

	Approved	Denied
Action taken	7/25/05	
Verdie Bowen appointed. See motion on page 3		
Verified by: <i>[Signature]</i>		

WASILLA CITY COUNCIL ACTION MEMORANDUM

AM No. 05-42

TITLE: APPOINTMENT OF COUNCIL MEMBER FOR SEAT C

Agenda of: July 25, 2005
 Originator: Kristie Smithers, City Clerk

Date: July 19, 2005

Route to:	Department	Signature/Date
X	Finance *signature required	<i>[Signature]</i>
X	Clerk	<i>[Signature]</i>

REVIEWED BY MAYOR DIANNE M. KELLER: *[Signature]*

FISCAL IMPACT: yes\$ or no Funds Available yes no

Account name/number:

Attachments: Application and attachments from each applicant
 Contract with Marty Metiva dated June 15, 2005
 Opinion from Tom Klinkner dated July 19, 2005

Results of selection 7/25/05

SUMMARY STATEMENT:

On June 27, 2005 the City Council accepted the resignation of Council Member Noel Lowe.

Four applications were received by my office in accordance with the terms of the application period. The applicants are as follows:

- Verdie Bowen application received on June 30, 2005
- Marty Metiva application received on July 8, 2005
- Cliff Silvers received on July 15, 2005
- Steven Menard received on July 15, 2005

The eligibility of the applicants has been established by the City Clerk. Mr. Bowen, Mr. Metiva and Mr. Menard are qualified city voters who have been registered to vote at the address they provided on their application for over one-year, as required by WMC 2.04.020.

In researching the eligibility of Mr. Silvers, I found that his voter registration address is listed as 3301 Naomi. Mr. Silvers informed me that in June of 2003 he moved from his Naomi address to 1754 Vaunda, which is also located within Wasilla City limits. On July 15th, Mr. Silvers submitted a change of voter registration to me for his new

residence address at 1754 Vaunda. Because council members are elected at large and both addresses are located within city limits, I see no problem with the residency requirement.

It has been brought to my attention that Mr. Metiva has an event sponsorship contract with the city in the amount of \$5,360, please see attached. I have asked Mr. Klinkner for an opinion on this issue which is attached for your information. As stated in his opinion, if Mr. Metiva is selected for appointment he would need to terminate his contract with the city or decline the appointment.

A ballot process with point system will be used for the appointment. Each Council Member will be given a slip of paper, "a ballot," with the name of each applicant listed. Since we have four applicants, the ballot will have all four names listed. Each Council Member must make their first, second, third and fourth choice. It is important for each Council Member to place a number beside each applicants name in the order of preference or the system will not work properly.

After voting, each Council Member will give the ballot to the City Clerk to tally the points of each applicant. The clerk will then give the 1st choice 4-points, 2nd choice 3-points, 3rd choice 2 points and the 4th choice 1 point. Once calculated, the City Clerk will announce the winner and the applicant with the most amount of points will be offered the position.

If declined by the winning applicant the position will then be offered to the person with the second highest amount of points, etc. In some cases the applicant that was voted on as the first choice by a majority may not be selected based on the amount of points received.

Sample of point system and calculation:

Placement for each Candidate

	# of 1 st Place	# of 2 nd Place	# of 3 rd Place	# of 4 th Place
Applicant A	0	2	1	2
Applicant B	1	2	2	0
Applicant C	0	0	2	3
Applicant D	4	1	0	0

Points System:

- 1st Place 4
- 2nd Place 3
- 3rd Place 2
- 4th Place 1

Total Points for Candidate

	Points For 1st	Points For 2nd	Points For 3rd	Points For 4th	Total Score
Applicant A	0	6	2	2	10
Applicant B	4	6	4	0	14
Applicant C	0	0	4	3	7
Applicant D	16	3	0	0	*19 (winner)

RECOMMENDED ACTION:

Fill the vacancy of Council Member for Seat C in accordance with the ballot process with the winner to be announced by the City Clerk.

Council Member Cox moved to appoint Verdie Bowen to Council Seat C to fill the remainder of the term vacated by Noel Lowe.
The motion passed unanimously.

City of Wasilla
Council Member Seat C
Selection Process Using Borda Count Method
July 25, 2005

Placement for each Candidate

	# of 1st Place	# of 2nd Place	# of 3rd Place	# of 4th Place	Total Votes
Bowen	4	0	0	1	5
Menard	0	1	4	0	5
Metiva	1	2	0	2	5
Silvers	0	2	1	2	5
Total Vote	5	5	5	5	20

Total Points for Candidate

	Points For 1st	Points For 2nd	Points For 3rd	Points For 4th	Total Score
Bowen	16	0	0	1	17
Menard	0	3	8	0	11
Metiva	4	6	0	2	12
Silvers	0	6	2	2	10
Total Points	20	15	10	5	50

Points System:

1st Place 4
2nd Place 3
3rd Place 2
4th Place 1

APPLICATION FOR APPOINTMENT TO WASILLA CITY COUNCIL SEAT C

I, Clifford Silvers, am a qualified voter and a resident of the City of Wasilla, Alaska and I hereby request the City of Wasilla Council to consider me as a candidate for the office of Wasilla City Council, Seat C, for the remainder of a three-year term expiring October 2005.

Full Name of Applicant

I have been a resident of the City of Wasilla since: 1975

My current residence address is: 1754 VAUNDA

WASILLA, AK 99654

My current mailing address is: P.O. Box 870084

WASILLA, AK 99687

Day (work) phone: 376-6707 Evening (home) phone: 376-6707

Fax number: N/A E-mail address: N/A

Certification:

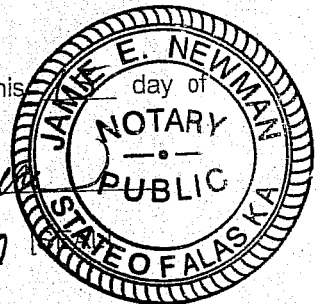
I, the undersigned, certify that the information in this application is true and accurate. I certify that I am a qualified city voter, and I am and will have been a city resident or a resident of territory annexed to the city for one-year immediately prior to the date of appointment (expected to be July 25, 2005). I further certify that I meet, or shall meet, as required by law, the specific requirements of the office I am seeking. I will serve this office if appointed by the Wasilla City Council.

STATE OF ALASKA
Third Judicial District

Clifford Silvers 7-15-05
Candidate Signature Date

Subscribed and sworn before me this July day of 2005.

Jamie E. Newman
Notary Public
My Commission expires: 4/18/09



Date application received:

RECEIVED

JUL 15 2005

CLERK'S OFFICE
CITY OF WASILLA

Voter No.: _____
District/Precinct: 14-80
Registration address: _____ yes
City resident: _____ yes OR _____ no
FD attached: _____ yes
_____ on file

Other: _____

moved to Vaunda
6603
Reg. 3301 Name
Change of address
complete - DOE.

Cliff Silvers

376-6707

The governing body for the City of Wasilla;

This is to inform you that I am available to fill the vacancy that has occurred in seat C.

I feel I am fully qualified to serve my community. To further expand your knowledge on my personality and knowledge please feel free to call me at the above number.

Cliff Silvers

07/15/05



RECEIVED
JUL 18 2005
CLERK'S OFFICE
CITY OF WASILLA

APPLICATION FOR APPOINTMENT TO WASILLA CITY COUNCIL SEAT C

I, Steven David Menard, am a qualified voter and a resident of the City of Wasilla, Alaska and I hereby request the City of Wasilla Council to consider me as a candidate for the office of Wasilla City Council, Seat C, for the remainder of a three-year term expiring October 2005.

I have been a resident of the City of Wasilla since: Jan. 2004

My current residence address is: 222 Kalli Circle, Wasilla

My current mailing address is: PMB 257 Box 875910, Wasilla, AK 99654

Day (work) phone: 232-2120 Evening (home) phone: 376-2021

Fax number: 376-2021 E-mail address: fssdm12@uaf.edu

Certification:

I, the undersigned, certify that the information in this application is true and accurate. I certify that I am a qualified city voter, and I am and will have been a city resident or a resident of territory annexed to the city for one-year immediately prior to the date of appointment (expected to be July 25, 2005). I further certify that I meet, or shall meet, as required by law, the specific requirements of the office I am seeking. I will serve this office if appointed by the Wasilla City Council.

Steven D. Menard
Candidate Signature

July 11, 2005
Date

STATE OF ALASKA
Third Judicial District

Subscribed and sworn before me this 15 day of July, 2005.

A. Bonitas

Notary Public
My Commission expires: 8-1-07 [SEAL]

Date application received:
RECEIVED
JUL 15 2005
CLERK'S OFFICE
CITY OF WASILLA

Voter No.: _____
District/Precinct: 14-80
Registration address: OK yes
City resident: ___ yes OR ___ no
FD attached: ___ yes
_____ on file

Jan 04

Other: _____

July 15, 2005

Letter of Intent

To Whom It May Concern:

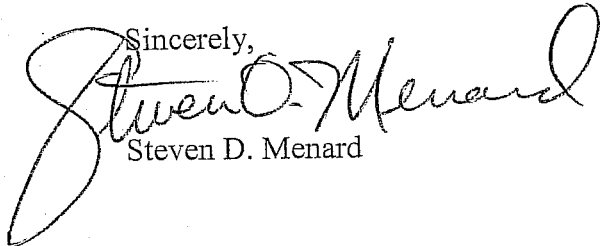
My name is Steve Menard and I am writing in regards to the vacant seat on the Wasilla City Council. I would like to thank the Council in advance for their consideration and look forward to working with them. There is no greater calling than public service.

I feel I am the perfect appointee because of my lengthy involvement in the political arena. I have worked both in Washington D.C. for U.S. Senator Ted Stevens, and in Juneau for former State Senator Scott Ogan. Not to mention being the son of former State Senator Curt Menard. I was born and raised in this great State and have spent my entire childhood in this town. I graduated from Wasilla High School in 1989 as Student Body President.

After graduation I spent six years in the USMC, which I graduated with honors. I have a BA in Political Science and History from the Ivy League of the South, the Capstone. I am currently a substitute teacher for the MSSD and work on the family homestead.

For these qualifications and much more, I feel I would be able to fulfill the duties of a City Council member. Thanks again for your consideration.

Sincerely,



Steven D. Menard

Steven D. Menard

PMB #257

P.O. Box 875910

Wasilla, AK 99687-5910

Home Phone (907) 376-5855

Work Phone (907) 232-2120

E-mail: steven.d.menard@ua.edu

OBJECTIVE: A live life one day at a time.

QUALIFICATIONS

Successful in dealing with people's needs.
A lifetime of political involvement.
Professional.

PROFESSIONAL EXPERIENCE

- 1986-93 *Commercial Fisherman*
- 1988-89 *Student Body President – Wasilla High*
- 1988-89 *Internship with U.S. Senator Ted Stevens*
- 1990-1995 *Member of the College Republicans*
- 1992-1995 *President of Residential Life – University of Alabama*
- 1995-2000 *United States Marine Corps*
Trained in long-range artillery ballistics, hand-to-hand combat, weapons, and survival skills.
- 1998-2000 *Benihana's Restaurant, Senior Bartender*
Supervise daily operations.
Recruit new staff.
Responsible for merchandising and layout of store.
Maintain inventory of product.
Act as a troubleshooter.
- 2000 *Political Advisor for James Boring – District 11*
- 2001 *Legislative Staff for Rep. Scott Ogan*

EDUCATION: Bachelor of Arts – Political Science – University of Alabama

REFERENCES: Available upon request.

Verdie A. Bowen
925 Arnold Palmer Drive
Po Box 873296
Wasilla, Alaska 99687-3296

June 30, 2005

City of Wasilla
290 E. Herning Avenue
Wasilla, Alaska 99654-9096

Dear Mayor Keller, City Council Members,

I am very interested in serving as a council member on the Wasilla City Council for Seat C. I believe I have a great deal to offer the residence of the City of Wasilla.

Through the past seven years I have served on two Wasilla City Commissions and one Council Seat. I started as a Parks and Recreation Commissioner and had lots of fun working the parks and trails master plan. I know I only held that position for one year, but we were able to complete a great deal of work. I was then asked to fill a Planning Commission Seat by the mayor and held that position until 2004. In 2004 I filled a set for 9 months for Council person Colleen Sullivan - Leonard. Over the past 7 years I have constantly worked hard at listening to the people I represent and to the Mayor and Council I served and served with.

It would be an honor to serve this great city as a council member again. I would like to continue assisting Wasilla's growth in housing projects and attracting new business's to our fast growing city. My personnel goal is to establish a community were balance exists between families and business's allowing growth today and long into the future.

Sincerely,


Verdie A. Bowen

Enclosure: Application for Appointment
Resume

Verdie A. Bowen

Objective

To obtain a position on the Wasilla City Council Seat C until the remainder of the term

Work experience

2004 – Present Chenega Technology Services Corp. Anchorage, AK
Senior System Engineer

- Coordinated all local decision authority over a new \$10M DoD Joint Combat Support Data Initiative contract ensuring an additional 36 months for the Joint Information Technology Information Center.
- Project manager for the classified and unclassified US Army Combat Readiness Center contract. Directly turned a \$150,000 contract into one of over \$2M allowing the center to move into the 21st century.
- Established local security program for CTSC ensuring all personnel are cleared to the SECRET level and vigilantly pursued and received classified storage capabilities and the Alaskan office in record time.
- Primary Security Consultant to the National Law Enforcement and Corrections Technology Center – Northwest managing all internal Security concerns addressed by the National Institute of Justice.
- Authored technical response for the DoD Alaska Command Technical officer securing an award for 3 year and \$480,000.

2001 - 2004 DISA Alaska Field Office Elmendorf AFB, AK

Chief Engineering Support

- Managed the Defense Information Infrastructure (DII) for the Alaskan geographic landmass, equipment and facilities valued at over \$100M.
- Developed and implemented plans increasing out of state bandwidth over 500% and ensured equipment installed allowed for future growth.
- Authored the Alaskan strategic Plan reflecting projected customer growth over the next five years.
- Earned extraordinary respect from the Defense Information Technology Contracting Office by reviewing 500 bid documents, clarified technical specifications ensuring 100% on time delivery.
- Provided extensive briefings to congressional staffers and upper level management on project funding, implementation, and progress.

1999 - 2001 3rd Communication Squadron Elmendorf AFB, AK

Manager Facility Control

- Supervised three sections with 26 employees providing oversight and support to all DoD communications and operations traversing Alaska.
- Established policy and procedures to convert 750 paper circuit history

folders to electronic format. Recognized during performance evaluation as best practice for Pacific Command.

- Performed cost analysis expanding bandwidth to 29 sites resulted in 100% increase at half the cost.

1995 - 1999 3rd Plans and Programs Elmendorf AFB, AK

Commercial Communications Consultant

- Lead program manager providing extensive data bases, circuit costing, and routing information on the Defense Switch Network (DSN) project saving \$2.4M.
- Identified an antiquated and underutilized satellite facility, led the action to close, saving the Department of Defense (DoD) \$2.7M.
- Conducted thorough site surveys for technical data on five of the eleven Alaska Radar (ARS) sites. Authored and processed 65 Request for Service (RFS) for the ARS Cost Reduction Initiative saving \$1.2M.

Education

2005 Bellevue University Bellevue, NB
Bachelors of Science Business Information Systems (Projected July)

2003 College of the Air Force Maxwell AFB, AL
Associate in Applied Science, Electronic Systems Technology
Associate in Applied Science, Audiovisual Production Service

Community activities

Wasilla City Council Seat F 2004-2004
Wasilla Planning and Zoning Commissioner 1998-2004
Chairman Wasilla Parks and Recreation Commission 1997

Security clearance

TS/SCI (DCID 1/14 Eligible) Dec 2000

Awards received

- National Dean's List 2005
- Letter of Appreciation for outstanding security program from the Defense Security Service 2005
- Defense Information System Agency Communications Information Professionalism of the Year Award 2001
- Praised by Commander, Pacific Command for highest Air Force retention rate 2001
- Air Force High Value Suggestion of the Year Award 1999
- 3rd Communications Squadron Employee of the Year 1999
- Employee Involvement Association Contributor of the Year 2nd runner up 1997
- Pacific Air Force Outstanding Productivity Contributing Airman of the Year 1997
- Pacific Air Force Individual Achievement of the Year 1997
- 11th Air Force Communications and Information Professionalism of the Year 1996

APPLICATION FOR APPOINTMENT TO
WASILLA CITY COUNCIL SEAT C

I, MARTY T METIVA, am a qualified voter and a resident of the City of Wasilla,
Full Name of Applicant
Alaska and I hereby request the City of Wasilla Council to consider me as a candidate for the office of
Wasilla City Council, Seat C, for the remainder of a three-year term expiring October 2005.

I have been a resident of the City of Wasilla since: MAY 2004

My current residence address is: 222 E KALLI CIRCLE
WASILLA ALASKA 99654

My current mailing address is: 222 E KALLI CIRCLE
WASILLA ALASKA 99654

Day (work) phone: 907-373-6874 Evening (home) phone: 907-373-6874

Fax number: N/A E-mail address: CMM@MTAONLINE.NET

Certification:

I, the undersigned, certify that the information in this application is true and accurate. I certify that I am a
qualified city voter, and I am and will have been a city resident or a resident of territory annexed to the
city for one-year immediately prior to the date of appointment (expected to be July ____, 2005). I further
certify that I meet, or shall meet, as required by law, the specific requirements of the office I am seeking. I
will serve this office if appointed by the Wasilla City Council.

STATE OF ALASKA
Third Judicial District

Marty Metiva
Candidate Signature Date 7/6/05

Subscribed and sworn before me this 8th day of
July, 2005.

Marty Metiva
Date 7/8/05

M. Smith
Notary Public
My Commission expires: 8/1/07 [SEAL]

Date application received:
RECEIVED
JUL 08 2005
CLERK'S OFFICE
CITY OF WASILLA

Voter No.: _____
District/Precinct: 14-80
Registration address: yes
City resident: yes OR no
FD attached: yes
 on file

Reg DOE-5-13-2004

Other: _____

July 8, 2005

Kristie L. Smithers, MMC
City Clerk
City of Wasilla
290 E Herning Ave.
Wasilla, Alaska 99654


Dear Ms. Smithers:

Please accept this letter and attached application as formal notification of my interest to be appointed to Wasilla City Council Seat C for the remaining three month term expiring October 2005.

With 20 years of business experience in the Hospitality Industry and my commitment to community involvement I believe I possess not only the qualifications but more importantly the qualities require to help lead Wasilla into the future.

Thank you for this opportunity and I am looking forward to discussing this at the July 25th City Council meeting.

Sincerely,

A handwritten signature in black ink, appearing to read "Marty T. Metiva". The signature is written in a cursive style and is positioned above a horizontal line that extends across the width of the signature.

Marty T. Metiva

Attachments: Application for Appointment
Personal Resume'

MARTY METIVA

222 E. Kalli Circle

Wasilla, AK 99654

907-373-6874

Email: martymet@msn.com

OBJECTIVE: Utilize my Leadership, Communications Skills, Sales, and Marketing experience to help lead a dynamic organization to the next level.

QUALIFICATIONS: 20 Years of hands on Sales & Marketing experience in the Travel/Tourism Industry. Motivated, self starter with Results oriented, creative, out-of box philosophy, with a get it done attitude.

EDUCATION: 1983-1985 - Associates, Travel Marketing / Management;
Lucas School of Travel, Atlanta Georgia

EXPERIENCE:

Oct 2004 **Director of Sales & Marketing**
BEST WESTERN LAKE LUCILLE INN
Wasilla, Alaska

Designed and implemented a Sales & Marketing plan focusing on Local, Regional & National audiences. Created and managed on-site Special Events that established Lake Lucille Inn as a destination in its self and resulted increased profit in Restaurant, Lounge & Hotel Room Sales.

July 2004 **Director of Sales,**
MARRIOTT ANCHORAGE DOWNTOWN
Anchorage, Alaska

Responsible for all aspects of Sales, Marketing, Promotions and Public Relations of property. Managed and Direct Sales, Catering and Reservation departments' day to day operations. Charged with increasing market shares while maintaining price integrity. Participating in all local organizations, including Anchorage Convention and Visitors Bureau, Chamber of Commerce and Economic Development activities.

"Community Commitment"

- Volunteer Area Director Mat-Su Special Olympics
- Red Cross Leadership Council
- President Mat-Su Miners Baseball

2002- 2004

**President/Owner
NORTHERN EXPERIENCE PROMOTIONS
Mackinaw City, Michigan**

Manage day-to-day business including, planning, fundraising, sponsorship solicitation, web-site development, recruitment & training of volunteers, promotions, public relations, marketing and budgeting of Four Major Events in Northern Michigan area;

- Bay Harbor Ice Festival
- Mackinaw Mush Sled Dog Race
- Bay Harbor Mush, "Fast Track Sprints"
- "Hopps of Fun" Beer & Wine Festival

"Community Commitment"

- Greater Mackinaw Area Chamber of Commerce Board Member
- Music in Mackinaw - Chair
- Mackinaw Memorial Parade Committee
- Mackinaw City Chamber Ambassador
- Mackinaw City Lions Club
- Mackinaw City Historical Society

2000 - 2001

**Director of National Accounts, International Sales and Inside Sales Department
AMERICAN CLASSIC VOYAGES,
New Orleans, Louisiana**

Managed multiple departments of 19 staff members. Developed and implemented customized marketing & sales plans for all National and International Accounts. Designed and managed escalating commission program resulting in lowering acquisition cost by Nine percent while increasing sales to \$125 Million. Responsible for development and implementation of \$40 Million departmental budget. Participated in all major International and National Travel Trade shows.

1989-2000

**Regional Director of Sales/Marketing - Mid-Atlantic/Mid-West Regions
DELTA QUEEN STEAMBOAT COMPANY
New Orleans, Louisiana**

Responsible for Cruise/Tour sales, marketing and regional public relations in a Ten State Region. Increased sales by over \$10 Million through the implementation of hands-on marketing/sales programs with retail & wholesale Travel Companies. Marketing Programs included; joint vendor marketing programs, multiple promotional contracts, Travel Agent Training seminars & end user presentations. Designed Travel Industry training seminar focusing on "Target Marketing & Bundling".

- Salesman of the Year honors in 1996.
- NTA Passenger Vessel Representative
- NTA Education Committee
- NTA Government Relations Committee
- Participated in all major Travel Industry Trade Shows

1988-1989

**Director of Corporate, International & Secondary Markets Sales
DELTA QUEEN STEAMBOAT COMPANY
New Orleans, Louisiana**

Assisted in development of Department, Developed Marketing/Sales plans increasing International Sales by \$600 Thousand and Secondary market shares by over \$500 Thousand Participated in all major International & National Travel Trade shows.

1987-1988

**Regional Sales Manager, Mid-South Region
Bermuda Star Cruise Line
New Orleans, Louisiana**

Increased Cruise sales over \$700 Thousand through development and utilization of Net pricing program and on-board selling seminar program.

1985-1987

**Sales Manager
MAISON DUPUY HOTEL
New Orleans, Louisiana**

Responsible for all sales including, International, Corporate, Leisure, Group, Individual and Packages. Participated in all major Travel Industry shows.

Event Sponsorship Contract

Ron J. Singel, Economic Development Director
City of Wasilla
290 E. Herning Avenue
Wasilla, Alaska 99654-7091

Dear Ron,

1. Following up on our recent conversations, I would like to set out your event marketing agreement as agreed upon this day, June 15, 2005.

2. The City of Wasilla agrees to Presenting sponsorship of no more than 12 Music in the Park Concerts between June 16 and September 8, 2005.

3. The City of Wasilla agrees to pay, Marty Metiva (Event Management) total amount of \$5360.00 for all management, marketing and operations related to above mentioned Concerts.

4. The City of Wasilla agrees to pay Event Management the sum of \$446.66 per week payable week prior to each scheduled concert (due to all promotions & operations are done prior to event)

5. Rain days will be Friday, Saturday, Monday or Tuesday after scheduled event date. *If event is cancelled, event will be rescheduled for one of these days -*

6. This contract can be cancelled by either party with 10 business days notice. *OK*

7. If not signed signed by 11:00Am June 16, 2005 , contract will be considered Null and Void.

Marty Metiva 6/15/05
Marty Metiva 6/15/2005
Marty Metiva (Event Management)

R Singel
Ron Singel (City of Wasilla)

*Approved
Dome
6/15/05*

- Free Concert at the Amphitheater in Iditapark
 - Family Friendly Entertainment
 - Vendors
 - Hot Dog
 - Ice Cream
 - Lemonade
 - Face Painter
 - 6:30PM - 7:30PM
 - Every Thursday June 16 - September 8, 2005
 - Saturday June 11th Amphitheater Dedication to Chief Wasilla with Native Dancers
 - Wednesday September 24 - move for State Fair Opening on 25th
- Local Bands featuring a different genre every week
 - High School
 - Gospel
 - Blue Grass
 - Jazz
 - Folk
 - Military / Patriotic
- Marketing / Promotions
 - Radio
 - News Print
 - Posters / Flyers
 - Chamber of Commerce
- Sponsorships
 - Weekly Entertainment sponsor
 - Introduce Act
 - Budget
 - Entertainment: \$600
 - \$50 per act
 - 50/50 split with sponsors
 - Marketing: \$1400
 - Radio
 - Newsprint
 - Banner
 - Posters
 - 50/50 split with sponsors
 - Management Fee: \$3360 (14 weeks x 16 hrs = 224 hrs. x \$15 an hour)
 - Solicitation of acts
 - Negotiating acts contracts
 - All marketing / promotions
 - Solicitation of sponsorships
 - All Onsite show management

Schedule of Concerts

June 16, 2005

June 30, 2005

July 7, 2005

July 14, 2005

July 21, 2005

July 28, 2005

August 4, 2005

August 11, 2005

August 18, 2005

August 25, 2005

September 1, 2005

September 8, 2005

LAW OFFICES

BIRCH, HORTON, BITTNER AND CHEROT

A PROFESSIONAL CORPORATION

1127 WEST SEVENTH AVENUE • ANCHORAGE, ALASKA 99501-3399 • TELEPHONE (907) 276-1550 • (800) 478-1550 • FACSIMILE (907) 276-3680

HAL R. HORTON (1944 - 1998)

YULIYA B. ANDRESYUK†
RONALD G. BIRCH**
WILLIAM H. BITTNER
KATHRYN A. BLACK
SUZANNE CHEROT
KIMBERLY A. DOYLE
KATHLEEN TOBIN ERB
MARK E. FINEMAN, P.E.
GREGORY S. FISHER

DOUGLAS S. FULLER*
MAX D. GARNER
GRETCHEN L. GASTON†
DAVID KARL GROSS
TINA M. GROVIER
PATRICIA M. HARDINA
WILLIAM P. HORN*
STEPHEN H. HUTCHINGS
ROY S. JONES, JR.*

DANIEL C. KENT
THOMAS F. KLINKNER
HARVEY A. LEVIN†
STANLEY T. LEWIS
GREGORY A. MILLER
MICHAEL J. PARISE
TIMOTHY J. PETUMENOS
ELISABETH H. ROSS**

OF COUNSEL:
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* D.C. BAR
** D.C. AND ALASKA BAR
† MARYLAND BAR
‡ NEW YORK BAR
§ ALL OTHERS ALASKA BAR

WRITER'S DIRECT DIAL (907) 263-7268 • FAX (907) 276-3680 • tklinkner@bhb.com

July 19, 2005

via FACSIMILE and FIRST CLASS MAIL

Ms. Kristie L. Smithers
City Clerk
City of Wasilla
290 East Herning Avenue
Wasilla, Alaska 99654

Re: City Contract with Candidate for Council

Dear Kristie:

You have asked whether a candidate to fill the vacancy on the City Council that was created by Noel Lowe's resignation may qualify to serve on the Council while holding a contract previously awarded by the City. I conclude that the candidate could not both serve on the Council and continue to hold the contract with the City.

AS 29.20.010(a) requires a municipality to adopt an ordinance with respect to conflicts of interest of council members. The City has carried out this mandate by enacting WMC 2.12.010.A, which provides:

- A. City Council.
 1. A member of the city council shall declare a substantial financial interest the council member has in an official action and ask to be excused from a vote on the matter.
 2. The mayor shall rule on a request by a council member to be excused from a vote.
 3. The decision of the mayor on a request by a council member to be excused from a vote may be overridden by the majority vote of the council.
 4. A council member who has been excused from a voting on a matter under this subsection also shall abstain from the discussion of the matter, except that the council member may speak on the matter as a member of the public.

Ms. Kristie L. Smithers
City of Wasilla
July 19, 2005
Page 2

In addition, WMC 5.08.200 specifically addresses contracts in which a City official has an interest, as follows:

5.08.200 Ethics of contracting and purchasing.

A. All city purchases and contracts shall be made solely for the public benefit of the city. In accordance with this policy:

1. A city officer or employee who has a direct or indirect financial interest in any bid or proposal for a city contract shall disclose that interest by filing a written notice of the interest with the clerk not less than ten (10) days before submission of the bid or proposal in which the officer or employee has an interest. The clerk shall post the written notice at the place maintained for the posting of public notices at city hall.

2. No city officer or employee who has a direct or indirect financial interest in any bid or proposal for a city contract may participate in the city's decision to award the contract.

3. No city officer or employee may solicit or receive any form of compensation from any party other than the city in connection with the awarding of a city contract.

B. A city officer or employee who willfully violates subsection A of this section is guilty of malfeasance in office, and shall forfeit office with the city. A contract entered into in violation of subsection A of this section is voidable by the council.

Because the candidate for Council under consideration here already has been awarded a City contract, the candidate would have no occasion to participate in Council action on the contract award, to which these provisions would apply.

However, this does not end the inquiry, because neither AS 29.20.010 nor municipal ordinances enacted under AS 29.20.010 displace the common law of conflict of interest of public officials. "The common law of conflict of interest continues to apply to municipal officers."¹ The common law would not permit a person simultaneously to hold office as a Council member, and to be a party to a contract with the City. The Alaska Attorney General examined a similar situation involving an executive branch official in state government, and concluded as follows:

... a conflict clearly *does* exist if the person with the potential conflict is associated with both parties to the contract, i.e., the state agency procuring the goods or services and the private contractor

¹ *Griswold v. City of Homer*, 925 P.2d 1015, 1026 n. 13.

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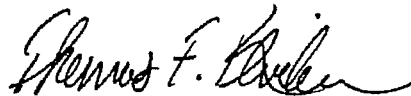
providing them....public service demands total fidelity to the public interest *at all times*. Faced with a conflict, the person must either resign his or her position, or forego the private opportunity to do business with the state.²

Thus, under the common law of conflict of interest, the candidate, if selected for appointment to the Council, would be required either to terminate the candidate's contract with the City or decline the appointment.

Please let me know if you have any questions concerning the matters discussed above, or if I may be of further assistance.

Yours truly,

BIRCH, HORTON, BITTNER and CHEROT



Thomas F. Klinkner

TFK/cmm

cc: Mayor Dianne M. Keller (via email only)

² December 3, 1982 Op. Ak. Att'y. Gen., pp. 30-31 (emphasis in original; footnote omitted).