



CITY AND BOROUGH OF SITKA

ASSEMBLY CHAMBERS
330 Harbor Drive
Sitka, AK
(907)747-1811

Minutes - Final

City and Borough Assembly

Mayor Gary Paxton
Deputy Mayor Steven Eisenbeisz,
Vice Deputy Mayor Valorie Nelson,
Aaron Bean, Kevin Knox, Dr. Richard Wein, Kevin Mosher

Municipal Administrator: Keith Brady
Municipal Attorney: Brian Hanson
Municipal Clerk: Sara Peterson

Tuesday, March 26, 2019

6:00 PM

Assembly Chambers

WORK SESSION 5:00 PM - CBS FINANCIAL STATEMENTS

[19-063](#)

Work Session Materials - Financial Statements

Chief Finance and Administrative Officer Jay Sweeney and Controller Melissa Haley reviewed 1st quarter FY2019 financial statements with the Assembly.

REGULAR MEETING

I. CALL TO ORDER

II. FLAG SALUTE

III. ROLL CALL

Present: 5 - Knox, Bean, Wein, Mosher, and Nelson

Absent: 2 - Eisenbeisz, and Paxton

IV. CORRESPONDENCE/AGENDA CHANGES

[19-049](#)

Reminders, Calendars and General Correspondence

None.

V. CEREMONIAL MATTERS

[19-056](#)

National Service Recognition Day

Vice Deputy Mayor Nelson read and presented a proclamation to AmeriCorps participants in recognition of National Service Recognition Day April 2. William Ortiz and Mary Elizabeth Hommel spoke to their experience as AmeriCorps members.

VI. SPECIAL REPORTS: Government to Government, Municipal Boards/Commissions/Committees, Sitka Community Hospital, Municipal Departments, School District, Students and Guests (five minute time limit)

None.

VII. PERSONS TO BE HEARD

Speaking as a member of the public, Richard Wein, spoke to the importance of a seaplane base in Sitka. He noted the FAA had earmarked funds for the project and reminded only the preapplication documents had been filed. He urged staff to move forward and complete the application process.

Garry White of the Sitka Economic Development Association (SEDA) reported on the stakeholder meeting SEDA hosted regarding the fate of the cold storage building. White reported representatives from fish processing plants and other stakeholders attended. Of note was the cost and repairs to the seawall.

VIII. REPORTS

a. Mayor, b. Administrator, c. Attorney, d. Liaison Representatives, e. Clerk, f. Other

Administrator - Brady reported he and Deputy Mayor Eisenbeisz had met with the US Coast Guard and spoke of the Governor's budget, stated interim Police Chief Robert Baty had been hired and would begin April 1, and noted he and Deputy Mayor Eisenbeisz had traveled to Juneau earlier in the month for lobbying purposes.

Liaison Representatives - Knox reported on the meetings for the Parks and Recreation Committee and the Port and Harbors Commission. Wein briefed the Assembly on the meetings of the Local Emergency Planning Committee, Tree and Landscape Committee, and the Health Needs and Human Services Commission.

Clerk - Peterson reminded of upcoming meeting dates.

IX. CONSENT AGENDA

A [19-057](#) Approve the minutes of the February 26, 28 and March 14 Assembly meetings

Wein wished to have corrections made to the March 14 minutes. Vice Deputy Mayor Nelson requested Wein work with the Clerk's Office to make those changes.

A motion was made by Knox to approve the minutes of the February 26 and 28 Assembly meetings. The motion PASSED by a unanimous voice vote.

X. BOARD, COMMISSION, COMMITTEE APPOINTMENTS

B [19-051](#) Reappoint: 1) Sheila Finkenbinder to a two-year term on the Gary Paxton Industrial Park Board of Directors in the category of At-Large, and, 2) Barbara Morse to a three-year term on the Parks and Recreation Committee

Assembly members thanked applicants for their willingness to serve.

A motion was made by Mosher that this Item be APPROVED. The motion PASSED by the following vote.

Yes: 5 - Knox, Bean, Wein, Mosher, and Nelson

Absent: 2 - Eisenbeisz, and Paxton

C [19-058](#)

Appoint: 1) Tamy Stevenson to a three-year term on the Port and Harbors Commission, and, 2) Rob Parrish to a two-year term on the Gary Paxton Industrial Park Board of Directors

Assembly members extended thanks to the applicants for their willingness to serve.

A motion was made by Knox that this Item be APPROVED. The motion PASSED by the following vote.

Yes: 5 - Knox, Bean, Wein, Mosher, and Nelson

Absent: 2 - Eisenbeisz, and Paxton

XI. UNFINISHED BUSINESS:

None.

XII. NEW BUSINESS:

D [19-050](#)

Approve signing a joint letter to Governor Michael Dunleavy in opposition to the repeal of school bond debt reimbursement

Wein offered this was a lesson and reminder to municipalities in where funding comes from, that funding from outside sources wouldn't always be available, and that there could be issues in paying back debt. Bean noted it was time to have a conversation with the public to increase the millage rate in order to have an alternative funding plan.

A motion was made by Knox that this Item be APPROVED. The motion PASSED by the following vote.

Yes: 5 - Knox, Bean, Wein, Mosher, and Nelson

Absent: 2 - Eisenbeisz, and Paxton

E [RES 19-08](#)

Supporting the Alaska Arts Southeast and Sitka Maritime Heritage Society application under the FY18 Historical Revitalization Subgrant Program (1st and final reading)

Chief Finance and Administrative Officer Jay Sweeney stated information had been brought to light with regards to the administrative responsibilities associated with the grant. Controller Haley noted the resolution was incorrectly written, it was a complicated grant program, and while the City was not technically applying for the grant, it would come to the City. Haley noted the City would need to issue a request for proposal and then ensure subgrantees could meet the federal procurement requirements. Sweeney and Haley said in order to administer the grant, additional staff resources would be needed, stated those resources could be paid for with grant monies - however, the costs to administer were unknown. In addition, Haley informed the grant was large enough that it could put the City into a situation where a single audit was triggered. Interim Planning Director Scott Brylinsky reiterated it was an

unusually structured grant program in the fact that either a statewide non profit or certified local government needed to apply and then once funding was received the City would subgrant, through a competitive process, to other entities.

Speaking from the public, applicant Rebecca Poulson, stated it was an unusual program in that the City would be running a competitive subgrant program for historic preservation open to any projects fitting the grant criteria. Poulson said the grant award would not be announced until September and felt this would give the City time to hire a temporary employee to create the program. Anne Pollnow stated this type of program was not new, Sitka had been a part of the certified local government process since 1992 and many properties had benefitted. She reminded historic preservation grants were an economic opportunity, offered jobs, and were an investment in the community. Pollnow stated the Historic Preservation Commission had approved the application and would be the ones to take on the subgrant.

Haley and Sweeney clarified previous historic preservation grants had been different and more along the lines of pass through grants and because they were often smaller projects, federal procurement rules were simpler.

Municipal Attorney Brian Hanson stated there was a substantive problem if the recitals in the resolution were incorrect and thus amendments were required.

Assembly members suggested a special meeting be held prior to the April 1 deadline to further clarify the process and correct the resolution as there were substantive changes. A recess was taken to review the resolution and once reconvened Municipal Attorney Brian Hanson offered amendments.

Knox, while supportive of the grant, expressed concern for the additional burden this would place on the Planning Department and Finance Department. Wein believed there was ample time to fine tune how this would work, however, wished to hear reports back from staff if it were problematic. Knox and Nelson noted if the grant were awarded to the City, before accepting, assurances would be needed so that staff was comfortable and there were adequate resources to administer the grant.

A motion was made by Bean to AMEND the resolution as noted by Municipal Attorney Brian Hanson. The amendment PASSED by the following vote.

Amend the following:

Line 8 - strike "Alaska Arts Southeast and Sitka Maritime Heritage Society's" and replace with "City and Borough of Sitka"

Line 20 - strike "through the grant application"

Line 26 - insert "competitively" before the words "subgranted to more than"

Line 29/30 - strike "are requesting \$375,000 each from the Historic Revitalization Subgrant Program" and replace with "have historic preservation projects eligible for the subgrants."

Line 32 - strike "Alaska Arts Southeast and the Sitka Maritime Heritage Society" and replace with "subgrantees"

Line 37 - strike "of the Alaska Arts Southeast and the Sitka Maritime Heritage"

Society"

Yes: 5 - Knox, Bean, Wein, Mosher, and Nelson

Absent: 2 - Eisenbeisz, and Paxton

A motion was made by Knox that this Resolution, as amended, be APPROVED on FIRST AND FINAL READING. The motion PASSED by the following vote.

Yes: 4 - Knox, Bean, Wein, and Nelson

No: 1 - Mosher

Absent: 2 - Eisenbeisz, and Paxton

F [ORD 19-06](#)**Making supplemental appropriations for Fiscal Year 2019 (*Fair Market Value Appraisal Airport Subleases*)**

Municipal Attorney Brian Hanson stated most of the tenants had been advised of the potential adjustments to their leases, in particular, the aeronautical tenants. It was noted a current appraisal was required to update current leases and comply with FAA regulations as the last appraisal for the specialized market was completed in 2003.

A motion was made by Knox that this Ordinance be APPROVED on FIRST READING. The motion PASSED by the following vote.

Yes: 5 - Knox, Bean, Wein, Mosher, and Nelson

Absent: 2 - Eisenbeisz, and Paxton

G [ORD 19-09](#)**Making supplemental appropriations for Fiscal Year 2019 ("The Ride" Bus Relocation Area at HCH) 1st reading**

Harrigan Centennial Hall (HCH) Building Manager Don Kluting explained the planned improvements to reduce congestion, improve traffic flow and ensure safety in the Crescent Harbor parking lot. Kluting spoke to site locations for vendors, taxis, tourist buses, and proposed relocation of the RIDE buses to Harbor Drive in front of HCH. Bean believed the current location of the RIDE was most safe. Wein wondered if trial runs had been made using the location.

Connie Sipe, Center for Community Transit Program Administrator, and Gerry Hope, Sitka Tribe of Alaska Transportation Manager, spoke to the proposed new location for the RIDE buses. Sipe and Hope noted time trials had been conducted using the new location. Both expressed safety concerns with the new location and wished to stay in the current location in the Crescent Harbor parking lot.

A discussion ensued among Assembly members. Mosher and Wein commented the safest location was for the buses to remain in the Crescent Harbor parking lot. Nelson suggested the funding for relocation come from commercial passenger excise tax funds.

A motion was made by Knox that this Ordinance be APPROVED on FIRST READING. The motion FAILED by the following vote.

No: 5 - Knox, Bean, Wein, Mosher, and Nelson

Absent: 2 - Eisenbeisz, and Paxton

H [19-061](#) Discussion / Direction on the sale of the Gary Paxton Industrial Park Utility Dock to Hanson Maritime Company

Gary Paxton Industrial Park Board (GPIP) Director Garry White stated this item, and the next, were related. The GPIP Board was recommending sale of the utility dock, however, wished to determine if the Assembly was interested in the sale. The next item was for a request to hire outside counsel to develop a purchase/sale agreement for the sale of the utility dock to Hanson Maritime. Lee Hanson, of Hanson Maritime, concurred and added he had already invested a significant amount of time and money into the project and wanted to receive some direction from the Assembly before investing more.

Wein stated the business was a good fit for the Industrial Park. The utility dock was a non productive asset and Hanson had the ability and desire to turn it into something productive. Knox, while supportive of the project, reminded the political hurdle could be the tidelands that were a premium to the City given not many tidelands remained in City hands.

Municipal Attorney Brian Hanson speaking as the risk manager for the City stated the utility dock was a condemned structure and could not be utilized until properly studied and remediated. He reminded the GPIP Board had filed an appeal opposing the condemning of the dock and therefore the appeal would need to be heard and resolved prior to making a decision on the sale of the dock. Hanson noted, in addition to the condemnation, there were risks associated with the dock that needed to be considered referencing a 19 year old study in which it was stated the dock should not be used. He noted if the City were to transfer a dock with known risk that in turn equated to known litigation. In addition, Hanson commented on issues relating to traffic on the dock and tidelands use, hence the request for outside legal assistance in developing easements and agreements to address use concerns.

Bean suggested the Assembly hold delay on making a decision to sell until after the April 22 appeal date. Wein questioned why a request for proposal was issued if there were known issues.

No action was taken.

I [ORD 19-07](#) Making supplemental appropriations for Fiscal Year 2019 (*GPIP Utility Dock*)

Mosher spoke in support and expressed the need for issues to be resolved. Bean spoke in support of discussing after the appeal was heard. Wein desired a legal opinion and the development of necessary language and ground work in order for a decision to be made. Mosher stated the condemnation was immaterial and reminded Lee Hanson was aware of the condemnation and was still interested in moving forward.

Garry White, Gary Paxton Industrial Park Board Director, stated there were marine navigational issues and supported moving forward with outside legal counsel.

Speaking from the public, Eric Van Cise and Dave Nelson spoke in support of the Hanson Maritime project.

A motion was made by Mosher that this Ordinance be APPROVED on FIRST READING. The motion PASSED by the following vote.

Yes: 5 - Knox, Bean, Wein, Mosher, and Nelson

Absent: 2 - Eisenbeisz, and Paxton

J [ORD 19-08](#)

Making supplemental appropriations for Fiscal Year 2019 (*GPIP Access Ramp*)

Garry White, Director of the Gary Paxton Industrial Park (GPIP), stated the GPIP Board was hoping to complete the overall plan of management for the Park. White stated the appropriation was being requested to continue an analysis of the GPIP dock access ramp to determine different design components. The City had hired PND Engineering last summer to complete analysis and design of an access ramp to support the marine services industry. Cost estimates ranged from \$6.8 and \$6.1 million. The Board however, had now requested PND look at a phased development project. Wein spoke in support of the appropriation if the ultimate goal was to be achieved.

A motion was made by Knox that this Ordinance be APPROVED on FIRST READING. The motion PASSED by the following vote.

Yes: 5 - Knox, Bean, Wein, Mosher, and Nelson

Absent: 2 - Eisenbeisz, and Paxton

K [19-048](#)

Update from Assembly Subcommittee Members Bean, Wein, and Mosher followed by Discussion / Direction / Decision on the selection of a Police Department third party investigator

Knox desired to go into executive session to discuss concerns related to moving forward. Bean believed a majority of the discussion could be held in public without putting the City at risk or defaming character. Knox was agreeable to discussion however wished to hear from the Municipal Attorney first. Wein wondered of the concerns and how they would rise to the level of executive session.

Noah Shepard, a litigant, understood the need to discuss communications in executive sessions prior to discussion of the investigation.

A motion was made by Knox to go into executive session to discuss communications with the Municipal Attorney or other legal advisors concerning legal matters affecting the City and Borough of Sitka and the ongoing litigation of the Sitka Police Department and the selection of a third party investigator. The motion PASSED by the following vote.

Yes: 5 - Mosher, Nelson, Knox, Bean and Wein

Absent: 2 - Paxton and Eisenbeisz

The Assembly was in executive session from 9:20pm to 9:30pm.

A motion was made by Bean to reconvene as the Assembly in regular session. The motion PASSED by a unanimous voice vote.

Update from subcommittee

Wein stated his motivation was related to the inaction of the City to get closure to the events at the Police Department and the problem could not be allowed to fester and create an unhealthy working environment. A subcommittee was formed and during the course of their work the Administrator had hired interim Police Chief Robert Baty.

While Wein was supportive of interim Police Chief Robert Baty he believed the hiring of Baty by the Administrator usurped and undermined the authority of the Assembly. Wein wished to be provided written plans from Baty on how he would approach the problem at the Police Department, prior to his arrival on April 1. In addition, Wein stated he was in support of holding off on choosing an investigator for now, however, wished to approve the appropriation in the event an investigation was warranted. Bean stated the intent was to bring forward recommendations for the body to consider and wished to proceed with the investigation. Mosher spoke in support of moving forward with the appropriation.

No formal action was taken, however, the Assembly stated they would like this item to come back at the April 9 meeting for discussion / direction / decision.

L [ORD 19-10](#)

Making supplemental appropriations for Fiscal Year 2019 (*Police Department Third Party Investigation*)

Wein noted inclusion of a budget amendments report with the ordinance. Municipal Administrator Keith Brady explained the report listed what had been appropriated during the fiscal year. Chief Finance and Administrative Officer Jay Sweeney stated total supplemental appropriations to date for the General Fund in FY2019 totaled \$1,861,395 not including this supplemental appropriation.

From the public, Noah Shepard, stated the course of action was reasonable, however, expressed concern and told he had information the Assembly did not have and wished to speak with them.

Wein, appreciative of Shepard's concerns, was hopeful Baty would come in and revitalize the department or the Assembly would address the matter. Knox spoke in support of Baty's arrival, however, was not comfortable holding this over Baty. He wished to revisit at a later date.

A motion was made by Mosher that this Ordinance be APPROVED on FIRST READING. The motion PASSED by the following vote.

Yes: 4 - Bean, Wein, Mosher, and Nelson

No: 1 - Knox

Absent: 2 - Eisenbeisz, and Paxton

M [19-062](#)

Discussion / Direction on the "assembly@cityofsitka.org" group email address

Bean desired to have all department heads removed from the Assembly group email address and noted if the address was to the Assembly those members should be the only recipient. Wein believed it to be a breach of confidentiality, not transparent, and disingenuous. He offered people sending emails to that address were under the impression the only recipients were the duly elected Assembly members. Municipal Administrator Keith Brady stated department heads had been on the email group address for over a decade in an effort to possibly help answer questions. Brady noted there was a disclaimer online stating the department heads were included on the Assembly group email address. Wein reminded the Assembly should have the right to refer those emails to the Administrator or department heads at their discretion, not without their consent.

A motion was made by Bean to direct the Administrator to remove all department heads from the Assembly group email address. The motion

PASSED by the following vote.

Yes: 5 - Knox, Bean, Wein, Mosher, and Nelson

Absent: 2 - Eisenbeisz, and Paxton

XIII. PERSONS TO BE HEARD:

Ken Buxton expressed the need for leadership at the Police Department.

Mary Ferguson stated the need for a new Police Chief and wondered why an interim Police Chief was being brought in before the current issues were resolved.

XIV. EXECUTIVE SESSION

N [19-059](#) Update from legal counsel regarding the status of the litigation arising out of the August 18, 2015 landslide events

A motion was made by Knox to EXTEND to 10:45pm. The motion PASSED by the following vote.

Yes: 5 - Wein, Knox, Mosher, Nelson and Bean

Absent: 2 - Paxton and Eisenbeisz

A motion was made by Knox to go into executive session to receive and discuss an update from legal counsel, David Bruce, regarding the status of litigation arising out of the August 18, 2015 landslide events. The motion PASSED by the following vote:

Yes: 5 - Nelson, Mosher, Wein, Bean and Knox

Absent: 2 - Paxton and Eisenbeisz

The Assembly was in executive session from 10:15pm to 10:44pm.

XV. ADJOURNMENT

The meeting ADJOURNED at 10:45pm.

ATTEST: _____
Sara Peterson, MMC
Municipal Clerk