


MEMORANDUM

TO: Dillingham City Council, Mayor Ruby and Acting Manager Decker
FROM: Samuel Severin 
RE: February 13, 2025 Special Meeting
DATE: February 20, 2025

During the recent special meeting on February 13, 2025, our office was asked for advice regarding the propriety of the special meeting. Two Council members objected to the special meeting. The verbal objections stated during the roll call fall into three categories. First, that the special meeting was inappropriate in a general sense, or that the topics were not appropriate for a special meeting. Second, that Council members did not receive appropriate notice. Third, there were objections to specific agenda items, such as that a specific resolution was not lawful. The general theme of these objections, which must be seriously considered, is that holding the meeting was violative of the public trust and the Council's obligation to the public.

1. Special Meetings in General

The city code provides:

2.09.020 Special meetings. A. Special meetings of the council are those meetings which are called by the mayor or any two members of the council for a time different than that fixed for the regular council meetings. The location of all special council meetings shall be the same as that authorized for regular meetings.

The regular meeting is "held on the first Thursday of each month at seven p.m." A special meeting, per the code, is a meeting that is at a different time from the first Thursday of each month at 7:00. There is no content restriction for a special meeting. An emergency meeting (DMC 2.08.030) requires very specific findings of necessity. There may have been some confusion that a special meeting requires similar findings, but a special meeting has no such requirements. There is no basis under the code to conclude that the February 13, 2025 special meeting was facially or wholly inappropriate.

2. Notice.

The city code provides:

2.09.020 Special meetings. B. Advance oral or written notice of at least twenty-four hours preceding a special meeting shall be given each council member. The notice shall specify the time, place and subject matter of the meeting. No business shall be transacted at the meeting that is not mentioned in the notice. Notice shall be served personally on each member of the council or left at the member's usual place of business or residence by the city clerk or the clerk's designee. The notice provisions of Section 2.08.020 also apply.

The following factual summary is focused on the notice provided to those members absent from the meeting. The City Clerk provided screenshots of texts, a call log, an affidavit, and a copy of the e-mail notice, as described below.¹

On February 11, the clerk called all council members. Voicemails were left with three Councilmembers (Luckhurst, Bennett, Westfall). Mr. McCambly's phone did not allow for voicemail. Councilmembers Bennett and Westfall did not respond to voicemails left for them by the clerk.

On February 11th, the clerk texted Councilmembers Bennett, McCambly, and Westfall. "Can you please give me a call? My text messenger isn't working well today." Councilmembers Bennett, McCambly, and Westfall did not respond.

On February 12, the clerk provided all Council members notice of the special meeting by e-mail, including a copy of the agenda describing the location, time and place of the special meeting.

On February 12, the clerk gave notice by text message to Bennett, McCambly, and Westfall, but did not receive a response.

Sometime between noon and 1:00 p.m on February 13, Jon Sorenson hand delivered the special meeting agenda to Mr. Bennett's residence, to Mr. McCambly's workplace at Nushagak Cooperative, and to Mr. Westfall's workplace at the Dillingham High School front office.

¹ For brevity, the documents are not attached here but will be provided upon request.

Advance oral or written notice was provided on February 11 (roughly 48 hours in advance) by voicemail and text message. “Advance oral or written notice,” as required by DMC 2.09.020B, was also provided on the 12th (more than 24 hours prior to the meeting).

The code provides that advance oral or written notice must be given to each council member. It does not specify that each council member must receive it or acknowledge the notice for it to be considered valid.

The clerk, through her designee, provided personal service to Councilmembers Bennett, McCambly, and Westfall. The code does not require that the personal service be made by a certain time prior to the meeting. The clerk’s efforts satisfied the code requirements for notice to councilmembers.

An agenda was published for the meeting. It was posted online and around town on February 12, the day before the meeting. DMC 2.08.020 states that for a special meeting, public posting not less than 24 hours prior to the meeting is appropriate. The published statement must contain the “date, time and place of the meeting.” If the meeting is a special meeting, then the above statement shall also contain the expected subjects of discussion, but the failure to list a subject does not invalidate any action taken at the special meeting. The agenda was a three-page, formal agenda. It gave notice of a workshop, various staff reports, and specific ordinances and resolutions for consideration by the Council. The substance of the agenda, as well as its publication, appear to meet the City’s public notice requirements.

3. Legality of Specific Ordinances or Resolutions

Councilmembers Westfall and McCambly objected to the special meeting during roll call. Their objections largely cited to the special meeting concerns described above. At least one mentioned Resolution 2025-02 specifically. It would be more helpful to have such comments noted ahead of time in order to correct any error, or to have the concerns brought up during the meeting when the resolution is discussed. That said, I have reviewed the resolution to provide guidance. Based on my initial review, there appears to be some confusing language contained in the resolution, but nothing that is necessarily unlawful. The confusing aspect is that the resolution is written as if the contract is for “professional appraisal services.” Yet, the contract appears to be for software and maintenance, described as:

Latest versions of your MARS databases.

City of Dillingham

February 20, 2025

Page 4

Up to 30hrs per year of tech support and training via phone or video call.

Direct input into the development of the MARS databases.

Syncing with FileMaker Go databases on an iPad (if applicable).

The resolution should be edited to more accurately reflect the nature of the underlying contract.

Please let me know if I may be of further assistance. To the extent there are additional facts that should be considered, I am glad to revise this memorandum or provide additional advice.