures and facilities to protect criminal justice information from unauthorized access and from accidental or deliberate damage by theft, sabotage, fire, flood, wind, or power failure;

¹ AS 12.62.005.

² AS 12.62.120(b).

provide procedures for screening, supervising, and disciplining agency personnel in order to minimize the risk of security violations;

provide training for employees working with or having access to criminal justice information

AS 12.62.150(3),(4),(5).

There are specific limitations on the use of this information and who may be provided criminal justice system information³. There is no specific prohibition on use of APSIN information in connection with non-criminal missions such as fire or EMS services, however, release in connection with life-saving activities is limited to situations involving “imminent danger to life or extensive damage to property”⁴.

State Regulation. In order to be able to directly access APSIN the city must agree “to abide by applicable state and federal statutes and regulations and other mandatory federal requirements relating to criminal justice information systems”⁵. A city employee cannot use APSIN unless the state has given the city “a security clearance for that person”⁶. In order to obtain the necessary security clearance the city employee must be an employee of “a criminal justice agency” of the city⁷. A “criminal justice agency” is defined under state law as a “subdivision of a government entity that allocates a substantial portion of its budget to a criminal justice activity”⁸. Criminal justice activity is defined as “investigation, identification, apprehension, detention, pretrial or post-trial release, prosecution, adjudication, or correctional supervision or rehabilitation of a person accused or convicted of a crime”⁹.

Federal Standards. Federal standards more specifically address physical security of criminal justice information. Federal standards reference a “physically secure location” under the

³ AS 12.62.160.

⁴ AS 12.62.160(b)(1).

⁵ 13 AAC 68.215(a). We presume Unalaska has signed such an agreement.

⁶ 13 AAC 68.215(b).

⁷ 13 AAC 68.215(a),(b).

⁸ AS 12.62.900(11)(b); 13 AAC 68.905(14).

⁹ AS 12.62.900(10)(a).

“control” of the police department which includes limited access¹⁰. The FBI policies have not been specifically adopted by the state via regulation. The federal standards envision separate rooms or “wings” of a building which may have restricted access to computers used to access APSIN even among employees of a police department.

In particular the following federal standards set “guidelines” which local law enforcement are expected to observe as a condition for obtaining access to a federal criminal database.

1. Access to Information- as previously mentioned the State administers who is granted access to what the federal government calls “CJI” (criminal justice information) which has multiple subparts. There is no additional federal requirement that would impact the City. (See pages 63-65 of federal guidelines). The federal standards also provide guidance regarding what types of CJI are considered public and what are protected. None of these guidelines impacts establishment of a separate fire department other than the dispatch function. In addition there are guidelines for the mechanical steps to be followed by authorized users to gain access to CJI. (see pages 31-34 of federal guidelines). Again none of these would ordinarily be applicable to firefighters who should have virtually no need currently to access CJI and would not suddenly have a need to do so because an independent fire department was established. Any issue related to access is addressed by having dispatchers remain within the police department. There are guidelines for passwords, personal identification numbers and advanced authentication. (see pages 34-46 of federal guidelines).

2. Access to Hardware and Software- there are federal guidelines regarding who has access to make software and hardware changes to a system used to access CJI. This should have no impact as we assume the City’s IT department would take the lead in these situations whether there is or is not an independent fire department. Other technical guidelines relate to “connectivity” between systems, spam and spyware protection, encryption, and drive partitioning and would similarly be within the expertise of the IT department. (Federal guidelines pages 53-60). There are also technical standards for mobile devices and tablets which again should be an IT issue and could possible require reconfiguration of such devices currently issued to employees of the fire division. (Federal guidelines pages 66-72).

3. Media Protection- there are guidelines for protection of digital and physical media. (Federal guidelines pages 49-50).

4. Physical layout- hardware used to access CJI must be located in a “physically secure location”. Assuming the city already meets this guideline establishing an independent fire department would not create noncompliance. But this “physically secure location” must be within the control of the police department not the fire department. So if the current system used

¹⁰ Policy 5.9.1, Criminal Justice Information Services Security Policy (FBI).

to access CJI is currently located in an area of the building shared by the fire and police divisions the city may need to install additional locks or otherwise restrict access within the shared physical space. (See federal guidelines pages 51-52).

Alternatively, or in addition to additional physical restrictions, the City will need to make sure individual fire department members who will frequently be entering the shared police station/fire station have been given security clearance by the State (which involves a background check), and participated in security training led by the State. Fire department personnel who will not frequent the police station should be made aware that when they do enter the police station they will need to be escorted by police department personnel. These requirements are not specified in regulation or statute but are part of the State's policy on security of APSIN information. We have forwarded the form used for the security clearance. These same requirements currently apply to city employees or contractors that clean the police station so should be familiar to DPS.

City Code. UCO 2.44.130(I) states the Division of Fire and Emergency Medical Services is responsible to "provide dispatch services for the Department, Alaska State Troopers, and other emergency response agencies". The fire chief is to "Direct and manage dispatch services".¹¹ There are no code provisions specific to APSIN.

Analysis

We do not believe a stand alone fire department meets the state law definition of a criminal justice agency. So if dispatchers are part of a stand alone fire department it is unlikely dispatchers will qualify for the necessary security clearance to use APSIN. If dispatchers currently employed by the City have been authorized to access APSIN we believe the dispatch function must be part of the police department.

We do not believe the requirement to provide "adequate facilities" or a "physically secure location" to protect criminal justice system information from unauthorized access presents a legal impediment to establishing a separate fire department. To the extent fire department members without APSIN security clearances continue to need to use police department facilities a proposed reorganization does not create a situation any different than exists today. The City is already required to limit access. But some consideration on either a technical level (restricting access to certain parts of a computer system which could be used to access APSIN to a broader range of persons or terminals) or a physical level (an additional locked room for instance) should be considered during any transition process if a stand alone fire department is created. And certain fire department employees who have not previously been provided individual security

¹¹ UCO 2.44.120(E).

Thomas Thomas
October 2, 2018
Page 6

clearances by the State should obtain security clearance. Finally, other fire department employees who infrequently enter the police station should be informed they will need to be escorted to the fire department “side” of the building by police personnel. This escort policy should be coordinated with the police chief.


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

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.

Proposed Organizational Structure

