VALDEZ CITY COUNCIL Regular Meeting Minutes November 1, 2010 Page 1

I. CALL TO ORDER

Mayor Cobb called the meeting to order at 7:00 pm in the City Council chambers.

II. PLEDGE OF ALLEGIANCE

The City Council led in the Pledge of Allegiance to the American Flag.

III. ROLL CALL

Present:

Mayor Dave Cobb Council member Alan Sorum Council member Mike Wells Council member Karen Ables Council member Dorothy M. Moore Council member Steve McCann Council member Joe Prax

Also Present:

John Hozey, City Manager Sheri L. Pierce, MMC, City Clerk Bill Walker, City Attorney

Members of Staff and Approximately 18 people in the audience.

IV. PUBLIC HEARING - Second Public Hearing (Project Status Update) Regarding the Community Development Block Grant Received for Improvements to the Valdez Senior Center

John Hozey provided the following update regarding the Community Development Block Grant Received for Improvements to the Valdez Senior Center.

The City of Valdez was awarded a Community Development Block Grant in the amount of \$451,750 through the State of Alaska Department of Commerce, Community and Economic Development. One of the grant requirements is to hold public hearings. One such hearing was required at the beginning of the project (held on November 17, 2008), and another is required while the project is underway to provide the public with a project status update and to allow opportunity for public comment.

The original scope of the project was to re-roof the structure, repair siding, upgrade the fire suppression system, and construct a parking garage. The following variations from the original project scope have occurred: 1) The parking garage portion of the project was not put out to bid after we received preliminary cost estimates that

indicated there would not likely to be adequate funding available to construct the parking structure *and* accomplish the roofing and sprinkler system improvements. The roofing and sprinkler system portions of the project were viewed as the most pressing needs for the facility by both the City and the Senior Center. 2) Dropping the parking garage from the project ended up being a good thing, as we have needed to execute \$277,201 in change orders for this project to-date. Residing the entire building was added as a project component. In addition, significant wood rot was encountered during demolition and much of the roof underlayment, as well as sections of exterior walls and flooring had to be replaced.

The project, which was originally hoped to be finished last year, did not get underway until this summer and should be wrapping up in the next 30-60 days. The roofing and siding are pretty well complete and the sprinkler portion of the project is well underway. To-date we have encumbered \$843,201 for the construction phase of this project, and with just a few additional change orders anticipated, there should be sufficient funds remaining to complete the project.

There were no public comments regarding the project.

Council member Moore stated that in Mr. Hozey's report only one grant was mentioned. She questioned if there was actually more than one grant and how much general fund money had been spent on this project. Mr. Hozey stated that there was only one grant used for this project and reported that the City had put in about \$450,000 into the project from the General Fund.

Since there were no further questions or comments Mayor Cobb closed the Public Hearing.

V. PUBLIC APPEARANCES

VI. PUBLIC BUSINESS FROM THE FLOOR

Andrew Town representing the PWSCC Archery Club addressed the City Council in regards to the proposed multi-use ice rink. He stated that the public as well as all schools would benefit from having an ice rink in Valdez. The sports of broom ball, hockey, and figure skating could be held at the ice rink during the winter months and during the summer the facility could be transformed into a turf field to host sports such as football and soccer. Mr. Town also suggested that perhaps people working for Crowley or Alyeska would be more likely to move here permanently if there was such a facility that met their needs as well as their family's needs. Mr. Town asked about the proposed Jr. High School and if there were plans to include additional gym space for the new school. He stated that currently there is an insufficient amount of gym space available for the schools. This multi use facility could serve to assist in those needs as well.

Mayor Cobb stated that of the six options that were considered for the proposed new Middle School all included a new gymnasium. However, that project is in the very

beginning stages and if it is passed will be a few years out before complete. Mayor Cobb thanked Mr. Town for his comments.

Alan Crum from Alpine Woods addressed the City Council about the report included in the meeting's packet detailing the history and progress of the septic system installations in Alpine Woods. Mr. Crum stated that he found the report to be lacking because it does not address all of the problems out there. He said that one of the systems there had developed a sink hole. It was determined by the resident that they did not want to have it dug up to determine the cause. The sink hole occurred at the location of the new installation of the new septic system. Mr. Crum stated that he did not feel that it should be the homeowner's responsibility because if there is an issue there it needs to be addressed by those who installed the system. Mr. Crum explained that the sink hole is a threat to public health and safety because the cause of the sink hole is unknown. It could be a broken line or a broken tank or an improperly abandoned tank. Mr. Crum stated that whatever the cause, it needs to be identified because if it is a broken line or tank there is probably raw sewage discharged improperly.

Mr. Crum also stated that another issue that has not been addressed on these septic systems are the waivers given for zero ground water clearance. He explained that even the manufacturer states that there are conditions that can make these systems discharge raw sewage. If this is a possibility, we do not want it being discharged into ground water directly. Mr. Crum said that there is never a reason not to maintain at least close to the four feet separation from ground water on any kind of a leech or drain field. Mr. Crum asked the City to take a more in depth look at the problem at Alpine Woods. He stated that some of the sink holes that are forming were pointed out at the very beginning of this program as a possibility that could happen if the installations were not done correctly. Mr. Crum said that we need to seriously take a look at the problems and make sure we identify the failures. In closing, Mr. Crum reiterated that the zero ground water issue be looked at since it is a public health and safety issue that needs to be addressed.

Mayor Cobb asked Mr. Hozey to respond to Mr. Crum's concerns. Mr. Hozey replied that as indicated in the report, these are issues that have been pointed out to the City. Allen Minish, contracted Engineer, has been out to look at and evaluate the issues. Mr. Hozey explained that from our point of view the issues have been resolved to the satisfaction of the property owners. He said that we cannot direct the homeowner to do something on private property. We can only make suggestions. Mr. Hozey stated that with the issue of drainage and separation that they will do whatever Council asks them to do however, it has not been the policy direction from Council to date. Mr. Hozey said that these systems, while it is possible for them to malfunction, are rated to discharge directly into surface water. It is not required to have the extra treatment but it is an option. He explained that what we have done in the past is if there has been an adequate drain field identified we have discharged into that as tertiary treatment. Mr. Hozey stated that the initial guidance received from Council was to put the minimal acceptable system in, not the maximum possible system. He

said that if that direction is changing we need to know and will add appropriate funds to the budget and move forward.

Council member Prax stated that even when the manufacturers were here they stated that indeed, some values were high but when an average was looked at over time the numbers were all right. Council member Prax questioned what is happening when those values are too high. He stated that he feels that we got into this because we issued variances where we should not have for whatever reason and now it seems we are back doing that very thing again. Mr. Hozey stated that he disagreed that we are doing the same thing again. He explained that what we are doing is orders of magnitude better than what was there before. Yes, on certain days it may test less favorably than others but it does not mean that it tests that way every day. Mr. Hozey stated that we took it once step further and are not discharging into ground or surface water. That is something we decided not to do. He said that we are putting it into existing leech fields and on those days that it is not working the tertiary treatment is to send it into a leech field. Mr. Hozey concluded that we have taken it one step further than the manufacturer minimums but cannot guarantee that every single day will be perfect.

Mr. Crum asked if we are discharging into leech fields with every one of the plants that were installed and are they all new leech fields. Mr. Hozey stated that they are not all new but that all were evaluated and were deemed to be adequate. He explained that there was one instance on one system that was thought to be a leech field and as it turns out it was not. Mr. Hozey said that in that case, they may need to go in and install one on that property. Mr. Crum asked that we make sure that we are not discharging into ground water stating it is imperative that we make that determination as a public health concern. Mr. Crum also suggested that much more stringent testing criteria should be used if drainage is going into the ground water at all. He said that we need to look at the overall package of what we are putting in out there to ensure ultimate safety. A further study is needed. Mr. Hozey stated that just because there is zero clearance it does not indicate that we are draining directly into ground water but that there is zero clearance from the bottom of the leech field to the ground water.

Mayor Cobb asked for clarification on the waivers stating that we do not grant the waivers, the DEC grants them. Mr. Hozey replied in the affirmative. Mr. Crum stated that the state does grant them but does not have any operational guidelines for them. Mr. Crum stated that the engineer from the state indicated that the City needs to have its own operational standards.

Council member Ables asked what testing we could do to make sure that these systems are working correctly. Mr. Crum stated that the first thing we need to do is to determine if they have been installed correctly. The next thing we need to do is to make sure that we are not discharging into the ground water. That has to be verified. Council member Ables asked what actions needed to be taken to verify those two

things. Lisa Von Bargen, Community Development Director, stated that she could provide a spreadsheet of what the waivers are that were given by the state to the all properties. Ms. Von Bargen also confirmed what Mr. Hozey said pertaining to zero clearance to ground water meaning that there is zero clearance from the bottom of the leech field to the ground water. This does not mean we are discharging directly into the ground water. Ms. Von Bargen also stated that a list of what systems were installed with brand new leech field versus existing leech fields could be provided. Council member Prax stated that he would like to see that information.

Mr. Crum stated that under a normal installation the standard is to dig a hole on site and monitor the ground water. Then the leech field is placed above the ground water by so many feet. Mr. Crum explained that there were no test holes dug during the installations with an exception to the test hole dug when they installed the tank itself, which technically is not a test hole. He stated that part of his concern is the interconnected piping. If there was ever a failure in the piping there will be discharge into the ground water.

Council member Sorum stated his disappointment in the report as he was hoping for more detail. He said that he feels that we should be able to go back to the original contractor or Engineer and have them deal with these issues. Council member Sorum also stated that it is on us to in the future do a better job of monitoring project management. He stated that people kept telling the City that there are problems out there but two years later the reaction is that the problems were not known or ever brought to the City's attention. Council member Sorum concluded that the project did not go well. People were told it did not go well so it was his hope that we get enough detail to get a better scope of what is out there so we may at least go back to the original contractor and recover some of the costs that were put into this. He said that more importantly, going forward, it is imperative that we keep an eye on this and really listen to people if they are telling us something is wrong.

Council member Ables stated that in a previous meeting a request was made to contact the contractor about the issues. Ms. Von Bargen stated that she is currently arguing back and forth with the Engineer who originally worked on the project. She said that he has submitted an invoice for payment however; we are in the process of getting something together for the attorney's review indicating why we are refusing final payment. Ms. Von Bargen stated that they are looking at other issues as well and but it is a slow process.

Council member Wells asked what the process is for getting the as-builts on these systems. Ms. Von Bargen stated that we have as-builts on each system and they had to be submitted to the state prior to any approvals to operate were issued. The state reviewed those as-builts that were submitted by the Engineer and they signed off on them. Ms. Von Bargen continued stating that Allen Minish, our contracted Engineer, has every as-built and site plan for each system installed.

Mayor Cobb asked Bill Walker, City Attorney, if there was any way we can make a property owner fill the hole on his property if he refuses to do so. Mr. Walker replied in the negative. Mayor Cobb asked Ms. Von Bargen if the property owner signed off on this stating that he was not concerned about the hole on his property. Ms. Von Bargen replied that it was a decision between the homeowner and our contract Engineer determining that it was not a safety issue that warranted digging up the entire yard. Ms. Von Bargen explained that the City of Valdez does have a method under title 8 that if an open hole is a safety hazard on a property the City can require it be taken care of, if it is absolutely necessary, but it is quite a lengthy process. Mayor Cobb offered the recommendation that we obtain a document signed off by the property owner that states that he does not want the City on his property.

Ruthie Knight from 10 mile stated that she hoped that we are not pressing issues that are dead but that we are working towards a solution that will be produce positive results. She questioned Council about the last meeting about this issue that resulted in a determination to continue testing on a quarterly basis. She wanted to know if that is still happening. Ms. Von Bargen stated that they did not do quarterly testing in the summer but they are agreeable to doing testing going forward. Ms. Knight asked for the explanation of Mr. Minish's involvement with the project since he is not involved with the City anymore. Ms. Von Bargen explained that since there is essentially no more "project" the City has gone to an Option II installation only phase. She said that they did the clean up contract this year and so Allen Minish is under contract right now to review any systems submitted to the City for subdivision compliance. He is going out and doing checks on those systems where homeowners believe there systems meet the requirements so that we can determine whether or not they need to be replaced. Ms Von Bargen continued stating that Mr. Minish will be the one doing the inspection on the systems that will be installed by private contractors by a private Engineer on an as needed basis. Ms. Knight asked if it was put out to bid. Ms. Von Bargen replied in the negative stating that Mr. Minish's contract was not put out to bid because he was doing this as a function as a City employee and had the background knowledge ahead of time and so we entered into a contract with him as to not lose all of that we had gained with him working for us over the previous year and a half. Mr. Hozey indicated that professional service contracts do not require bidding. Ms. Knight asked if perhaps we used someone who had not been involved with the project before it might have been more independent. Ms. Knight also asked that if the affluent testing continues and we find that there are non-compliant systems what do we do? She stated that he project is not in fact complete if we continue testing, correct. She also asked that if under option II, if some people are required to test and some are not. Ms. Von Bargen responded that Administration looks at this as an ongoing program since they deal with, talk to, and address issues with Alpine Woods septic systems, almost daily. Ms. Von Bargen explained that as a construction project where the City of Valdez is actually managing installations, that project is complete and over with. She said that if there are issues that we need to address after the fact we are doing that as necessary.

> Rick Wade addressed the Council stating that he realizes that everyone is tired of this process. Mr. Wade stated that feedback from some Council members suggests that the residents have not been active enough but they are still involved because it is a life or death struggle for them. Mr. Wade stated that they are at exactly the same place they were two years prior. He stated that the Council is being fed misinformation that is not adequately giving them a proper perspective on what really needs to be done. Mr. Wade suggested that there were multiple meetings held to try and explain what is really going and give the Council an accurate picture of reality. He said that unfortunately, to this day, that picture is inaccurate. For an example, one of the systems that was allowed to be left with nothing done to it because they could not quite find the hole and thought maybe it was a vent hole for the leech field, which was in fact 100 feet away. He said that they determined that from looking at it, that it was not the tank. Mr. Wade said that Council member Prax can verify that it was in fact the tank. He also reported that Council member Ables also looked at it. He said that he lid of the tank was visible. When it first fell in you could get down and shine a flash light inside and see the other end of the tank was not filled with gravel. It was presented to Council that the system was fine. Mr. Wade said there was nothing done with it because they did not want to dig up the yard. He explained that a lot of the homeowners are not aware of the danger. There are also issues with the State in their over site and service that they should be providing. Mr. Wade stated that with the issue of discharge getting into the ground water, there at least 20 systems that were installed with old leech fields that were never tested. Mr. Wade agreed with Mr. Crum that it is required to do pre-excavation before the designs were done on each individual lot. That was never completed. He stated that more systems were put into old leech fields than new leech fields and those systems were never checked. Mr. Wade explained that as residents they did some limited testing out of their own pockets and those letters were provided to Council. Mr. Wade reported that the letters indicated that it was just a matter of time before there are failures with the water system resulting in complete contamination of the water system itself.

> Mr. Wade explained that many of the Council have gone out and have seen firsthand the issues they are dealing with. He said that almost half of the systems should have a four foot separation from the water and they do not. He said that with the report that has been done and with the dike and septic systems they are getting inferior work and slanted information provided to Council. Mr. Wade said that they need to get someone who is an expert in this field to address their issues.

Mr. Wade provided a letter and documentation to the Council that shows the systems are failing. Mr. Wade stated that the system we have in the ground now is more dangerous that what we had previously with an exception of a couple of systems. After the last meeting held on August 26th, 2010, recommendations were made from an expert Engineer that suggested that we have been given inaccurate information. Mr. Wade stated that these systems should be meeting Class III discharge requirements and they do not. He said that they have worse conditions now than many of them that were replaced. He explained that now we are making a recommendation to restart this entire program with the same people running it which

will be a major problem. Mr. Wade encouraged the Council to seriously think about the letter presented to look at getting the expertise they need. He indicated that they need to know which ones need leech fields to be replaced and which ones are too far gone to even salvage. Mr. Wade also said that the other issues that they have is that they have had very limited and poor support in trying to work together with the City. Mr. Wade indicated that they were lied to and that they never got the support they needed from the City.

Dorothy Taylor from 10 mile, Nordic Subdivision, addressed the Council stating that when the project began two years ago she distinctly remembers two or three meetings with the Council where they were promised that they would have better systems with no waivers. Waivers were not going to be allowed or considered. She stated that as it stands today, waivers were given between well and septic systems. Ms. Taylor stated that the state mandates that there is 100 feet between the septic system and the well and she questions whether her neighbors meet those requirements. She also explained that when the leech field was installed they were to be installed with a grated gravel type material, not just river rock. She said that the contractor in fact used river rock. Ms. Taylor stated that when that system fails all of the sewage will come up and will flow over to her property. She said that her well is about 25 feet from her property line. Ms. Taylor stated that if that happens what will the City do for them? She stated that they built one of the first houses out in that area and wonders what is to come of their investment? Ms. Taylor is afraid that everything they have put into their property could be ruined. Ms. Taylor expressed her dissatisfaction with the project from day one.

Council member Prax asked that we continue to test the affluent out of these packaged plants. He stated that he would like to know if we are going to be able to tell if a system has failed. Council member Prax stated that the pictures he saw of the installation made him question how these systems can work for a long period of time.

Mr. Hozey stated that we can test them but there is no standard. We have to define what an acceptable standard is. Ms. Von Bargen stated that the Municipality of Anchorage has a testing standard that is designed to be done on systems prior to them being approved to be used. We can use their standard which will require a significant amount of work but we can perform those tests.

Council member Prax stated he would like to look at the Anchorage standard and decide if that is something to compare to. Council member Sorum stated that he is not really willing to let go of this until we see a much better solution. He stated that he felt that it is a bit disingenuous to say that there is no standard because the system was advertised as being safe. There has to be a standard or they could not promote their safety. He said that there has to be a set of standards that we can all agree to. Council member Sorum stated that with the way they were put in, it will take some time to figure it all out but that they need to keep working on it.

> Council member McCann asked if we were aware that there were not standards established from the beginning. Mayor Cobb replied that when they talked to DEC they said the there were manufacturer standards that DEC accepted. Mr. Hozey stated that there are design standards but not operational standards. So, when we went into this, we went into it with the understanding that we would be installing these systems like anywhere else you would in the country. Mr. Hozey said that if the system meets the design standards and they are installed correctly and are operated correctly it was assumed that they will operate correctly. He said that after they were installed the residents began questioning them and that is when testing began. That is when they found out that there is not an operational standard to compare the tests to. Mr. Hozey stated that they can come up with a standard that everyone is comfortable with but there is not one that is readily available for our use. Council member McCann asked how we ever knew there was an issue with the systems if there was no standard. Mr. Hozey explained that they were determined to be out of compliance with DEC. When you look at it from a subdivision wide view it was determined that there was not a lot of room for conventional systems. He stated that short of putting in a piped system that this was the system Council recommended.

> Council member Ables stated her frustration with the entire process and asked that we keep testing and working diligently to solve the issues that are obviously affecting residents out there.

Council member Moore explained to Council member McCann that prior to any City intervention that there were homeowners that were unable to sell their homes. Banks were requiring that they have certain certificates and if they could not get those then they were not able to sell them. There was also a letter from the state threatening to close the entire subdivision down if something was not done. Council member Moore stated that short of closing the entire subdivision down, she wanted to do something. She admitted that in hind sight perhaps water should have been put in but the residents voiced that they did not want that.

Council member Prax stated that even with water piped in people still needed working septic systems and there are ways to put working septic systems out there.

Council member Sorum stated that the water line issue is irrelevant because the systems still have to be correctly installed and someone decided that ground water in Alpine Woods was at zero.

Council member Prax asked that as part of the report that the scope of the problem be presented. If there are people out there whose systems are fine or if there are parameters with in which a system should be fine that should be a part of this report to narrow down the truth of the problem. He said that after two years of meetings it was determined that not everyone needed a new systems and that should be included in the report as well.

Ms. Von Bargen stated that early on in the original process it was discussed whether or not we were going to reimburse people who had already put systems in that were in compliance and did not need to be replaced. It was at that time discussed that there were systems that did not have to be replaced. She said that whether we did as good of a job as we should have as making sure that people were aware of that is debatable but it is in the documentation that we did discuss that not everyone needed to replace the systems. Council member Prax stated that it was his belief that that determination was made by the state, not the Council. Ms. Von Bargen confirmed that the zero ground water came from the state.

Rick Wade addressed the Council again and explained what happened in the HDR study. They looked at the worst lot that they found where the water was on top of the ground. He said that HDR put it in their review, the year before we started, that we would go from zero. Prior to installation a hole should have been dug and left to sit over night and then the water table could be measured. He said that is how it is determined where the system should be built. Every lot was supposed to have this done and it was not done. Mr. Wade stated that the contractor installing these systems did not follow proper procedures from day one. He explained that there are two issues. One is the substandard installation and then after the systems began to have problems the City came in and tried to solve those problems by covering them up instead of trying to figure out the problem source. Mr. Wade stated that what we need is an overall independent Engineer to deal with all issues from mechanical problems to testing. He said they needed an expert to look at all systems and corresponding as-builts to determine where we go from here. He stated that we need someone with the expertise to be able to make those judgments.

Mark Hansen, 10-mile resident, stated that he agreed with Council member Sorum in that the mistake originated with the assumption that ground water is the ground level. Mr. Hansen stated that he brought that up several times. A hole should have been dug on each property to make this determination and it was not. That made a huge difference in what kind of system was used. He stated that if that one issue could be revisited, going forward, the City will save a lot of money.

Council member Ables asked if we could put the request in to revisit the ground water level. Mr. Hozey replied in the affirmative. Ms. Von Bargen stated that is what is being done now. She said that they are physically going out on an individual basis and testing where the system sits in relation to the actual ground water. She also stated that all of the systems that are being privately installed are being reviewed by DEC with ground water established at where it actually is. She said that they are only reviewing those systems from an engineering point of view for subdivision wide compliance.

Mayor Cobb stated that he felt like a work session is needed to determine where we go from here. He said that a lot of great information has been provided by the property owners and now Council needs to sit down and come up with a plan to address all of the issues there and come up with what they are going to do. Mayor

Cobb questioned where they should hire an independent, highly qualified, engineer to look at everything. The net result should be that they have a set of operating procedures and follow them. Council member Wells stated that he agrees with Mayor Cobb. He felt that it keeps coming back that they need an independent party to evaluate the systems. A works session would be a good way to get this started.

Becky Wade, 10 mile resident, asked the Council that when testing is conducted that it be done similarly to a random drug test. It should not be done when yearly maintenance is done on the systems. She stated that it should be an independent person and it should not be planned. It should be random.

Council member Wells stated that the only issue with that is that some homeowners may refuse testing. Mayor Cobb stated that if that's the case then they should be required to sign a waiver and the City would walk away. We cannot make them do something that they do not want done on their property. Council member Prax argued that they have to be in compliance. How do we measure that? Mayor Cobb stated that we need to bring an independent person to make those determinations.

VII. CITY MANAGER/CITY CLERK/CITY ATTORNEY/MAYOR REPORTS

CITY MANAGER REPORT

John Hozey gave an update on current City projects stating that the Senior Center Projects are coming along nicely and it is hoped that they will be complete by Thanksgiving. The work session for the Marine Testing and Training Initiative was held just before the current meeting. Mr. Hozey stated that we should be hearing more from that project in the next week or so. Mr. Hozey reported that the Teen Center renovations are almost complete. They are waiting on parts from the glass contractor to come in but should have the entire project wrapped up in the next week to 10 days. Mr. Hozey said that a meeting was held for the School Facilities Master Plan on Thursday, October 28, 2010. Mr. Hozey stated that the meeting went well but he hopes that people left the meeting understanding that this project is not a done deal. A lot of people showed up thinking that decisions were already made and that they were trying to shut out input. Mr. Hozey said that was not at all the case. He explained that there has to be something on the table to comment on however the possibilities for this project are still open. He said that they are soliciting feedback from that meeting and that there will be a joint steering committee meeting on Wednesday, November 3, 2010. Mr. Hozey stated that at that meeting, recommendations and future steps will be considered and will be brought back to Council and the School Board for their consideration.

Mr. Hozey announced that the 2011 Energy Assistance Program started on November 1st and by the end of the day there were already 45 people signed up for the program.

Mr. Hozey reported that Library Museum Broiler Replacement project is making progress now after dealing with issues surrounding an un-platted utility easement. He said that though the issue cut into their schedule slightly they are back on track and are moving forward. Mr. Hozey reported that the Small Boat Harbor High Mast Lighting project is going well. The foundations are being set and the poles are being installed. He did indicate that considering all of the issues that surrounded the bidding of that project, there is a small chance that they may not get it finished until the Spring. Mr. Hozey stated that they are diligently working to keep that from happening and to have it finished as originally planned.

Mr. Hozey said that the 2011 budget process is ongoing. He announced that there is one more public hearing scheduled on Wednesday, November 3rd, that will address the budgets of the school district, college, and the Parks and Recreation Department. Following that meeting, the main budget public hearing will take place on November 22^{nd.} Mr. Hozey said that if all goes well with that hearing he plans to bring the budget back to Council for full adoption on December 6th, 2010.

Council member Prax asked Mr. Hozey to give a consensus of the meeting with the School Board. Mr. Hozey stated that there was not a consensus but that it was more of a show and tell format, updating those present of things that have been looked at as possibilities for the project. The verbal content leaned towards concerns with loss of programs if the school was relocated from the high school site to the elementary school site. Operational costs need to be considered. The construction costs are one thing but if the operational costs are going to be more for years to come we need to really consider that. Mr. Hozey stated that that issue will be addressed in the next step of the process. He said that other comments received were in regards to trying to fit in the facilities needed at the current site because of the avalanche zone. One thing that was not mentioned was that the elementary school could be in the tsunami zone as well. Mr. Hozey stated that whether it is in the zone or not, when we do have emergencies we generally send people to high ground which is the high school/jr. high school area. If we rebuild somewhere else, that is one less place we will have to send people to high ground in the wake of an emergency. Mr. Hozey reported that gentleman present stated that we need to know all of the pros and cons before making a decision. Mr. Hozey agreed with this suggestion.

CITY CLERK REPORT

Ms. Pierce reported that November 2nd 2010 is Election Day. The Polls will open at 7am and will close at 8pm. She stated that the polling places are the Valdez Teen Center, the City Council Chambers, and the Fire Station #3 in Robe River. Ms. Pierce stated that if people are unsure of what precinct to go to they may go to any of the three precincts. If they are not on their register they may vote on a question ballot. Ms. Pierce asked the public to please contact the City Clerk's office at 834-3408 with any questions concerning the election.

Ms. Pierce stated that next City Council meeting will be held on November 22nd. That was changed due to City Council members attending the Alaska Municipal League (AML) Conference in Juneau. Ms. Pierce stated that the AML Conference begins on November 15th and goes through the 19th. She reported that there will be a Newly Elected Officials Training meeting which one of our Council members will be attending. There will also be Managers, Clerks Meetings, Finance Officers and the Mayors meetings and so, for some the meeting will begin on the 12th of November.

CITY ATTORNEY REPORT

Mr. Walker reported that last week an order from Judge Gleason on the TAPS value was received. Judge Gleason increased the amount from \$4 million to \$10 million and following that there was a request for reconsideration for that judgment. Judge Gleason returned after reconsideration and basically the numbers stayed the same. Mr. Walker stated that she did issue a final judgment. The number is at approximately \$10 million.

Mayor Cobb asked if the case would still carry on. Mr. Walker replied in the affirmative stating that he did not think it would not rest without further review.

Council member Albes asked Mr. Walker the number of reviews we should expect. Mr. Walker replied that it would at least go to the Alaska Supreme Court and we will go from there.

MAYOR'S REPORT

Mayor Cobb stated that appointments of council members to the Audit Committee and Permanent Fund Committee needed to be made with three Council members on each committee. Council member Moore will remain on the Audit Committee as Mayor Cobb is stepping down. Council member Sorum and Council member Ables joined the Audit Committee. Council member Wells and Council member Prax joined the Permanent Fund committee.

VIII. CONSENT AGENDA

- 1. Approval of Appointment to the Valdez Health Advisory Council
- 2. Approval of Appointment to the Planning and Zoning Commission
- 3. Approval of Appointment to the Valdez Museum & Historical Archive Association
- 4. Approval to go into Executive Session regarding TAPS litigation

MOTION: Council member Ables moved, seconded by Council member Moore, to approve all items on the Consent Agenda.

VOTE ON THE MOTION: 7 yeas, motion carried.

IX. NEW BUSINESS

1. Approval of Lease Termination with Delta Concrete (dba. Northern Cement Import Facilities, LLC), for Use of the Valdez Container Terminal Grain Silos

MOTION: Council member Wells moved, seconded by Council member Ables to approve the termination of lease with Delta Concrete.

Matt Walker, with Delta Concrete, addressed the Council stating that when he first started this that the lease was set up in incremental amounts, starting off low and increasing over time. The idea was that once they were in full operation there would be money made and a higher lease would be affordable. Mr. Walker also stated that there would also be improvements made. However, the barge company they were going to use was not able to come into the Port of Valdez because of their current labor agreement with their crews on their vessels. Mr. Walker stated that the next option was to get a ship to carry in cement. He searched companies that could provide that service and found a company in Korea but using them was cost prohibitive. The equipment they were going to use to unload a barge was not adequate to unload a ship. So, Mr. Walker contacted a consultant in Columbus, Ohio to do a study who gave a recommendation for what the best option would be. Mr. Walker reported that what was recommended was very expensive and that changed the complexion of the project. Mr. Walker stated that two investors came in and looked at the equipment and the facility but have since decided to spend their money elsewhere. Mr. Walker said that he has found some used equipment in the state but it will take some time to put it all together. He stated that he planned to keep working on it but stated he could not afford the high lease payments he is being asked to pay now. He stated that he was asking for forgiveness of the debt he currently owed and to be released from his obligation to the lease. In turn, Mr. Walker agreed to provide the study that he had done of the facility as well as any information he has on the silos that has been collected thus far. Mr. Walker also offered to repair the roof if that could be done without being in a lease with the City.

Council member Prax asked if there was anything the City could be doing for the benefit of the project. Mr. Walker stated that he had researched grant opportunities that would apply to this type of work and there are some out there but they do not target cement specifically. He reported that there are grants that might support other uses of the facility but it would take a lot of organization and management on the part of the City.

Council member Sorum recognized all of the efforts that have been put into this project especially by Mr. Walker. He stated that he believed that was in the City's best interest to somehow make this project a reality, to get cement here, which would help the facility pay for itself. Council member Sorum stated that he supported a lease modification or any other ideas to keep Mr. Walker working on the project.

Council member Sorum stated that he believed that eventually Mr. Walker would find a way to make it happen.

Council member Ables stated that Mr. Walker's willingness to keep working on the project and trying to find a solution if the City does end the lease meant a lot to her. She expressed her appreciation of Mr. Walker and recommended that we release him from the lease commitment.

Council member Moore also stated her appreciation for Mr. Walker and indicated that she would like to leave open the possibility for him to continue to work with the City in this capacity.

VOTE ON THE MOTION: 7 yeas, motion carried.

2. Approval of Waiver of Debt for Delta Concrete (dba. Northern Cement Import Facilities, LLC), in the amount of \$33,677.65 for Charges Associated with their Lease of the Valdez Container Terminal Grain Silos

MOTION: Council member Wells moved, seconded by Council member Ables, to approve the waiver of debt for Delta Concrete in the amount of \$33,677.65.

Mayor Cobb asked that Mr. Hozey put something in the waiver that allows Mr. Walker to repair the roof whenever possible. Mr. Hozey stated that he would need to talk with Mr. Walker about the future going forward but that the old lease and debt was a separate issue that should be forgiven and closed. If an agreement with Mr. Walker is established it will be a new and separate item that will be brought before Council. Mayor Cobb agreed with Mr. Hozey's suggestion.

VOTE ON THE MOTION: 7 yeas, motion carried.

3. Approval of Contract Award to Zastrow Enterprises for the Police Department Improvement Project in the Amount of \$198,000

MOTION: Council member Moore moved, seconded by Council member Ables, to approve a contract award to Zastrow Enterprises for the Police Department Improvement Project in the amount of \$198,000.

Council member Sorum asked for feedback from Administration how this bidding process panned out. Council member Sorum asked if there was an issue with the way we were advertising the bids or did the contractor just make a mistake. He asked if we needed to change how we do things or was this completely the fault of the contractor. Council member Sorum asked if there was a bid bond or deposit that the City will collect for his negligence or was it partially our fault. Council member Sorum stated that it is unfortunate that we cannot use the contractor for this job as it is the most cost effective way to complete the project. Jack McCay, Capital Facilities Director replied to Council member Sorum's comments stating that if all bidders were

taken into consideration there was only one company who bid incorrectly. The other five bidders got it right so it does not appear to be an issue with how we advertised the project. Mr. McCay also pointed out that it was a fair bidding process because all other bids were within 10% of each other with the exception of the 2nd lowest bidder which was a local company. Mr. McCay indicated that this is how bidding should typically turn out. Mr. McCay stated the lowest bidder, who bid incorrectly, is a residential contractor out of Palmer that was looking for winter work for his crew. Mr. McCay stated that legally the City could file a claim against his bid bond but that would keep the contractor from ever getting another bid bond and we do not want to do that. It would pretty much put him out of business. Mr. McCay stated that we do not want to do that. He said that the contractor made an honest mistake and we recognize that.

Mayor Cobb stated that anytime a public entity is involved Davis Bacon wages or the prevailing wage must be paid.

Council member Wells stated that any time you hold the contractor to a bid he might find other ways to cut costs which is not in the best interest of the City. Mr. McCay stated that a letter would be written to his bond company letting them know that he is being relieved of this obligation because he was up front about it and contacted the City about the mistake.

VOTE ON THE MOTION: 7 yeas, motion carried.

X. RESOLUTIONS

1. #10-59 – Encouraging Continued Federal Support for the Denali Commission

MOTION: Council member Wells moved, seconded by Council member Ables, to approve Resolution No. 10-59.

VOTE ON THE MOTION: 6 yeas, 1 nay (Council member Prax), motion carried.

XI. REPORTS

1. Civic Center Movie Report

Council member Moore stated that the report proves the success of having movies in Valdez. Mayor Cobb agreed that it was a very good report.

2. Septic System Replacement Program Report

XII. COUNCIL BUSINESS FROM THE FLOOR

Council member Moore

Council member Moore thanked Council member Prax for mentioning all of the many things to do in Valdez during the budgeting process. She also encouraged everyone to get out and vote on Election Day.

Council member McCann stated that he would not be able to attend the budget hearing scheduled for Wednesday, November 3, 2010. Mayor Cobb excused that absence.

Council member thanked Diane Kinney for her comments about him to the harbor masters in Wrangle during the previous week.

Mayor Cobb

Mayor Cobb asked that everyone get out and vote on Election Day stating that it is very important for Valdez.

XIII. COUNCIL TRAVEL

Council members Ables and McCann and Mayor Cobb will be attending AML during the week of November 14th. Council member Wells will be in Seattle during the week of the 15th and Council member Sorum is excused from attending the next council meeting on November 22nd.

XIV. EXECUTIVE SESSION

XV. RETURN FROM EXECUTIVE SESSION

XVI. ADJOURNMENT

There being no further business, Mayor Cobb adjourned the meeting at 9:30 pm.