



CITY AND BOROUGH OF SITKA

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

Minutes - Final City and Borough Assembly

*Mayor Cheryl Westover
Deputy Mayor Pete Esquiro, Vice-Deputy Mayor Thor
Christianson,
Terry Blake, Phyllis Hackett, Mim McConnell, and Mike Reif*

*Municipal Administrator: Jim Dinley
Municipal Attorney: Theresa Hillhouse
Municipal Clerk: Colleen Ingman, MMC*

Tuesday, May 8, 2012

6:00 PM

Assembly Chambers

REGULAR MEETING

I. CALL TO ORDER

II. FLAG SALUTE

III. ROLL CALL

Present: 4 - Westover, McConnell, Reif, and Hackett

Absent: 3 - Blake, Christianson, and Esquiro

IV. CORRESPONDENCE/AGENDA CHANGES

Items G and F 1 were postponed.

V. CEREMONIAL MATTERS

*A proclamation was read by Assembly member Hackett recognizing Bike Month.
Assembly member McConnell read a proclamation on Arbor Day.*

*Walk for Life coordinators, Cheryl McCallister and Rena Wallace, from SEARHC,
spoke about Saturday's Suicide Prevention walk and encouraged people to
participate.*

VI. PERSONS TO BE HEARD

*Hans VonRekowski, Parks and Recreation Committee Chairman, spoke to reinstating
the proposed Parks and Recreation Dept budget cuts. Tim Riley, Parks and
Recreation Committee member, expressed concern with the proposed cuts.*

*Mike Litman state he had worked for the past four years to place a citizens initiative
on the ballot. Recently an Anchorage attorney filed papers with the Superior Court to
issue a judgment in favor of the City. Litman was curious by what authority the
Anchorage attorney had been hired and what the legal battle was costing the City.*

Bernadette Rasmussen announced on Wednesday, May 16th the Change of Command Ceremony would take place at the USCG.

Joe D'Arienzo, Chairman of the Tree and Landscape Committee, encouraged the Assembly to support Parks and Rec. and urged the Assembly not to cut the Parks and Rec Managers' position and summer grounds crew.

VII. REPORTS - Mass Casualty Drill Briefing

Chief Dave Miller and Fire Engineer Al Stevens gave a briefing on the recent Mass Casualty Drill and recognized Keturah Sandler of Thorne Bay for her help in coordinating the event.

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

Mayor – Welcomed the fast ferry on their first trip from Angoon.

Administrator – Spoke with Senator Stedman and had received a positive update on the capital budget for Sitka. Dinley also reported on Public Work Department projects.

*Attorney – Attended two legal conferences. She responded to Litman's earlier testimony. Alaska Supreme Court recently reviewed the Sitka Superior Court decision in *Sitkans for Responsible Government v. CBS*. The decision concerned the Sitka Superior Court's rejection of the initiative/referendum related to Sawmill Cove Industrial Park (SMCIP), including requiring sales/leases of property above a certain value being automatically subject to voter approval. The Alaska Supreme Court overturned the Sitka Superior Court decision based only on two technical issues that had been addressed by the Sitka Superior Court: (1) whether the initiative/referendum wording was confusing & misleading; and (2) whether the automatic vote procedure violated state and local laws and Sitka Charter that required a certain number of voter signatures before a proposed initiative/referendum went on the ballot. The Sitka Superior Court did not address a number of issues related to the merits of the case raised by Sitka, since it rejected the initiative/referendum on other grounds.*

Regarding the initiative/referendum language, the Alaska Supreme Court explained that it only required minimum standards of accuracy and fairness, finding the SMCIP wording less confusing and misleading than other initiatives/referendums it had reviewed, and that Sitka did not have the more detailed Code requirements for initiatives/referendums as did other municipalities.

Regarding the automatic vote, the Alaska Supreme Court recognized the conflict between Sitka Charter and Code, but informed Sitka that it needed to address this conflict by amending the Charter or its existing Code.

After ruling on just these two issues, Alaska Supreme Court sent the case back to the Sitka Superior Court to decide the rest of the issues. This did not require additional briefing, but just the Sitka Superior Court issuing a decision on the remaining issues.

*One of those remaining issues before the Sitka Superior Court concerned impermissible appropriations created by initiatives/referendums. Alaska Supreme Court issued a decision on April 6, 2012 in *Alliance of Concerned Taxpayers, Inc. v. Kenai Peninsula Borough*. In that decision involving a 2005 initiative, the Alaska Supreme Court held that the initiative that required voter approval of any capital project over \$1 million violated the Assembly's exclusive control over the budget, and*

was therefore an impermissible appropriation prohibited by Alaska Constitution at Art. XI, § 7 and Alaska Statute 29.26.100. Sitka made the same argument in its case, since impermissible appropriations concern municipal assets that includes money, real property, personal property, etc. Sitka has filed a notice with the Sitka Superior Court regarding this April 6th decision, and contends it should resolve the current case in favor of Sitka.

Hillhouse told the Assembly it was not costing the City additional money.

A recess was taken from 6:50 pm to 7:00 pm.

Liaison Representatives – McConnell attended the Library Commission Meeting and the Tree and Landscape Committee.

Other – McConnell was involved with another affordable housing group consisting of three subcommittees - 1) benchlands, 2) affordable housing, and 3) zoning issues. Hackett attended the Parks and Recreation meeting last week and most of the discussion was about the Park and Recreation Dept. budget cuts. McConnell noted the same subject came up at the Tree and Landscape Committee meeting.

Clerk – Reminded of the upcoming worksession and Change of Command at the USCG Airstation.

Other – Mayor informed the May 22 meeting would start with a special meeting beginning at 5:00 PM on the FY 2013 Budget.

VIII. CONSENT AGENDA

- A [12-71](#) Approve the minutes of the April 24, 2012 Assembly meeting

This item was APPROVED ON THE CONSENT AGENDA.

Yes: 4 - Westover, McConnell, Reif, and Hackett

Absent: 3 - Blake, Christianson, and Esquiro

IX. UNFINISHED BUSINESS:

- B [12-72](#) Formally accept Assemblymember Terry Blake's resignation and direct the vacant seat be advertised

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

Yes: 4 - Westover, McConnell, Reif, and Hackett

Absent: 3 - Blake, Christianson, and Esquiro

X. NEW BUSINESS:

New Business First Reading

- C [ORD 12-14](#) Adjusting the FY 2012 Budget for known changes as part of the

Second Quarter Budget Execution Review.

Finance Director, Jay Sweeney, explained there was an inadvertent deletion of funds reserved for Search and Rescue. This ordinance reserved that funding.

A motion was made by McConnell that this Ordinance be PASSED ON FIRST READING. The motion PASSED by the following vote.

Yes: 4 - Westover, McConnell, Reif, and Hackett

Absent: 3 - Blake, Christianson, and Esquiro

- D** [ORD 12-15](#) Amending SGC Chapter 1.25 entitled "Public Records" at Subsection 1.25.08 entitled "Appeals"

Theresa Hillhouse, Municipal Attorney, explained the amendment dealt with a grammatical error.

A motion was made by Hackett that this Ordinance be PASSED ON FIRST READING. The motion PASSED by the following vote.

Yes: 4 - Westover, McConnell, Reif, and Hackett

Absent: 3 - Blake, Christianson, and Esquiro

- E** [ORD 12-16](#) Amending the SGC at Chapter 15.05 entitled "Water Service" at Subsection 15.05.620 entitled "Rates and Fees" to adjust the rates for water service

Mark Buggins, Environmental Superintendent, explained this was the fourth year of a six year rate increase plan to cover the UV Disinfection facility and all the capital projects.

Buggins explained rate increases were recommended to take place over a five-year period. As long as the city continued to meet water standards, there should be breathing room as long as there were no new unforeseen regulations.

A motion was made by Hackett that this Ordinance be PASSED ON FIRST READING. The motion PASSED by the following vote.

Yes: 4 - Westover, McConnell, Reif, and Hackett

Absent: 3 - Blake, Christianson, and Esquiro

Additional New Business Items

- F1** [12-73](#) Reappoint Mike Coleman to a term on the Port and Harbors Commission.

This item was PULLED prior to the meeting with plans for it to be heard at the May 22 Assembly meeting.

- F2** [12-73-B](#) Appoint Stan Johnson to a term on the Port and Harbors Commission.

Reif appreciated Johnson for applying. Westover thanked Kim Elliott for her service to the Port and Harbors Commission. Hackett reminded the public commissions are short members and noted she appreciated the volunteer service of commission members.

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

Yes: 4 - Westover, McConnell, Reif, and Hackett

Absent: 3 - Blake, Christianson, and Esquiro

- G** [12-45](#) Anderson APPEAL of Planning Commission's decision to grant variances submitted by Boyd Didrickson - 428 Kaagwaantann Street
- This item was PULLED prior to the meeting with plans for it to be heard at the June 12 Assembly meeting.

XI. PERSONS TO BE HEARD:

None

XII. ADJOURNMENT

Motion by McConnell to ADJOURN the meeting. The meeting ADJOURNED at 7:20 PM.

ATTEST:

Colleen Ingman, MMC
Municipal Clerk