

Requested by: Chief Financial Officer
Adopted: July 28, 2008
Vote: Massie, Menard, Metiva, Larson and Woodruff in favor; Holler absent

**CITY OF WASILLA
RESOLUTION SERIAL NO. 08-30**

**A RESOLUTION OF THE WASILLA CITY COUNCIL APPROVING THE
ABANDONMENT OF SALES TAX CLAIM AGAINST RAVEN SPRUCE, LTD.**

WHEREAS, Raven Spruce, LTD operated a bar known as Nobody's Inn which it purchased via promissory note from Ted and Marilyn Anderson; and

WHEREAS, from April 2005 until February 2006 Raven Spruce, LTD failed to file a sales tax return to the City or remit any sales tax collected; and

WHEREAS, the Finance Department estimated the sales tax owed for this timeframe based on previous history, to which penalties and interest were assessed for a total due from Raven Spruce, LTD as of June 20, 2008 is \$67,786.62; and


WHEREAS, as of February 2006, Raven Spruce, LTD had defaulted on the note to the Andersons and the Andersons recovered the operation of the bar without any paid cash consideration to Raven Spruce, LTD; and

WHEREAS, it has been determined that neither Raven Spruce, LTD or any of its members have assets from which the City could recover, and that pursuing a claim against any related party would entail high litigation costs with a low probability of recovery; and

WHEREAS, the Chief Financial Officer and City Attorney have recommended that the abandonment of this claim is in the best interest of the City.

NOW THEREFORE BE IT RESOLVED, by the Wasilla City Council, that the City is hereby authorized to abandon the sales tax claim against Raven Spruce, LTD in the amount of \$67,786.62.

ADOPTED by the Wasilla City Council on July 28, 2008.



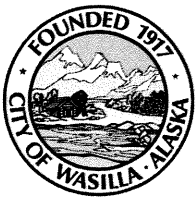
DIANNE M. KELLER, Mayor

ATTEST:



KRISTIE SMITHERS, MMC
City Clerk

[SEAL]



**CITY OF WASILLA
LEGISLATION STAFF REPORT**

RE: Resolution Serial No. 08-30: A RESOLUTION OF THE WASILLA CITY COUNCIL APPROVING THE ABANDONMENT OF SALES TAX CLAIM AGAINST RAVEN SPRUCE, LTD.

Agenda of: July 28, 2008
Originator: Chief Financial Officer

Date: July 17, 2008

Route to:	Department	Signature/Date
	Police, Youth Court, Dispatch, Code Compliance	
	Cultural and Recreation Services, Library, Museum, Sports Complex	
	Public Works, Recreation Facility Maintenance	
X	Chief Financial Officer	<i>Child-Delegin 7-17-08</i>
X	Deputy Administrator, Planning, Economic Development, Human Resources	<i>Mary Kade</i>
X	City Clerk	<i>Kom K.</i>

REVIEWED BY MAYOR DIANNE M. KELLER: *Dianne M. Keller 7/18/08*

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

Account name/number:

Attachments: Thomas Klinkner memorandum dated June 25, 2008

SUMMARY STATEMENT:

Raven Spruce, LTD owes the City of Wasilla \$67,786.62 in estimated sales tax, penalties and interest for the period of April 2005 until February 2006. The attached memorandum from the City Attorney outlines the series of events as we understand them that surround this case.

Based on analyzing the facts, the probability of collecting the total amount due, the potential cost of collection and the fact that the City would have a low probability of recovery, the Chief Financial Officer and City Attorney recommend that the Council abandon.

This is in no way meant to condone the actions of Raven Spruce, LTD.

MEMORANDUM

TO: Cheryl Deariso
Chief Financial Officer
City of Wasilla

FROM: Tom Klinkner

DATE: June 25, 2008

FILE NO. 505,780.90

RE: Delinquent Sales Tax Claim against Raven Spruce, Ltd.

You have asked for our current evaluation of the likelihood of the City realizing a net recovery on the claim for delinquent sales tax referred to above. We conclude for the reasons stated below that it is very unlikely that the City would realize a net recovery on this claim, and recommend that the account be written off.

Prior to March 2006, Raven Spruce, Ltd., a limited liability company ("Raven Spruce"), operated a bar known as Nobody's Inn in the City. Raven Spruce failed to file City sales tax returns or pay sales tax for the period from April 2005 through February 2006. The Finance Department prepared estimated sales tax returns for Raven Spruce for this period. As of July 2006, Raven Spruce owed the City a total of \$56,511.43 in estimated sales tax, penalties and interest.

A corporation named Kashim, Inc. ("Kashim") owned the liquor license for Nobody's Inn. From documents provided to the Finance Department in April 2006, it appeared that Raven Spruce had purchased shares in Kashim from Ted and Marilyn Anderson, in exchange for a promissory note. As of February 2006, Raven Spruce had defaulted on the note, and the Andersons recovered their Kashim shares and took over the operation of the bar under the name Tailgaters Sports Bar. It does not appear that the Andersons paid any cash consideration to Raven Spruce for the bar operation.

In 2006 we determined that neither Raven Spruce nor any of its members had assets from which the City could recover. We also concluded that pursuing a claim against any related party (e.g., the owner of the liquor license or the owner of the property that housed the bar), would entail high litigation costs with a low probability of recovery. Finally, we determined that a claim against the Andersons based on the provision for successor business owner liability for sales tax in WMC 5.16.130 was unlikely to succeed. Because the Andersons were recovering the bar after Raven Spruce defaulted in payment of the purchase price, there was no purchase price from which the sales tax could have been withheld. We therefore recommended that the City not pursue collection litigation because it was unlikely to result in a net recovery. We are not aware of anything occurring since that time that would change our recommendation.