



CITY OF WASILLA

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COUNCIL MEMORANDUM NO. 92-48

FROM: Mayor Stein

DATE: April 23, 1992

RE: Airport Franchising

Frank Kreger is seeking an exclusive right to dispense aviation fuel at the new Wasilla Airport. His request is made in order to secure a reasonable economic return on his investment in construction of a fueling station on an airport lease lot.

One means to create an exclusive right is to grant a franchise. AS 29.35.060, attached, states the Council's authority. My reading of the statute indicates that:


- (1) City has power to grant franchise for services at the airport.
- (2) Franchise regulations must be prescribed by ordinance.

Mr. Kreger is reluctant to make a capital investment without assurance that his business will not be unfairly undercut by competitors who may operate without the expense of a land-lease, building construction, permanent tanks and the like as required in his proposed city lease agreement. His desire is to be granted exclusive right to dispense fuel until his capital investment is amortized.

The Administration understands the essential need for a fuel dispenser on the airport site and supports permit restrictions prohibiting offsite vendors in competition with airport-based facilities.

Wasilla Municipal Code 5.30.240(c) provides that permits for commercial fuel activities be issued by the airport manager. Policies for those permits have, however, not yet been established.

Does Council wish the administration to develop a franchise ordinance?



John C. Stein, Mayor

Revisor's Notes – Subsection (c) was enacted as subsection (d) and relettered in 1990, at which time former subsection (c) was relettered as subsection (d).

Effect of Amendments – The 1990 amendment, effective June 22, 1990, in subsection (b), inserted "or other" before "waste material" in the first sentence, added the exception at the beginning of the second sentence, and made a punctuation change in the third sentence; and added present subsection (c).

Editor's Notes – Section 4, ch 176, SLA 1990 provides that the amendments made to this section by secs. 1 and 2, ch 176, SLA 1990 do not apply to a municipality with a population of less than 50,000 until July 1, 1991.

Sec. 29.35.060. Franchises and permits. (a) The assembly acting for the area outside all cities in the borough and the council acting for the area in a city may grant franchises, including exclusive franchise privileges, to a person, corporation, organization, or utility not certificated by the Alaska Public Utilities Commission and may permit the use of streets and other public places by the franchise holder under regulations prescribed by ordinance.

(b) Unless the grant is made on a competitive basis, the grant of an exclusive right to use a public street or right-of-way for more than five years to a utility or a transportation system not certificated by the Alaska Public Utilities Commission shall be valid only if approved by a majority of the voters at an election.

(c) This section applies to home rule and general law municipalities. (Sec. 10 ch 74 SLA 1985)

Collateral references. – 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions, sec. 140 et seq.

62 C. J. S., Municipal Corporations, secs 279,657.

Liability of municipal corporation for damages for maintenance of sewer disposal plant as nuisance. 40 ALR 2d 1198.

Municipal liability for maintenance of public dump as nuisance. 52 ALR 2d 1134.

Sec. 29.35.070. Public utilities. (a) The assembly acting for the area outside all cities in the borough and the council acting for the area in a city may regulate, fix, establish, and change the rates and charges imposed for a utility service provided to the municipality or its inhabitants by a utility that is not subject to regulation under AS 42.05 unless that utility is exempted from regulation under AS 42.05.711(a) or (d) - (k) or is exempted under regulations adopted

C. A lessee shall notify any contractor it employs of the dimensions of its leasehold.

D. A lessee shall supply, maintain and keep operable fire extinguishers suitable for extinguishing flames from the type of materials on the premises.

E. A lessee shall maintain the floor of each hangar, hangar apron and ramp area leased or otherwise used in its operations clean and clear of oil, grease, materials or trash, except as may be otherwise provided in a specific lease.

F. A lessee who installs an aircraft tie-down anchor shall install the anchor in accordance with specifications provided by the airport manager. (Ord. 91-01 §3 1991)

5.30.230 Property Control. No person may, without the consent of the airport manager, alter, add to or construct any building, make any excavation or abandon any property on the airport. Such consent shall be given if the airport manager finds that the proposed activity is compatible with airport operations, applicable lease agreement and applicable City, Borough, State and Federal law. (Ord. 91-01 §3 1991)

5.30.240 Conduct of Commercial Activity.

A. No persons may engage in any business or commercial activity on the airport, without a city business license, a permit issued by the airport manager, and in accordance with this code.

B. The consummated lease and development plan of a lessee of airport property shall constitute the permit required by this section except for fuel or petroleum products dispensing.

C. No dispensing, selling, trading or bartering of aircraft fuel products may occur on airport property without a specific fuel dispensing permit issued by the airport manager. Issuance of a fuel dispensing permit requires proof of insurance to protect lessor and lessee against comprehensive public liability for personal injury or property damage, the policy limits of which shall be no less than five million dollars (\$5,000,000).

D. No person may operate or provide service, labor or materials, such as a mobile mechanic, on airport property unless issued a permit by the airport manager. Any holder of a permit authorized under this section shall be required to provide proof of insurance similar to insurance required of lessees of airport property. (Ord. 91-01 §3 1991)

5.30.250 Advertisements. No person may erect or post any exterior signs or advertisement at the airport except with the