



CITY OF GUSTAVUS CITY COUNCIL GENERAL MEETING

Monday, June 10, 2024 at 7:00 PM
Gustavus City Hall

COUNCIL MEMBERS

Mayor Shelley Owens
Vice Mayor Brian Taylor
Council Members: Janene Driscoll, Rachel Patrick
Jim Mackovjak, Kyle Bishop, Mike Taylor

CITY HALL

City Administrator – Kathy Leary
City Clerk – Liesl Barker
City Treasurer – Ben Sadler
Phone: 907-697-2451 | clerk@gustavus-ak.gov

AGENDA

VIRTUAL MEETING INFORMATION

<https://rb.gy/zuduqh>
ID: 515 501 9406 **PASSCODE:** 2451 **TEL:** 253-215-8782

ROLL CALL

Reading of the City of Gustavus Vision Statement

APPROVAL OF MINUTES

1. 05-13-2024 General Meeting Minutes

MAYOR'S REQUEST FOR AGENDA CHANGES

COMMITTEE / STAFF REPORTS

2. Library Quarterly Report
3. Gustavus Visitors Association Quarterly Report
4. City Treasurer Monthly Report
5. City Administrator Monthly Report

PUBLIC COMMENT ON NON-AGENDA ITEMS

CONSENT AGENDA

ORDINANCE FOR PUBLIC HEARING

6. FY24-15NCO Budget for Fiscal Year 2025 (Introduced 05-13-2024)
7. FY24-16NCO Amendment of Departmental Budgets in Fiscal Year 2024 (Introduction 05-13-2024)
8. FY24-17NCO Same Old Road Drainage Improvement Project (Introduced 05-13-2024)
9. FY24-18NCO GVFD Exterior Paint Project (Introduced 06-03-2024)

UNFINISHED BUSINESS

10. CY24-10 Resolution asserting unfettered public access to the Falls Creek lands Via the Hydro Road is a Public Right

NEW BUSINESS

11. CY24-XX A Resolution supporting Local Boundary Commission's preliminary staff report
12. FY25 Road Maintenance Contract

CITY COUNCIL REPORTS

- [13.](#) Coffee with Council
14. City Beautification
15. Payment Processing Fees/Bank Service Charge
16. SS4A Grant
17. Mayor's Report

CITY COUNCIL QUESTIONS AND COMMENTS

PUBLIC COMMENT ON NON-AGENDA ITEMS

EXECUTIVE SESSION

ADJOURNMENT

POSTED ON: May 29, 2024 at P.O, Library, City Hall & <https://cms.gustavus-ak.gov/>

ADA NOTICE

Any person with a disability who requires accommodations in order to participate in this meeting should telephone the City Clerk's office at (907) 697-2451, at least 48 hours prior to the meeting in order to make a request for a disability related modification or accommodation.

VISION STATEMENT

We envision a distinctive community:

- *That prospers while and by protecting its natural resources;*
- *With a sustainable economy and infrastructure that assures public health and safety while promoting personal development and initiative; and*
- *Where all members take social responsibility and actively participate in decision making affecting growth, development, regulation and enforcement; and*
- *In which people retain a closeness with and caring for each other individually and collectively while working together to accomplish community goals and preserve community traditions.*



CITY OF GUSTAVUS CITY COUNCIL GENERAL MEETING

Monday, May 13, 2024 at 7:00 PM
Gustavus City Hall

Item #1.

COUNCIL MEMBERS

Mayor Shelley Owens
Vice Mayor Brian Taylor
Council Members: Janene Driscoll, Rachel Patrick
Jim Mackovjak, Kyle Bishop, Mike Taylor

CITY HALL

City Administrator – Kathy Leary
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Phone: 907-697-2451 | clerk@gustavus-ak.gov

MINUTES - PENDING

VIRTUAL MEETING INFORMATION

<https://us02web.zoom.us/j/5155019406?pwd=UjNNbjB0T0czdnNreUdWSE1DUHJUQT09&omn=82301710299>
ID: 515 501 9406 **PASSCODE:** 2451 **TEL:** 253-215-8782

ROLL CALL (18 seconds)

PRESENT

Mayor Shelley Owens
Vice Mayor Brian Taylor
Council Member Janene Driscoll
Council Member Rachel Patrick (via Zoom)
Council Member Jim Mackovjak (via Zoom)
Council Member Kyle Bishop
Council Member Mike Taylor

Reading of the City of Gustavus Vision Statement (1 minute)

Vision Statement read by Council Member Bishop.

APPROVAL OF MINUTES (1 minute 50 seconds)

- 04-08-2024 General Meeting Minutes
- 04-15-2024 Special Meeting Minutes
- 04-24-2024 Special Meeting Minutes

Motion made by Council Member Patrick to approve by unanimous consent the 04-08-2024 General Meeting Minutes, 04-15-2024 Special Meeting minutes, and the 04-24-2024 Special Meeting minutes.

Seconded by Vice Mayor B. Taylor

Public Comment: None

Council Comment: None

Hearing no objections the 04-08-2024 General Meeting Minutes, 04-15-2024 Special Meeting minutes, and the 04-24-2024 Special Meeting minutes were approved by unanimous consent.

MAYOR'S REQUEST FOR AGENDA CHANGES (3 minutes 33 seconds)

There were no agenda changes.

Hearing no objections, Mayor Owens announced the agenda set as presented by unanimous consent.

COMMITTEE / STAFF REPORTS (3 minutes 58 seconds)

4. Disposal and Recycling Center Quarterly Report (4 minutes 16 seconds)

Disposal and Recycling Center Manager/Operator, Ian Barrier submitted a written report and provided an oral summary.

Clarifying Questions:

Vice Mayor B. Taylor

Council Member Driscoll

City Administrator Leary

Council Member Mackovjak

5. Marine Facilities Quarterly Report (10 minutes 14 seconds)

Marine Facilities Coordinator, Larry Platt submitted a written report and provided an oral summary.

Clarifying Questions: None

6. City Treasurer Monthly Report (11 minutes 9 seconds)

City of Gustavus City Treasurer, Ben Sadler provided monthly financial documents and gave an oral summary.

Clarifying Questions: None

7. City Administrator Monthly Report (12 minutes 35 seconds)

City of Gustavus City Administrator, Kathy Leary submitted a written report and provided an oral report.

Clarifying Questions: None

PUBLIC COMMENT ON NON-AGENDA ITEMS (19 minutes 20 seconds)

Sally McLaughlin - PFAS, would like another presentation at a town hall meeting

Clarifying Questions: City Administrator Leary

LeAnn Weikle, library services director - collections development policy

Point of Order by Mayor Owens,- topic is a staff issue and not appropriate during this time. - well taken

City Clerk Barker - Clarifying information can be sent to the council via emailing the clerk.

Jessica Mulligan, community member- Library budget cuts

Point of Order by Mayor Owens- the budget is an agenda item and not allowed at this time. - well taken

Jessica Mulligan - concern about staff and general library concerns,

Mayor Owens – Not appropriate to speak at this time about library concerns

Point of Order by Clerk Barker - Cannot speak about the library budget at this time since it's on the agenda with the introduction of an NCO. All other matters regarding the library are acceptable to speak to at this time because they are not on the agenda. - well taken

Jessica Mulligan - The Library is crucial to the community and supports the staff

CONSENT AGENDA *(30 minutes 50 seconds)*

None

ORDINANCE FOR PUBLIC HEARING *(31 minutes 22 seconds)*

City Treasurer, Ben Sadler gave a brief explanation of FY24-12NCO, FY24-13NCO, and FY24-14NCO.

8. FY24-12NCO Capital Project Funding 2024 Salmon River Park Playground Equipment Expansion Project Phase 2 (Introduced 04/08/2024)

(32 minutes 23 seconds)

Mayor Owens opened the public hearing at 7:34 PM.

Public Testimony: None

Mayor Owens closed the public hearing at 7:36 PM.

Motion made by Council Member Patrick to approve FY24-12NCO Capital Project Funding 2024 Salmon River Park Playground Equipment Expansion Project Phase 2

Seconded by Council Member M. Taylor

Council Debate: None

Voting Yea: Mayor Owens, Vice Mayor B. Taylor, Council Member Driscoll, Council Member Patrick, Council Member Mackovjak, Council Member Bishop, Council Member M. Taylor

Motion Passed

9. FY24-13NCO Capital Project Funding 2024 for Landfill Expansion (Introduced 04/08/2024) *(35 minutes 59 seconds)*

Mayor Owens opened the public hearing at 7:37 PM.

Public Testimony: None

Mayor Owens closed the public hearing at 7:38 PM.

Motion made by Vice Mayor B. Taylor to approve FY24-13NCO Capital Project Funding 2024 for Landfill Expansion

Seconded by Council Member Bishop

Council Debate: None

Voting Yea: Mayor Owens, Vice Mayor B. Taylor, Council Member Driscoll, Council Member Patrick, Council Member Mackovjak, Council Member Bishop, Council Member M. Taylor

Motion Passed

- 10. FY24-14NCO Long-Term Capital Project Surplus to FNBA (Introduced 04-15-2024) *(38 minutes 15 seconds)*

Mayor Owens opened the public hearing at 7:39 PM.

Public Testimony: None

Mayor Owens closed the public hearing at 7:40 PM.

Motion made by Council Member Mackovjak to approve FY24-14NCO Long-Term Capital Project Surplus to FNBA.

Seconded by Vice Mayor B. Taylor

Council Debate: None

Voting Yea: Mayor Owens, Vice Mayor B. Taylor, Council Member Driscoll, Council Member Patrick, Council Member Mackovjak, Council Member Bishop, Council Member M. Taylor

Motion Passed

UNFINISHED BUSINESS

- 11. CY24-10 Resolution asserting unfettered public access to the Falls Creek lands via the Hydro Road is a Public Right *(40 minutes 37 seconds)*

Motion made by Vice Mayor B. Taylor to postpone Item #10: A Resolution by the City of Gustavus Asserting that Unfettered Public Access to the Falls Creek Lands Via the Hydro Road is a Public Right to a time certain, the June 10, 2024 Gustavus City Council General Meeting.

Seconded by Council Member Patrick

Point of Order: Need an amendment to the motion because it is item #11 not #10. - Well Taken

Motion made by Vice Mayor B. Taylor to postpone Item #11: A Resolution by the City of Gustavus Asserting that Unfettered Public Access to the Falls Creek Lands Via the Hydro Road is a Public Right to a time certain, the June 10, 2024 Gustavus City Council General Meeting.

Seconded by Council Member Patrick

Council Debate:

Vice Mayor B. Taylor

Council Member M. Taylor

Voting Yea: Mayor Owens, Vice Mayor B. Taylor, Council Member Driscoll, Council Member Patrick, Council Member Mackovjak, Council Member Bishop, Council Member M. Taylor

Motion Passed.

NEW BUSINESS

12. CY24-12 Resolution establishing a conservation lands advisory committee

(45 minutes 26 seconds)

Motion made by Council Member M. Taylor to approve CY24-12 Resolution establishing a conservation lands advisory committee.

Seconded by Vice Mayor B. Taylor

Point of Order by Vice Mayor B. Taylor - Need to read the resolution - Well taken

Resolution read by Vice Mayor B. Taylor

Public comment: None

Council debate: None

Voting Yea: Mayor Owens, Vice Mayor B. Taylor, Council Member Driscoll, Council Member Patrick, Council Member Mackovjak, Council Member Bishop, Council Member M. Taylor

Motion Passed

13. FY24-15NCO Budget for Fiscal Year 2025 (public hearing 06-10-2024)

(51 minutes 17 seconds)

Motion made by Council Member Bishop to introduce FY24-15NCO Budget for Fiscal Year 2025.

Seconded by Vice Mayor B. Taylor

Summary by City Treasurer, Ben Sadler

Public Comment: None

Council Debate:

Council Member Driscoll

City Administrator Leary

Council Member Driscoll

Parliamentary clarification: Clerk Barker- Public comment has closed for this agenda item

Vice Mayor B. Taylor

Council Member Bishop

Council Member Driscoll

Council Member Bishop

Point of Order by Vice Mayor B. Taylor - Keep it to council debate - well taken

Vice Mayor B. Taylor

City Administrator Leary

Mayor Owens

Point of Order by Clerk Barker - Each council member gets two chances to speak during debate - well taken Item #1.

Voting Yea: Mayor Owens, Vice Mayor B. Taylor, Council Member Patrick, Council Member Mackovjak, Council Member Bishop, Council Member M. Taylor

Voting Nay: Council Member Driscoll

Motion Passed

14. FY24- 16NCO Amendment of Departmental Budgets in Fiscal Year 2024 (public hearing 06-10-2024) *(1 hour 10 minutes 49 seconds)*

Motion made by Council Member Patrick to introduce FY24- 16NCO Amendment of Departmental Budgets in Fiscal Year 2024.

Seconded by Council Member Mackovjak.

Summary by City Treasurer, Ben Sadler

Public Comment: None

Council Debate: None

Voting Yea: Mayor Owens, Vice Mayor B. Taylor, Council Member Driscoll, Council Member Patrick, Council Member Mackovjak, Council Member Bishop, Council Member M. Taylor

Motion Passed

15. FY24-17NCO Same Old Road Drainage Improvement Project (public hearing 06-10-2024) *(1 hour 15 minutes 16 seconds)*

Motion made by Council Member Driscoll to introduce FY24-17NCO Same Old Road Drainage Improvement Project.

Seconded by Council Member M. Taylor

Summary by Council Member M. Taylor

Public Comment: None

Council Comment: None

Voting Yea: Mayor Owens, Vice Mayor B. Taylor, Council Member Driscoll, Council Member Patrick, Council Member Mackovjak, Council Member Bishop, Council Member M. Taylor

Motion Passed

CITY COUNCIL REPORTS

16. Coffee with Council *(1 hour 18 minutes 03 seconds)*

Council Member Driscoll provided a brief update about the upcoming Coffee with Council event.

17. City Beautification *(1 hour 18 minutes 45 seconds)*

Council Member Driscoll provided a brief update.

18. Payment Processing Fees/Bank Service Charge *(1 hour 19 minutes 44 seconds)*

Vice Mayor B. Taylor provided a brief update.

19. SS4A Grant (1 hour 22 minutes 25 seconds)

Council Member Mackovjak provided a brief update.

20. Mayor's Report (1 hour 23 minutes 26 seconds)

Mayor Owens submitted a written report and provided an oral summary.

CITY COUNCIL QUESTIONS AND COMMENTS (1 hour 25 minutes 00 seconds)

Council Member Driscoll - PFAS presentation

Mayor Owens

Clerk Barker

City Administrator Leary

Council Member Mackovjak - Senator Kiehl will be in Gustavus 5/23/24

Council Member Bishop - thanks for all those advocating for library

PUBLIC COMMENT ON NON-AGENDA ITEMS (1 hour 36 minutes 06 seconds)

Sally McLaughlin - Thanks for the efficient meeting

Jim Kearns - Pave Willson Rd, appreciation for starting the wave barrier process, and suggested adding the credit card fee to the user

EXECUTIVE SESSION

None

ADJOURNMENT (1 hour 34 minutes 35 seconds)

With no further business and hearing no objections, the meeting was adjourned at 8:35 PM.

POSTED ON: May 8, 2024 at P.O, Library, City Hall & <https://cms.gustavus-ak.gov/>

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VISION STATEMENT

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- That prospers while and by protecting its natural resources;
- With a sustainable economy and infrastructure that assures public health and safety while promoting personal development and initiative; and
- Where all members take social responsibility and actively participate in decision making affecting growth, development, regulation and enforcement; and
- In which people retain a closeness with and caring for each other individually and collectively while working together to accomplish community goals and preserve community traditions.

Shelley K. Owens, Mayor

Date

Attest: Liesl M. Barker, City Clerk

Date

DRAFT General Meeting Agenda and Packet

**CITY OF GUSTAVUS, ALASKA
ORDINANCE FY24-15NCO
AN ORDINANCE FOR THE CITY OF GUSTAVUS PROVIDING FOR THE ESTABLISHMENT
AND ADOPTION OF THE BUDGET FOR FISCAL YEAR 2025**

BE IT ENACTED BY THE GUSTAVUS CITY COUNCIL AS FOLLOWS:

Section 1. Classification. This is a **Non-Code Ordinance**

Section 2. General Provisions. The attached document is the authorized budget of revenues and expenditures for the period July 1, 2024 through June 30, 2025 and is made a matter public record.

Section 3. Effective Date. This ordinance becomes effective upon its adoption by the City Council.

DATE INTRODUCED: *May 13, 2024*

DATE OF PUBLIC HEARING: *June 10, 2024*

PASSED and **APPROVED** by the Gustavus City Council this XX day of _____, 2024.

Shelley K. Owens, Mayor

Attest: Ben Sadler, City Treasurer

Attest: Liesl M. Barker, City Clerk

**CITY OF GUSTAVUS, ALASKA
ORDINANCE FY24-15NCO
AN ORDINANCE FOR THE CITY OF GUSTAVUS PROVIDING FOR THE ESTABLISHMENT
AND ADOPTION OF THE BUDGET FOR FISCAL YEAR 2025**

BE IT ENACTED BY THE GUSTAVUS CITY COUNCIL AS FOLLOWS:

Section 1. Classification. This is a **Non-Code Ordinance**

Section 2. General Provisions. The attached document is the authorized budget of revenues and expenditures for the period July 1, 2024 through June 30, 2025 and is made a matter public record.

Section 3. Effective Date. This ordinance becomes effective upon its adoption by the City Council.

DATE INTRODUCED: *May 13, 2024*

DATE OF PUBLIC HEARING: *June 10, 2024*

PASSED and **APPROVED** by the Gustavus City Council this 13th day of May, 2024.

Shelley K Owens, Mayor

Attest: Ben Sadler, City Treasurer

Attest: Liesl M Barker, City Clerk

**CITY OF GUSTAVUS, ALASKA
ORDINANCE FY24-16NCO
AN ORDINANCE FOR THE CITY OF GUSTAVUS PROVIDING FOR THE AMENDMENT OF
DEPARTMENT BUDGETS FOR FISCAL YEAR 2024**

BE IT ENACTED BY THE GUSTAVUS CITY COUNCIL AS FOLLOWS:

Section 1. Classification. This is a **Non-Code Ordinance**

Section 2. For the Fiscal Year of 2024 estimated expenditures have changed from the estimates in the approved budget.

Section 3. For the current fiscal year, the budget is amended to reflect the changed estimates as follows:

Budget Category	Amounts		
	Original Budget	Amended Budget	Change
INCOME			
Federal Revenue:PILT	\$ 130,000.00	\$ 152,913.58	\$ 22,913.58
Tax Income:Retail Sales Tax	\$ 415,000.00	\$ 430,000.00	\$ 15,000.00
Tax Income:Remote Sales Tax	\$ 56,000.00	\$ 70,000.00	\$ 14,000.00
Total Change in Income			\$ 51,913.58

EXPENSE	Amounts		
	Original Budget	Amended Budget	Change
Admin:Administrative Costs	\$ 35,000.00	\$ 46,235.50	\$ 11,235.50
Admin:Bank Service Charges	\$ 3,100.00	\$ 8,500.00	\$ 5,400.00
Admin:Utilities	\$ 2,900.00	\$ 5,500.00	\$ 2,600.00
Admin:Travel	\$ 13,000.00	\$ 15,407.89	\$ 2,407.89
DRC:Bank Service Charges	\$ 1,600.00	\$ 2,400.00	\$ 800.00
DRC:Utilities	\$ 2,900.00	\$ 3,500.00	\$ 600.00
GVFD:Bad Debt	\$ 0	\$ 4,332.00	\$ 4,332.00
GVFD:Utilities	\$ 4,000.00	\$ 5,000.00	\$ 1,000.00
GVFD:Stipend	\$ 6,000.00	\$ 3,000.00	<\$ 3,000.00>
GVFD:Supplies	\$ 7,500.00	\$ 10,500.00	\$ 3,000.00
Total Change in Expense			<\$28,375.39>

Section 4. The budget is hereby amended as indicated and any portion of the approved

budget inconsistent with this amendment is repealed.

Section 5. Effective Date. This ordinance becomes effective upon its adoption by the Gustavus City Council.

DATE INTRODUCED: *May 13, 2024*

DATE OF PUBLIC HEARING: *June 10, 2024*

PASSED and **APPROVED** by the Gustavus City Council this ___ day of _____, 2024.

Shelley K Owens, Mayor

Attest: Ben Sadler, City Treasurer

Attest: Liesl M. Barker, City Clerk

DRAFT General Meeting Agenda and Packet

**CITY OF GUSTAVUS, ALASKA
ORDINANCE FY24-17NCO**

**AN ORDINANCE FOR THE CITY OF GUSTAVUS PROVIDING FOR THE AMENDMENT OF
THE CITY HELD ACCOUNTS IN FISCAL YEAR 2024**

BE IT ENACTED BY THE GUSTAVUS CITY COUNCIL AS FOLLOWS:

Section 1. Classification. This is a **Non-Code Ordinance**

Section 2. For the Fiscal Year of 2024, the following City held account balance transfers are to be made for the reasons stated.

Section 3. For the current fiscal year, City held accounts are amended to reflect the changes as follows:

CITY HELD ACCOUNTS	Amounts		Change
	Account Balance*	Amended Balance	
Capital Current – CP24-02 RM <i>Initial funding for CP24-02, Same Old Road Drainage Project</i>	\$ 0.00	\$ 70,923.00	\$ 70,923.00
Capital Project Long-term <i>This transfer will move funds from Capital Project Long-Term to Capital Project Current. These funds may be moved to FNBA Checking if needed to cover costs of the above-named Capital Project CP24-02, Same Old Road Drainage Project.</i>	\$ 1,001,206.57	\$ 930,283.57	\$ 70,923.00
Total Change in City Held Account Balances			\$ 0.00

Section 4. The City held accounts are hereby amended as indicated.

Section 5. Effective Date. This ordinance becomes effective upon its adoption by the Gustavus City Council.

DATE INTRODUCED: *May 13, 2024*

DATE OF PUBLIC HEARING: *June 10, 2024*

PASSED and **APPROVED** by the Gustavus City Council this XX day of June, 2024.

Shelley K. Owens, Mayor

Attest: Ben Sadler, City Treasurer

Attest: Liesl M. Barker, City Clerk

**CITY OF GUSTAVUS, ALASKA
ORDINANCE FY24-18NCO**

**AN ORDINANCE FOR THE CITY OF GUSTAVUS PROVIDING FOR THE AMENDMENT OF
THE CITY HELD ACCOUNTS IN FISCAL YEAR 2024**

BE IT ENACTED BY THE GUSTAVUS CITY COUNCIL AS FOLLOWS:

Section 1. Classification. This is a **Non-Code Ordinance**

Section 2. For the Fiscal Year of 2024, the following City held account balance transfers are to be made for the reasons stated.

Section 3. For the current fiscal year, City held accounts are amended to reflect the changes as follows:

CITY HELD ACCOUNTS	Amounts		
	Account Balance*	Amended Balance	Change
CP24-02 Firehall Building Painting	\$ 0	\$ 26,900.00	\$ 26,900.00
AMLIP Repair & Replace	\$ 387,528.92	\$ 360,628.92	<\$ 26,900.00>
Total Change in City Held Account Balances			\$ 0.00

Section 4. The City held accounts are hereby amended as indicated.

Section 5. Effective Date. This ordinance becomes effective upon its adoption by the Gustavus City Council.

DATE INTRODUCED: June 3, 2024
DATE OF PUBLIC HEARING: June 10, 2024

PASSED and **APPROVED** by the Gustavus City Council this XX day of June, 2024.

Shelley K Owens, Mayor

Attest: Ben Sadler, City Treasurer

Attest: Liesl M Barker, City Clerk

**CITY OF GUSTAVUS, ALASKA
RESOLUTION CY24-10**

**A RESOLUTION BY THE CITY OF GUSTAVUS ASSERTING THAT UNFETTERED PUBLIC
ACCESS TO THE FALLS CREEK LANDS VIA THE HYDRO ROAD IS A PUBLIC RIGHT**

WHEREAS, Falls Creek lands were transferred from Glacier Bay National Park to the State of Alaska to enable development of the Falls Creek Hydroelectric Facility with the express intention that the lands would remain open and accessible for public recreational use; and,

WHEREAS, the transferred lands are within the boundaries of the City of Gustavus; and,

WHEREAS, the Falls Creek Hydroelectric Project was developed in 2009 by Gustavus Electric Company, the utility then serving the City of Gustavus, and

WHEREAS, the legal basis for public access to and recreation in the Falls Creek Hydroelectric Project area is found in the Federal Power Act (FPA), Section 4e, requiring the Federal Energy Regulatory Commission (FERC) to give **equal consideration to other beneficial public uses**, including environmental and recreational concerns. This stipulation is reflected in the Final Environmental Impact Statement (FEIS) of June 17, 2004, and in the FERC License Order, Project No. 11659-002 of October 29, 2004. The FERC license requires the Project to have an approved Road Management Plan (Article 417) and a Public Access and Recreation Plan (Article 418); and,

WHEREAS, in 2005, the Gustavus Electric Company completed the Road Management Plan and the Public Access and Recreation Plan, and both were approved by FERC; and,

WHEREAS, in 2009, Gustavus Electric Company, as original owner of the Falls Creek hydroelectric facility, purchased and recorded the required access and utility easements along the route of the spur road, now known as the Hydro Road, from adjacent property owners The Olney Trust (Bear Track Inn), Roger Schnabel, and Glen T. Schrank conforming to the license order requirements. All parties knew, or should have known, that public access along the route was an essential element of the project; and,

WHEREAS, the Falls Creek Hydro Road construction was substantially publicly funded, and the road is now maintained by the utility with revenue derived from Gustavus ratepayers; and,

WHEREAS, the first 286 feet, or more, of the Hydro Road north of Rink Creek Road are entirely within the platted, dedicated, access and utility easement along the east edge of the Bear Track Ridge Subdivision, as indicated by the attached 2023 as-built survey by John Bean, RLS; and,

WHEREAS, since construction, the Hydro Road has been a popular hiking and recreation destination for Gustavus residents and visitors to the community; and,

WHEREAS, the Bear Track Inn website has for years advertised the Falls Creek hike as one of the “top hiking trails in Gustavus,” acknowledging that “Falls Creek is part of a hydroelectric project created for the City of Gustavus.” <https://beartrackinn.com/blog/top-hiking-trails-in-gustavus/> [Last accessed March 23, 2024]; and,

WHEREAS, Alaska Power and Telephone Company (AP&T) purchased Gustavus Electric Company, with the Falls Creek Hydroelectric facility, and the FERC license was transferred to Alaska Power Company (APC) a subsidiary of AP&T in 2014; and,

WHEREAS, in 2015, AP&T assessed conformance of the Falls Creek Hydro Project with the requirements of the Public Access and Recreation Plan, confirmed the rights of the public to access via the Hydro Road, and recommended minor amendments in the Plan, which were approved by FERC on March 2, 2016; and,

WHEREAS, AP&T has assured public access and recreation in accordance with the terms of the FERC license and the project Public Access and Recreation Plan as amended, providing recreational amenities such as signage, maintained overlooks, picnic tables, an informational booklet, and a website explaining: “As mitigation for constructing this project, recreation is allowed on project lands as well as providing access to National Park lands and Wilderness Areas around the project.”; and,

WHEREAS, AP&T is the Hydro Road’s responsible operating and maintenance authority and assures public access as required by the FERC License Order; and,

WHEREAS, from initial construction in 2009 until 2022, the public enjoyed unfettered access to the Falls Creek area via the Hydro Road as AP&T “grantees” or “invitees.” This *open and notorious use* has occurred for 13 years with the full knowledge of adjacent property owners who had sold easements for the road; and,

WHEREAS, the Hydro Road hike is a vital location for healthy recreation and exercise for Gustavus residents and visitors; and,

WHEREAS, beginning in 2022, the new management of the Bear Track Inn, David and Michelle Olney, posted the Hydro Road entrance as a “Private Road” and began insisting the public using the road must now seek the Olney’s permission, agree to limitations contrary to the Public Access and Recreation Plan and must sign agreements to use the road; and,

WHEREAS, the members of the public who use the road in accordance with provisions of the FERC license and the Public Access and Recreation Plan have since Summer 2022 been confronted and harassed by the Olney family to the extent that some no longer feel comfortable exercising their public right to travel on the road; and,

WHEREAS, the Olneys have expressed concern that they may be liable for claims made in the case of user accident or injury. However, in the easement that the Olneys sold for the project

the utility company indemnifies, saves the Bear Track Inn and the Olney Trust harmless, and is required to defend the Olney Trust for such claims; and,

WHEREAS, FERC representatives in a video conference meeting with the Olneys, AP&T, and the City of Gustavus on February 2, 2024, confirmed that AP&T must assure unfettered public access from Rink Creek Road via the Hydro Road in compliance with the license terms and that AP&T as project owner controls that access to the Falls Creek project area; and,

WHEREAS, the Olneys continue to assert that they control access to the Hydro Road.

NOW THEREFORE BE IT RESOLVED that the City Council of Gustavus, Alaska, for the reasons above and in defense of the public interest, declares that the public, including both Gustavus residents and visitors to the community, has the right of unfettered access to Falls Creek via the Hydro Road, in accordance with the terms of the FERC License order, the Road Management Plan, and the Public Access and Recreation Plan (as amended).

NOW THEREFORE BE IT FURTHER RESOLVED that the Gustavus City Council urges public travelers on Hydro Road from Rink Creek Road to the Project entry gate to respect private properties and operations along the road. Users should not stray from the graveled road, should drive responsibly, and avoid disturbances that may impact neighboring properties or occupants. Any excursions outside the road easements without permission of the private property owners may constitute trespass. Similar respect is also due the two posted, privately-owned, Native allotments beyond the gate within the State of Alaska lands.

NOW THEREFORE BE IT FURTHER RESOLVED that the Gustavus City Council respectfully asks the Alaska Power and Telephone Company, as the Hydro Road operating authority, to take the following actions:

- Post a notice on the Gustavus Resources page of the AP&T website to this or similar effect: “AP&T as the operating authority of the Hydro Road, in accordance with the terms of its Federal license to operate the Falls Creek Hydroelectric Project, and with the access easements acquired by the utility for the project, is the sole authority controlling access and use of the Hydro Road outside the dedicated public easement along the Bear Track Ridge subdivision. Public access to the Falls Creek area and the National Park lands beyond via the Hydro Road is an absolute condition of the Federal license. To that end, AP&T invites the public to use the Hydro Road within the acquired easements from Rink Creek Road to the project entry gate as provided in the project’s Public Access and Recreation Plan. Responsible transit with respect for private properties on both sides of the road is essential.”
- Notify the owners of the Bear Track Inn that they may not interfere with public recreational use of the Hydro Road and ask them to remove all non-compliant signage within the Hydro Road easements.
- Consider installation of signage at the beginning of the road informing recreational users of the necessity for respectful and safe use of the Hydro Road as informed by the Road Management and Public Access and Recreation Plans.

PASSED and **APPROVED** by the Gustavus City Council this XX day of ____ 2024, and effective upon adoption.

Shelley K. Owens, Mayor

Attest: Liesl M. Barker, City Clerk

Attachments: As-built survey

DRAFT General Meeting Agenda and Packet

Coffee with Council at the GCC

Top Priorities



Pressing Topics

We want to hear from you.

June 2nd Saturday Market
June 8, 2024 12:30pm-2:30pm