

**A. CALL TO ORDER**

A regular meeting of the Palmer City Council was held on March 14, 2006, at 7 p.m. in the council chambers, Palmer, Alaska.

Mayor Combs called the meeting to order at 7 p.m.

**B. ROLL CALL**

Comprising a quorum of the Council, the following were present:

Brad Hanson	Ken Erbey
Larry Hill	Tony Pippel
John Combs	Kathrine Vanover
Jim Wood	<i>– joined the meeting at 8:15 p.m.</i>

Also in attendance were the following:

Tom Healy, City Manager  
Jack Snodgrass, City Attorney  
Janette Bower, City Clerk

**C. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Council Member Vanover.

**D. APPROVAL OF AGENDA**

*The agenda was approved as presented.*

1. Approval of Consent Agenda
  - a. Ordinance No. 06-003: Amending Conditional Uses in an Industrial Zoning District (17.36.030) to Require Fences for Junk Yards and Maintenance Yards When Next to Residential Zones and Arterial Roads (IM 06-011)
2. Minutes of Previous Meetings– *the minutes were amended and approved.*
  - a. February 28, 2006, Regular Meeting
  - b. March 7, 2006, Special Meeting

**E. COMMUNICATIONS AND APPEARANCE REQUESTS**

1. George R. Boatright – Palmer Police Department

Chief Boatright reported on the following items:

- A \$95,000 DOT grant will be before the council at the next meeting, the grant will be used to purchase equipment;
- The ALMR Borough grant;
- The operational successes of the Department.

## **F. AUDIENCE PARTICIPATION**

Brian Silva explained that he is a lessee of airport lot 33 and spoke of his original intent to open a business at the airport. He explained that he entered into the airport lease in spite of misgivings regarding the lease language. He voiced his belief of the City's sincerity regarding its desire to foster commercial development. Mr. Silva explained the increased demands by the airport manager once construction began which in turn increased costs and reduced his control of the project. He explained the completion of the earth and foundation work but stated that he has been denied a building permit since October. Mr. Silva spoke of his compliance with the Building Department, Code and design requirements. He stated that the lease is ruinous for him and puts costs far in excess of similar area businesses. He stated that City demands, which were not stated in the lease, continue to grow.

Bruce Rowell spoke to the obscenity discussion. He commented on the options presented in the packet and encouraged the council to adopt a definition of obscenity. He spoke of freedom of speech and stated that prohibition against obscenity language was not guaranteed under the Freedom of Speech language. Mr. Rowell suggested that allowing the material in Palmer does not benefit the City or businesses financially. He spoke of research which indicates that the materials damage a community by harming families and degrading women. He spoke of the minutes of the previous meeting, stating the vast majority of constituents do not desire the obscenity materials in the community.

Nancy Homstad spoke to the obscenity discussion and spoke of the 40 states who have defined obscenity. She spoke of the snowball effect and stated that because two stores which carry adult videos were allowed to exist, a major chain had the ability to come in with a large amount of the same materials. She described the percentages which would classify the video store as a sexually oriented business and stated that if the council does not adopt updated language, the council propels the snowball effect. Ms. Homstad stated that their lack of action would invite more sexually oriented businesses into the community. She addressed the council's conversation regarding profanity and stated that profanity spoken at a sporting event was not the issue but actions described as shameful, morbid, lacks artistic value or causes violence. She stated that the Supreme Court provides Palmer with the right to define what is obscene for the community. Ms. Homstad urged the council to obtain a community census or to make the item a ballot issue so the community may decide what they desire in Palmer.

Joy Davidson spoke to the obscenity discussion and encouraged the council to join with other communities who have chosen to remove the materials from the community. She spoke of pornography addiction as opposed to profanity. She stated that addiction destroys families and hurts the community. Ms. Davidson encouraged the council to take a stand and to become a community with a vision. She stated that communities with a vision flourish. She stated that because Palmer has always held to strict guidelines, Palmer is set apart from Wasilla. Ms. Davidson encouraged the council to care about the community's children and families.

Mary Burns stated that Palmer has always been known as a family friendly town. She stated that the children have always been able to go into the stores and shop. She spoke of the children who frequent the downtown area after school and during the summer and explained that those children have always been able to do so without being exposed to obscene materials. She stated that children do not have the wisdom or experience to decide for themselves what they should view and explained that as adults, the decisions must be made for them. She spoke of her

daughter who participated in the Colony Days and stated that it is nice to be able to bring her family to a family oriented town. She asked that Palmer be kept “Alaska at its Best!”

William Hamilton spoke to the obscenity issue and asked the City council to adopt the obscenity definition put forth by Attorney Snodgrass. He asked the council to consider addressing the issue of rental materials.

**G. PUBLIC HEARINGS**

**Item 1** – Resolution No. 06-009: Supporting Funding for Replacement of the HVAC System at the Matanuska Valley Sportsmen, Inc. Shooting Range (IM 06-012) *(Sponsored by Council Member Wood and Mayor Combs)*

MOVED BY:	Hanson	To adopt resolution no. 06-009
SECONDED BY:	Erbey	

Mayor Combs opened the public hearing for resolution no. 06-009. There being no persons who wished to testify, the public hearing was closed and the matter was brought back before the council.

Council Member Pippel explained his ownership of guns and the occasions he has had to shoot them but questioned the City connection with the issue because of the facility’s location.

Mayor Combs spoke of supporting a council member who voiced his belief in gun safety classes and use of the facility. He voiced his agreement with Council Member Pippel regarding the facility being outside of the City and spoke of the dilution of resolutions for such an organization.

Moved by:	Pippel	To postpone to the March 28 meeting
Seconded by:	Hill	

Council Member Erbey asked that information from the police department as to their use of the facility be provided at the next meeting.

Council Member Hill spoke of his use and the constraints of use by the area minors because of the disrepair.

City Manager Healy stated that he has no opinion of the organization and added that the council must consider which issues raise to the magnitude of a resolution. He spoke in comparison of the resolution to support the senior citizens center which contained a broader scope and had direct benefit to the citizens of Palmer. He spoke of diluting the effects of resolutions.

Council Member Vanover spoke of the greater Palmer area persons who consider Palmer to be their home.

Vote: Motion carried by unanimous voice vote.		
Yes:		No:
Vanover	Erbey	Pippel
Hill	Hanson	Combs

VOTE ON MAIN MOTION: Postponed
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**Item 2 – Resolution No. 06-010: Authorizing Approval of a Provisional Certificate of Public Convenience and Necessity for River Bend Homeowners’ Association for Public Water Utility Service (IM 06-013)**

MOVED BY:	Hanson	To adopt resolution no. 06-010
SECONDED BY:	Pippel	

Mayor Combs opened the public hearing for resolution no. 06-010. There being no persons who wished to testify, the public hearing was closed and the matter was brought back before the council.

City Manager Healy highlighted the RCA procedure for a provisional certificate of public convenience and necessity. He stated that transferring a portion of the utility was no longer necessary and explained the provisional certificate allows the utility to operate water utilities in the City’s service area. He spoke of the cost effective manner of providing utilities.

Council Member Pippel spoke of the pipe sizing and future water flow needs. He asked of fire hydrants. City Manager Healy stated that there was not a fire hydrant requirement in this case. He stated that the benefit of fire hydrants goes to the fire district and stated that a question of who pays for the hydrants will arise as the City extends.

Council Member Pippel spoke of the installation costs at the time of development versus the time of City installation of a water system.

Council Member Hanson spoke of the matter as one of policy and stated that the installation of fire hydrants and ensuring that the utility is ready to hook up to City utilities should be a pre-requisite for a provision type of permit. He spoke of costs and fire ratings for the entire City. He asked of the ability to require fire protection equipment. Council Member Hanson spoke of a comprehensive policy which minimizes the cost of development.

City Manager Healy spoke of the RCA requirements to provide utilities but not that of requiring fire hydrants. He explained that fire protection is not a provision of basic water services.

Discussion ensued regarding the oversize pipe costs and the stubbing of pipes for future use.

Council Member Hanson asked of the timeframe when a developer is required to develop a relationship with the City for services. City Manager Healy highlighted the timeframe in which the developer must obtain permission from the RCA and City. Attorney Snodgrass suggested the council pass legislation to present to the Mat-Su Borough Planning Commission listing the City’s requirements.

<b>VOTE ON MAIN MOTION: Motion carried by unanimous voice vote.</b>
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Yes: Vanover      Erbey      Pippel Hill            Hanson      Combs	No:
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**H. BIDS**

**I. ACTION MEMORANDUMS**

**Item 1 – Action Memorandum 06-024: Authorize Advertisements for Bids to Rehabilitate Taxiway B Pavement and Replace Airport Lighting and NavAids**

MOVED BY:	Pippel	To authorize advertisements for bids to rehabilitate taxiway B pavement and replace airport lighting and nav aids
SECONDED BY:	Hanson	

VOTE ON MAIN MOTION: Motion carried by unanimous voice vote.

	Yes:		No:
Vanover	Erbey	Pippel	
Hill	Hanson	Combs	
Wood			

Clerk's note: Council Member Wood entered the meeting during the discussion of item I.1.

**Item 2 – Action Memorandum 06-025: Approve Settlement with John and Roseanne Leiner Regarding Claim for Compensation**

MOVED BY:	Pippel	To the settlement with John and Roseanne Leiner regarding claim for compensation in the amount of \$7,950
SECONDED BY:	Hanson	

City Manager Healy explained the property affected by the Southwest Utility Extension. He explained the Tract 2 development and stated that the estate has granted easement across the property for development of the utility line. He explained the area in which the easement goes through is located on John and Roseanne Leiner's land and explained the horticultural use of the property. City Manager Healy expanded on the history of negotiations with the Leiner's.

Council Member Pippel spoke of the reasonableness of the City's offer and voiced his support.

Council Member Vanover asked what is being paid for and asked if the property would continue to be used for horticultural purposes. City Manager Healy spoke of the existing horticulture on the land and stated that Mr. Leiner has not indicated any type of commercial business.

Council Member Pippel spoke of the native nature of the existing plants.

VOTE ON MAIN MOTION: Motion carried by unanimous voice vote.

	Yes:		No:
Vanover	Erbey	Pippel	
Hill	Hanson	Combs	
Wood			

**Item 3 – Action Memorandum 06-026: Authorize City Manager to Waive Due-Upon-Sale Clause of Purchase Agreement, Lot 3, Block 1, Palmer Commercial Center**

MOVED BY:	Pippel	To authorize the city manager to waive due-upon-sale clause of purchase agreement, Lot 3, Block 1, Palmer Commercial Center
SECONDED BY:	Erbey	

VOTE ON MAIN MOTION: Motion passed by unanimous voice vote.

	Yes:		No:
Vanover	Erbey	Pippel	
Hill	Hanson	Combs	
Wood			

**J. UNFINISHED BUSINESS**

**Item 1** – Action Memorandum 06-019: Authorize City Manager to Approve Lease 2569 with the State of Alaska Department of Administration

MOVED BY:	Pippel	To authorize the city manager to approve Lease 2569 with the State of Alaska Department of Administration
SECONDED BY:	Hill	

Primary Amendment #1 to Main Motion		
Moved by:	Pippel	To delete section 2.c. and section 1.b. (and reletter subsequent subsections):  “pay a pro-rated share of utility expenses to include heat and cooling, electricity, water, trash removal, and sewage disposal, based on the percentage of floor area utilized by the Lessor.”  And to add section 3.4.  “The Lessor shall have the right to terminate this lease at any time upon providing Lessee written notice of termination twelve months prior to the termination.”
Seconded by:	Wood	

Vote: Motion carried by unanimous voice vote.		
Yes:		No:
Vanover	Erbey	Pippel
Wood	Hill	Hanson
Combs		

VOTE ON MAIN MOTION: Motion passed by unanimous voice vote.		
Yes:		No:
Vanover	Erbey	Pippel
Hill	Hanson	Combs
Wood		

**K. NEW BUSINESS**

**Item 1** – Memo regarding Obscenity/Adult-Oriented Business Ordinance (Action may be taken by the council following discussion of the memo)

Council Member Vanover voiced her support for the inclusion of a definition for obscene and to keep the ordinance “on the books”. She asked the Attorney of grandfather rights. Attorney Snodgrass stated that he does not know if grandfather rights were required.

In addition to his memo, Attorney Snodgrass suggested a fourth alternative; defined obscenity and make rentals to minors illegal.

Council Member Pippel voiced his support for an adult-oriented type of business ordinance citing his belief that a definition for obscene cannot be agreed upon. He stated that citizens will not be stopped from viewing obscene materials. Council Member Pippel stated that the materials have been available for 25 years and stated there has not been hard evidence which indicates that

renting the materials has had a negative impact on the City. He spoke of the comment that the materials have no value to the City and related that to the value of bars within a community. He voiced his desire to not have the retailing of sex or people to people contact within Palmer and spoke of their detriment to the City. Council Member Pippel spoke of the City's limited resources and stated that he would hate for the City to be in the position of having an ordinance that is constantly being challenged.

Council Member Erbey stated that attempting to legislate morality, while well intentioned, was a can of worms. He spoke of the literary classics and stated that the code as currently written, would outlaw the Bible. He spoke of the stores who have had adult videos and stated that banning or burning the videos would not stop the problems associated with pornography. Council Member Erbey stated that moral values should be instilled with children and not imposed on neighbors. He spoke of the Borough ordinance which does not allow strip clubs and stated his favor of researching the third choice of adult-oriented businesses.

Council Member Hanson spoke in favor of an adult-oriented business ordinance and of consistency throughout the Borough. He voiced his belief that zoning what not the manner in which to approach the issue but prohibition of certain activities was the answer. He stated that so far, the biggest impression upon him was the 25 year history of adult videos and their lack of damage to the community. Council Member Hanson spoke of accessibility via the internet.

Council Member Vanover voiced her disagreement with the other members and stated that other communities have defined obscenity for their constituents. She stated that she will take a stand for her constituents. She voiced her desire to not legislate morality but stated that the materials are not needed in the community. She stated that although the materials were available for 25 years, the issue continues to escalate.

Council Member Hill voiced his agreement with the comments of Council Member's Pippel, Erbey and Hanson and explained his view of adult-oriented businesses. He stated that the responsibility for children lies with parents and not with the council. He stated that if Bibles were laid out before ten persons, there would be varying opinions of interpretation. He spoke of the lack of definition by the Supreme Court and other communities which he has had occasion to visit. Council Member Hill spoke of the adult video business and stated that parents must examine the types of electronic media they purchase for their children.

Council Member Wood stated that one man's Rembrandt is someone else's Alfred Newman. He voiced his favor of adult-oriented business ordinance and spoke of narrowing the scope of where the businesses can be located. He commented on the University of Washington's suggestion that the stores be located in an industrial zone. He suggested provisions be made for child welfare and enforceability.

Council Member Pippel spoke of government regulations and stated that the City does not have any right to tell any of its citizens' what they can do, with the exception of public safety and health.

Mayor Combs spoke of the inappropriateness of minors viewing the materials and voiced his favor of an adult-oriented business ordinance. He spoke of parental involvement.

Mayor Combs asked the Attorney of the language in his memo regarding "having as its stock and trade". Attorney Snodgrass spoke of the need to further research the case law surrounding the description.

MOVED BY:	Pippel	To refer the information to Attorney Snodgrass and instruct him to draft a sample adult-oriented business ordinance for the City of Palmer
SECONDED BY:	Erbey	

VOTE ON MAIN MOTION: Motion passed by 6-1 voice vote.

Yes:			No:	
Combs	Erbey	Pippel	Vanover	
Hill	Hanson	Wood		

Attorney Snodgrass spoke of the ability to view the establishment from the windows and stated that the City cannot infringe upon the advertisement of obscene materials.

**L. CITY MANAGER’S REPORT**

City Manager Healy reported on the following items:

- Meeting attendance with the hospital board regarding uses for the building;
- Small business meeting in Wasilla;
- Historic district guidelines;
- Plat forthcoming for the University property;
- The Finance Director is preparing audit papers for the audit;
- The Finance Clerk II has begun work;
- The Public Works Director position;
- Washington DC on March 28.

**M. CITY CLERK’S REPORT**

Ms. Bower reported on the following items:

- March 21, special meeting;
- April 4, special meeting;
- The progress of the retention schedule.

**N. MAYOR’S REPORT**

Mayor Combs reported on the following items:

- Referred to the information in the packet;
- The March 2 meeting with Kyle Larson;
- Borough library funding;
- Will be in Juneau – March 20 – March 22;
- Will be in Washington D.C. March 26 – April 10.

**O. RECORD OF ITEMS PLACED ON THE TABLE**

The following items were placed on the table:

- City Manager’s information regarding action memorandum 06-025;
- Financial statements from the Finance Director.

## **P. AUDIENCE PARTICIPATION**

William Hamilton explained that 26 years ago he was stationed at Nulles Air Force Base as a Chaplin. He explained his participation on a child advocacy board and the children who were raped. He stated that the effects of pornography are very tragic and have occurred long before internet accessibility. Mr. Hamilton stated that he has worked with numerous families who have had their marriages destroyed because of pornography addiction.

Carolyn Kuch voiced her disappointment with the manner the obscenity issue was handled by the council. She stated that the public members have taken more time to research issue than the council members, which indicates that the council does not care about the issue. She stated that the levity experienced with the conversation was insulting. Ms. Kuch stated that Palmer is rolling out the red carpet to sexual perverts. She stated that it was obvious to her that none of the council members have had wives, daughter or granddaughters who have been raped and for that, they were very fortunate.

Janet Hamann voiced her disappointment in the council's action. She stated that she hopes none of the council has wives, daughters and granddaughters hurt by the adult businesses. She stated that she feels like public members were not listed to. She disagreed with the council on its decisions and voiced her agreement Attorney Snodgrass' definition of obscenity and thanked him for stating the items which could not be enforced. Ms. Hamann stated that the council is opening the door for events that are not good for Palmer.

Nancy Homstad thanked Attorney Snodgrass for his report. She asked of the intent of the vote and spoke of grandfather rights. She spoke of the communities who have Movie Gallery and the company's compliance with removing the adult videos. She spoke of the Bible's reference to being sexually obscene. Ms. Homstad spoke of the influence of pornography prior to the advent of internet. She stated that as a City, community standards are being ignored and asked the council to obtain a community census regarding the materials.

Cody Sherman explained that he is a senior at Colony High School. He stated that it would be best if parents would instruct children but it's evident that parents in general do not do so. He commented on homework and the penalties for not completing the homework. Mr. Sherman spoke of the types of persons who will complete the work without penalties. He stated that there are those who will not view pornographic materials because they believe it is wrong, those who will view the materials no matter what the law says and those who will make the decision not to view pornographic because the City says it is wrong.

Delena Johnson stated the council's responsibility to legislate morality because of the roles they were elected to. She explained that every law makes a judgment and speaks of morality. She stated that all words are defined by other words with nuances that set them a part. Ms. Johnson spoke of the goal to define obscene and questioned the actions of the council. She spoke of the separation of powers and the ability of the council to define what occurs in the community.

Becky Sherman stated that the council has told his son that he will be ready for what the world says he can view. She stated that the one thing that he has in common with most of the council is that he is a man. She commented on the Mayor's previous comment regarding adult-oriented businesses catering to old men. She stated that one day soon, the council will be old men and spoke of their reputations.

## **Q. COUNCIL COMMENTS**

Council Member Wood stated that he had the pleasure of attending the grand opening for Alaska Sales & Service. He commented on the Mat-Su Borough Mayor's attendance.

Council Member Erbey clarified the comment about the Bible being outlawed was in response to the current ordinance.

Council Member Hill commented on the blue trash cans which are becoming UFO's.

Council Member Pippel thanked the audience for the participation and suggested that there other ways to accomplish their goals. He explained that three council members are on the ballot every year and encouraged public members to run on the ballot. He suggested public members contact the involved retailers to voice their opinions.

Mayor Combs thanked the audience for their participation.

## **R. ADJOURNMENT**

With no further business before the Council, the meeting adjourned at 9:51 p.m.

**APPROVED THIS 28<sup>th</sup> day of March, 2006.**

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Anthony J. Pippel, Mayor Pro-Tempore

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Janette M. Bower, City Clerk