



CITY OF NORTH POLE
Regular Meeting
September 20, 2021
North Pole Council Chambers
125 Snowman Lane, North Pole, Alaska
www.northpolealaska.com

Monday, September 20, 2021
Committee of the Whole: 6:30 PM
Regular City Council Meeting: 7:00 PM

MAYOR

Michael Welch
488-8584

CITY CLERK

Kathryn Weber, MMC
488-8583

COUNCIL MEMBERS

Thomas McGhee – Mayor Pro Tem	455-0010
Aino Welch – Deputy Mayor Pro Tem	488-5834
Perry Walley – Alt. Deputy Mayor Pro Tem	347-0135
DeJohn Cromer	347-2808
David Skipps	750-5106
Santa Claus	388-3836

- 1. Call to Order/Roll Call**
- 2. Pledge of Allegiance to the US Flag**
- 3. Invocation**
- 4. Approval of the Agenda**
- 5. Approval of the Minutes**
Not Available Due To Staffing Issues.
- 6. Communications from the Mayor**
- 7. Council Member Questions of the Mayor**
- 8. Communications from Department Heads, Borough Representative and the City Clerk**
- 9. Ongoing Projects Report**

10. Citizens Comments (Limited to five (5) minutes per Citizen)

Old Business:

None

New Business:

- a. Request Approval to Award Low-Cost Bidder the Purchase of an Excavator to Totem for 65,250.
- b. Request to Transfer an Additional \$100,000 from Sewer Reserves to Sewer Fund / Deferred Maintenance for Removal and Disposal of Stockpiled Sewer Sludge.
- c. Request to Reimburse William Butler \$428.13 for Cell Phone Charges Associated with a 2020 Part Time Summer Hire.
- d. Provide Direction to Utility Department for Resolution of Josey Baumgartner Delinquent Utility Account.

11. Council Comments

12. Adjournment

How to Offer Public Testimony at Council Meetings

Written testimony is encouraged. You may submit your comments by calling the Clerk's Office at 488-8594 or by sending an email to TFogarty@northpolealaska.org prior to 1:00 p.m. the day of the meeting. Please indicate which agenda item you are providing written testimony for. Examples: Ordinance or Resolution number, agenda item#, or description of subject.

To sign-up for **telephonic testimony** call the Clerk's Office at 488-8594 or email TFogarty@northpolealaska.org prior to 1:00 p.m. the day of the meeting. Please indicate that you wished to be called, for what item you will provide testimony on, and what number you can be reached at. Council Meetings are aired **live via audio streaming** from the City's website at <https://www.northpolealaska.com/citycouncil/page/council-meeting-audio-stream>.

Inquiries concerning ADA compliance or accommodations should be directed to the City Clerk.

Memo

To: North Pole City Council
From: Bill Butler
Date: September 15, 2021
Subject: Approve purchase of an excavator from Totem for \$65,250.00

Recommendation

Approve purchase of an excavator from Totem for \$65,250.00.

Background

The City Council tasked the Public Works Department (PWD) to implement measures to reduce flooding in the Highway Park Subdivision. The PWD posed the purchase of land to create a stormwater catchment pond and purchase of an excavator so that they could more efficiently open blocked culverts and drainage ditches.

On August 9, 2021 PWD released an invitation to bid for a mini-excavator. The bids were due on August 23, 2021. We received seven bids (see below). All the bids were responsive.

COMPANY NAME	Base Bid price	Added Alternate #1 Price
Totem Equipment & Supply	\$65,250.00	\$11,500.00
CMI (Volvo ECR50F)	\$65,950.00	\$14,795.00
Equipment Sources, Inc.	\$69,790.00	NA
Craig Tailor Equipment	\$70,952.00	NA
CMI (Hitachi ZX50U)	\$72,295.00	\$14,795.00
NC Machinery	\$78,000.00	\$14,100.00
Airport Equipment Rental	\$80,842.00	NA

Memo

To: North Pole City Council
From: Bill Butler
Date: September 16, 2021
Subject: Approve the transfer of an additional \$100,000 for funding for the removal, treatment and disposal of stockpiled sewer sludge by US Ecology

Recommendation

Approve the transfer of an additional \$100,000 for funding for the removal, treatment and disposal of stockpiled sewer sludge by US Ecology

Background

In 2011 the Utility conducted a sludge removal project funded with a Municipal Matching Grant. The project removed and stored approximately 175 dry tons at a site adjacent to the wastewater treatment plant (WWTP). When the Utility tested its wastewater effluent in 2019 for PFAS compounds, we detected such compounds. This result caused the Utility to test for sources of PFAS compounds in the wastewater collection system and the stored sludge. We detected PFAS compounds in the stored sludge. As a precaution, the Utility decided it would be prudent to dispose of the sludge. Fortunately, there is a firm in North Pole, US Ecology, that has been approved by the EPA to treat and dispose of soil, sewer sludge and other materials containing with PFAS compounds.

The Utility requested a quote from US Ecology to remove, treat and dispose of the sewer sludge stored next to the WWTP. Unfortunately, there is a difference between volume and tonnage. Over time despite there being a plastic trap and soil cap over the sludge pile, the sludge has become wet. US Ecology has already removed approximately 175 tons. Based upon the size of the remaining pile and tonnage removed to date, US Ecology estimates that the total tonnage of stored sludge is in the range of 235 tons. (See attached estimate.)

Now that the process has begun to remove the sludge, we are in the position that it needs to be completed due to the declining temperatures. In addition, even if we covered the exposed pile with tarps for the winter, during breakup additional water will enter the sludge increasing the tonnage.

Late notification from US Ecology and an internal miscommunication has resulted in there not being enough time to get an ordinance and fiscal note before the Council for a vote to approve the needed additional funding. I am requesting that the Council consider this a critical, times sensitive project as it did for the Police Department COVID building project and that you authorized the Utility to proceed with the project. An ordinance and fiscal note will be presented to the Council at the October 4 Council meeting and the second reading at the October 18 meeting. Copies of the proposed ordinance and fiscal note are attached.

From: [Larry Hestilow](#)
To: [Bill Butler](#)
Subject: updated estimate
Date: Tuesday, September 14, 2021 1:48:04 PM
Attachments: [image001.png](#)

Mr. Butler,

Per our phone conversation, please see the below updated estimate. The operator on site believes there to be an additional 100 tons of PFAS contaminated sludge. The below estimate includes equipment and labor to remove the additional soil as well as the original estimated soil.

LABOR	QTY	UOM	RATE	TOTAL
PROJECT ADMIN	1	HOUR	\$75.00	\$75.00
EQUIPMENT OPERATOR (straight time)	24	HOUR	\$80.00	\$1,920.00
EQUIPMENT OPERATOR (over time)	12	HOUR	\$120.00	\$1,440.00
LABOR TOTAL:				\$3,435.00

EQUIPMENT	QTY	UOM	RATE	TOTAL
BULK SOLIDS SINGLE SIDE DUMP	28	HOUR	\$168.00	\$4,704.00
EXCAVATOR	3	DAY	\$1,187.00	\$3,561.00
EQUIPMENT DROP OFF/ PICK UP	2	EACH	\$500.00	\$1,000.00
PRESSURE WASHER	2	DAY	\$159.00	\$318.00
PICKUP TRUCK	2	DAY	\$187.00	\$374.00
EQUIPMENT TOTAL:				\$9,957.00

DISPOSAL	QTY	UOM	RATE	TOTAL
PFAS CONTAMINATED SEWER SLUDGE	335	TON	\$619.00	\$207,365.00
DISPOSAL TOTAL:				\$207,365.00

PROJECT SUMMARY:

<i>LABOR</i>	<i>\$3,435.00</i>
<i>EQUIPMENT</i>	<i>\$9,957.00</i>
<i>DISPOSAL</i>	<i>\$207,365.00</i>
<i>ESIC FEE 13.5% OF TOTAL INVOICE</i>	<i>\$29,802.20</i>
<i>ESTIMATED PROJECT TOTAL:</i>	<i>\$250,559.20</i>

Larry Hestilow

Customer Service Specialist
 1315 Queens Way, Fairbanks, AK 99701
 p: 907-328-7027 c: 907-251-0923
Larry.Hestilow@usecology.com



24-Hour Emergency Response: (800) 899-4672

**CITY OF NORTH POLE
ORDINANCE 21-16**

**AN ORDINANCE OF THE CITY OF NORTH POLE, ALASKA TO
TRANSFER AN \$100,000 OF ADDITIONAL FUNDING FOR REMOVAL,
TREATMENT AND DISPOSAL OF STOCKPILED SEWER SLUDGE BY US
ECOLOGY**

WHEREAS, changes to North Pole Utility practices and policies is a continually changing requirement; and,

WHEREAS, the City of North Pole budget should be amended to conform to the requirements of the City; and,

WHEREAS, adjustment in the budget are necessary to remain compliant with Council approved authorizations and budget management rules, and

WHEREAS, fiscal notes are the method prescribed by the code to amend a budget; and,

WHEREAS, the fiscal note has been reviewed by the Accountant and Mayor for accuracy and will be recorded as amendments to the budget upon approval,

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of North Pole that it approves changes as listed in the fiscal note attached to this ordinance totaling \$100,000 to finance the removal, treatment and disposal of stockpiled sewer sludge by US Ecology as presented in the attached quote. The approved funding exceeds the quote to allow for any unforeseen change orders.

Section 1. This ordinance is of a general nature and shall not be codified.

Section. Effective date.

This ordinance shall become effective immediately upon passage.

PASSED AND ADVANCED by a duly constituted quorum of the North Pole City Council this 20th day of September 2021.

Michael W. Welch, Mayor

ATTEST:

Tricia Fogarty Acting, North Pole City Clerk

PASSED/FAILED Yes: No: Absent:

Memo

To: North Pole City Council
From: Bill Butler
Date: September 15, 2021
Subject: Approve reimbursement of William Butler \$428.13 for cell phone chargers.

Recommendation

Approve reimbursement of William Butler \$428.13 for cell phone chargers.

Background

In spring 2020, the individual the Utility Department hired to conduct service line installations for the North Pole Expansion needed a work cell phone. When I went to get a contract from AT&T, the local office could not add a new cell phone to the existing Utility business cell phone account. To start the account immediately, I used my personal credit card with the intention of transferring the account to my City credit card. In the rush of the summer 2020 construction season, I forgot to make this transfer.

In October 2020, the part-time employee returned the phone to me after he stopped working for the City. In November 2020 I went to the local AT&T office, showed them the phone and told them I needed the service ended. They checked the phone and the phone number and assured me the service was canceled. In December 2020 when clean my desk drawer I was trying to decide what to do with a no longer needed phone, switched it on and was surprised to learn it was still active. I checked my credit card statement and there was an AT&T charge of \$47.57 per month from May 2020 thru December 2020. This time I did not ask the local AT&T dealer to cancel the service, but I made a claim with my credit card provider to have the charges from December 2020 forward be halted. AT&T continued to charge my credit card \$7.57 thru February 2021, but my credit card company reimbursed me the charges for January and February 2021.

125 Snowman Lane
North Pole, Alaska 99705
(907) 488-8593
(907) 488-3002 (fax)
bill.butler@northpolealaska.org

City of North Pole
Director of City Services

Memo

To: North Pole City Council
From: Bill Butler
Date: September 15, 2021
Subject: Delinquent utility account for 2623 Roseanne Court

Recommendation:

The City Council apply the precedent that it has applied to past delinquent utility accounts where the property owner is liable for all expenses incurred by the Utility for the delinquent utility account. Method for the property owner to pay the Utility's expenses can be a Confession of Judgement (payment plan); lump sum payment or allow the City Attorney to proceed with foreclosure of the property.

Background

On February 29, 2020, there was a fire at 2623 Roseanne Court. The property is located in Zone 1 of the North Pole Expansion and the water service to the property was installed by Exclusive Paving and their subcontractors. The service line installation contract was between Flint Hills Resources Alaska (FHR) and Exclusive Paving, not the City of North Pole. The cost of the installation was funded by the legal settlement between the State of Alaska, FHR and City.

The service line installation material was HDPE pipe and the heat of the fire melted the pipe resulting in uncontrolled wastage of water. The Utility Department determined that the condition of the structure due to the fire was not safe to enter the building to stop the wastage of water. Due to the climatic conditions in the Interior, water service connections are run in a loop and there is no means to install a street-side shutoff valve at the water main. The only means available to halt the water wastage was to excavate on the water service lines and disconnect them from the water main—the standard operating procedure for the Utility.

The Utility hired Exclusive Paving to do the excavation and disconnection of the water service due to their experience with this service installation and their availability of equipment to mobilize quickly due the winter conditions. Exclusive disconnected the damage water service at the main on March 2, 2020. To ensure that the Utility can get reliable service from contractors, its policy is to pay the contractor and the City then collects the expenses from the property owner. The Utility paid Exclusive's invoice of \$4,955.00 on March 5, 2020.

The North Pole Expansion loaded a \$2,000 credit on new service line connections. The Utility applied the balance of the utility credit (\$1,479.85) to partially reimburse the Utility for the cost of the disconnection. The account holder, Josey Baumgartner was notified on March 9, 2020 of the costs he was responsible to halt the water wastage that was occurring due to the damaged water service lines. (See attached correspondence.) The Utility followed the North Pole Municipal Code process for recovering delinquent utility accounts. (See attached Chapter 13.28 Lien on Real Estate for Delinquent Utility Payments and Account Resolution Procedures.) The final resolution of this process is placing a lien on a property and turning the account over to the City Attorney for resolution. Once the delinquent account is turned over to the Attorney for collection, the attorney fees are added to the delinquent utility expenses.

Also attached is a correspondence between Josey Baumgartner and the City Attorney.



CITY OF NORTH POLE

Alaska

"Where the Spirit of Christmas Lives Year Round"

125 Snowman Lane • North Pole, Alaska 99705-7708

E-mail: mayor@northpolealaska.com • Website: www.northpolealaska.com

March 9, 2020

City Hall
907-488-2281
Fax: 907-488-3002

Josey Baumgartner

Mayor
907-488-8584

RE: Disconnection of water service to 2623 Roseanne Court

City Clerk
907-488-8583

Dear Josey Baumgartner:

Police
Department
907-488-6902

In early March 2020, the North Pole Utility received a report of a water leak at 2623 Roseanne Ct, North Pole. Upon investigation, the Utility learned that as a result of a fire, the service lines to the property were damaged, there was no heat to the structure and the water service could not be restored nor could the water leak be stopped at the residence. The only means available to halt the wasting of water from the damaged service was to disconnect the water service lines at the water main. Because of our climate, it is not possible to install shutoff valves that are accessible at the surface.

Fire
Department
907-488-2232

To disconnect the water service, the City hired Exclusive Paving to expose the service lines at the main, turn off the water service and disconnect the service lines from the water main. The water lines were disconnected to drain the remaining water from the lines to protect them from future freezing.

Utilities
907-488-6111

Director of
City Services
907-488-8593

According to the City of North Pole Code of Ordinances that regulate the North Pole Utility inside and outside of the city limits, the property owner is responsible for the service lines from the water main to the residence. The Code states:

Finance
907-488-8594

13.16.020 Additional conditions of service.

C. The North Pole Utility will maintain and repair all mains that have been accepted for maintenance and operation by the North Pole Utility but will not be responsible for maintaining the customer's service connection or for damage to the service connection caused by freezing that results from negligence or a willful act on the part of the customer.

D. The customer's service from point of connection to the City main or the customer's building shall be kept in repair by the owner or occupant of the premises, who shall be responsible for all breaks in the line and for any damages resulting incidentally therefrom, other than those caused by acts of the



Invoice No.: 3042020
Invoice Date: 3/4/2020
Terms: Net 30 Days

Sold To: Bill Butler
 City of North Pole
 125 Snowman Lane
 North Pole AK 99705

Remit To:
 Exclusive Paving
 P.O. Box 60750
 Fairbanks, AK 99706
Phone: (907) 488-8833

Job Name	PO #	Payment Terms
2623 Roseanne Ct Water Service Disconnect		Due upon receipt

Qty	Description	U/M	Unit Price	Line Total
1.00	2623 Roseanne Ct Water Service Disconnect	LS	\$ 4,955.00	\$ 4,955.00
Subtotal				\$ 4,955.00
Sales tax				
Total				\$ 4,955.00

If you have any questions concerning this invoice, contact Elora at (907)488-8833
 Make all checks payable to Exclusive Paving
 Thank you for your business!

COPY

Chapter 13.28

LIEN ON REAL ESTATE FOR DELINQUENT UTILITY PAYMENTS AND ACCOUNT RESOLUTION PROCEDURES

Sections:

13.28.010 Lien rights.

13.28.020 Delinquent utility account resolution process.

13.28.010 Lien rights.

A. The City of North Pole shall have a lien upon any and all real property serviced by any of the utilities referenced in this title for the payment of all charges incurred by the utility customer with the City. As according to AS 29.35.010(17), Extraterritorial jurisdiction, the City has legal authority to have a lien upon any and all real property serviced by any of the utilities to North Pole Utility customers outside of the City limits and within any water or sewer services areas authorized by the Regulatory Commission of Alaska. This lien shall be superior to any and all other liens to the maximum extent allowed under State law.

B. The Utility Billing Clerk shall maintain a list of all individuals whose utility accounts with the City become seriously delinquent (as defined in NPMC 13.28.020(C)). The list shall include the name of the individual holding the account with the North Pole Utility, the legal description of the property serviced by the North Pole Utility, and the amount delinquent. The Utility Billing Clerk shall cause a lien to be recorded for the amounts owed, including fees, costs and attorney fees, ninety days from the date of delinquency.

C. The lien created in this section may be foreclosed upon pursuant to the procedures set forth in NPMC 13.28.020.

D. The customer of the City utility shall pay all administrative fees, costs and attorney fees incurred by the City in the collection of the delinquent utility bills and said amount shall be included in the lien in favor of the City. (Ord. 19-02 § 2, 2019; Ord. 18-30 § 2, 2018; Ord. 16-16 § 2, 2016; Ord. 11-04 § 2, 2011; Ord. 99-7 § 3, 1999)

13.28.020 Delinquent utility account resolution process.

A. Past Due Accounts. When a utility account is not paid in full by the due date listed on the utility bill, the account becomes past due. When the account balance becomes past due it is assessed a late charge calculated at 0.00875 percent of the past due account balance. Failure to receive mail will not be recognized as a valid excuse for late payments. The customer whose account is past due shall receive their next regular utility bill indicating the account balance including any late and additional charges.

When a utility account for a tenant becomes past due, the landlord shall be sent a notice that their tenant's account has become past due. The notice shall state that should the tenant not pay the next utility bill in full, the account shall be declared delinquent and the utility account

shall be transferred to the landlord and the landlord shall be responsible for all past and future utility charges accrued for the account.

B. Delinquent Account. A utility account shall be declared delinquent if the balance of all charges due on the account are not paid in full by the due date for the first bill issued after the utility account became past due. If the delinquent account is for a tenant, when the account is determined to be delinquent, the North Pole Utility shall transfer the account to the property owner who will be responsible for all past and future charges assessed to the account.

1. When an account has been determined to be delinquent, the North Pole Utility will send the account holder a notice by certified mail or other mail delivery service that provides acknowledgment of delivery. The notice will provide a copy of the most recent utility bill that shows the delinquent account balance; indicates the amount of the account balance, including all additional charges; and notification that the account holder has fifteen business days from the date that the notice was mailed to pay in full the delinquent account balance or sign a legally binding confession of judgment that creates a payment plan.

a. The account balance shall include a late charge calculated at 0.00875 percent of the account balance with each successive bill that the account is past due or delinquent since the account became past due.

b. The utility account shall be assessed a liquidated damages fee of \$25 (twenty-five dollars) to process and mail the delinquent notice.

C. Seriously Delinquent Account. If a utility account is not paid in full by the due date of the second utility bill after the account became past due, the account shall be declared seriously delinquent, and the City shall do the following:

1. When an account has been declared to be seriously delinquent, the North Pole Utility will send the account holder a notice by certified mail or other mail delivery service that provides acknowledgment of delivery. The notice will provide a copy of the most recent utility bill that shows the delinquent account balance; indicates the amount of the account balance, including all additional charges; and notification that the account has been declared seriously delinquent and that the account has been turned over to the City Attorney for foreclosure.

2. If the North Pole Utility has declared a utility account to be seriously delinquent, the North Pole Utility shall add a liquidated damages charge to the account balance equal to applying and removing a lien; and turn the account over to the City Attorney for foreclosure.

3. The North Pole Utility shall be entitled to terminate water service to a delinquent utility account holder. If the account holder has neither paid the delinquent utility account balance in full by the deadline specified in the notification of serious delinquency nor signed a confession of judgment, the City may initiate action to disconnect water service to the delinquent property service address. (NPMC 13.12.130(B)).

4. All legal fees and costs associated with resolving a delinquent utility account shall be borne by the property owner. The property owner shall be responsible for the delinquent account and any associated charges, costs or attorney fees.
5. All accounts not paid in full upon completion of the above process, including account holders who fail to timely satisfy the terms of a confession of judgment, shall be subject to foreclosure of the entire parcel of real estate served by the North Pole Utility by complaint filed in the District or Superior Courts of the State of Alaska, as appropriate for the amount due. Upon presenting proof of completion of the process set forth in this chapter, and after the passage of sixty days from service of the foreclosure complaint, the City shall be entitled to a judgment of foreclosure against the real estate and judgment against the property owner, unless the account has been paid in full plus costs, attorney fees and interest incurred until the account is paid in full.
6. Upon the sale of foreclosed real estate, the property owner shall be entitled to all proceeds in excess of the amount owed to the City, after payment of all costs of sale or any other costs or attorney fees incurred by the City in collecting on the account. (Ord. 18-30 § 2, 2018; Ord. 16-16 § 2, 2016; Ord. 11-04 § 2, 2011)

TO: D. James Moxley

CGS, Inc. 714 Fourth Avenue, Suite 200

FBKS, AK 99701-4470

FROM: Josey Baumgartner

P.O. Box 74371

Fairbanks, AK 99707-4371

Email: barbieann@gci.net

September 11/21

RE: City of North Pole v. Josey Baumgartner – 4FA-21-01917C

Dear Mr. James Moxley:

This response is regarding the court letter written on my behalf on 09/02/21 from the Law offices of Zimmerman & Wallace regarding not to take any adverse action and or to seek default judgement prior to 09/15/21 for the lawsuit filed against me on 08/20/21 from the city of North Pole.

Sir, we were told this bill was waved or we would have contacted the city of North Pole and began making payments. At this time, we are under the impression that his promise will be honored.

This bill was accrued due to our house fire at 2623 Roseanne Court on 02/29/20 after damage to electrical equipment caused a fire that not only resulted in the loss of the home but also the water main. This required the installer to return and perform a water disconnect.

We contacted the City Mayor after we got this large bill and asked him to kindly wave this due to complications with insurance denying our house fire claim. The North Pole Mayor called us back and he granted our request happily with my family present, and we were very relieved and appreciative.

Later, our banker sent us a note stating, "did you know you have a lien on the Roseanne Court property?" We were completely unaware of any lien and immediately called Mayor Welsh asking if there had been a mistake somehow. He said "yes, I do remember, and I will call you back."

Following this correspondence, we soon got a disturbing call from a very hostile Mr. Butler (who after a short explanation of what the mayor had decided,) went on to yell, "HE CAN'T DO THAT, I AM THE DIRECTOR OF CITY SERVICES ETC!!!" After some further "discussion" and de-escalation of the phone call it was mentioned to contact the city council about the issue. After multiple required cancellations due to personal injury and required legal appointments, we are still in progress of pursuing this avenue of clarification for our waved fee.

Sir, we have multiple witnesses of the speaker phone conversation and were incredibly grateful to be one less financial difficulty resulting from my family's disaster.

In addition to the city mayor, we also called Exclusive Paving's General Manager who **ALSO waved this bill for digging up the water and turning it off!** We were very grateful that our community was understanding and had some compassion toward us while dealing with our home burning down.

For almost two years we have been desperately trying to right the situation with the insurance company and fire investigations. As you know, we had a mediation meeting on 09/09/21 in hopes of settlement, though the meeting has further extended the timeline for its conclusion. Lastly, as a note: it is in the opinion of Foster Wallace after viewing evidence that the fire was started due to the City Water Expansion Project.

Best Regards,

Josey Baumgartner