

If this item is pulled from the consent agenda the following motion would be in order:

POSSIBLE MOTION

I MOVE TO approve the minutes of the February 14, 2012 Assembly meeting.



CITY AND BOROUGH OF SITKA

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

Minutes - Draft 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, February 14, 2012

6:0

ambers

WORKSESSION

A worksession was held at 5:00

12-33

REGULAR MEETING

I. CALL TO ORDER

II. FLAG SALUTE

III. ROLL CALL

Present: 6 - Westover, McConnell, Blake, Christianson, Esquiro, and Reif

Excused: 1 - Hackett

IV. CEREMONIAL MATTERS

Deputy Mayor Esquiro presented a Certificate of Achievement to John Sherrod recipient of the Silver Beaver Award. A proclamation was read and presented to Jeff Budd in recognition of Sitka Art Gras by Assembly member Blake.

V. CORRESPONDENCE/AGENDA CHANGES

Deputy Mayor Esquiro informed there would be a brief presentation and background information on the sales tax ordinances, Items G-L. Following the presentation there would be public hearing on the ordinances before taking up each individual ordinance.

Government-to-Government Update with Sitka Tribe of Alaska

Dale Williams, Vice Chair of STA, spoke to a Totem Pole Project in conjunction with the U.S. Coast Guard, with hopes that all Southeast, Alaska would participate.

VI. SPECIAL MUNICIPAL/COMMITTEE/COMMISSION REPORTS:

12-24 CBS Comprehensive Annual Financial Report - Jay Sweeney and Mike Middleton

Finance Director Sweeney and Deputy Finance Director Middleton reviewed the Annual Financial Report/Audit.

VII. PERSONS TO BE HEARD

VIII. REPORTS

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

Administrator: Mentioned the RFQ for Centennial Hall and Crescent Harbor parking lot design and alternate water source.

Liaison Representatives: Blake met with Port and Harbors.

Other: McConnell reported Sitka Community Development had been given land for their Building Reuse Program. Individuals would be able to donate to Sitka Community Development Corp. to recycle building materials.

IX. CONSENT AGENDA

A 12-21 Approve a fund transfer of \$100,000 from Electric Dept. Capital Improvement Project #90628 - Demand Side Management to fund the Appliance Rebate Program.

Dan Teas commented the rebate program was a give away to the rich; he suggested the money be put in the general fund instead. Utility Director, Chris Brewton, provided a recap of the program effective February 24. Brewton indicated the intent was to get old appliances off the system.

A motion was made by Reif that this Fund Transfer be APPROVED. The motion PASSED by the following vote.

Yes: 6 - Westover, McConnell, Blake, Christianson, Esquiro, and Reif

B RES 12-03 In support of the passage of Bills by the Alaska Legislature for funding of School Meal Programs.

This item was APPROVED ON THE CONSENT AGENDA.

C 12-18 Approve the minutes of the January 24, 2011 Assembly meeting.

This item was APPROVED ON THE CONSENT AGENDA.

D 12-20 Appoint 1) Edward J. Gonzalez and Melinda Tysor to terms on the Local Emergency Planning Commission; 2) Appoint John Stein to a seat on the Tourism Commission.

A motion was made by McConnell that these appointments be APPROVED. The motion PASSED by the following vote.

Yes: 6 - Westover, McConnell, Blake, Christianson, Esquiro, and Reif

X. UNFINISHED BUSINESS:

- E **ORD 12-04** Authorizing a 10-year Material Sale & Lease Agreement with McGraw's Construction regarding municipal property at quarry sites 2 and 3 of the Granite Creek Industrial Area.

A motion was made by Christianson that this Ordinance be APPROVED. The motion PASSED by the following vote.

Yes: 6 - Westover, McConnell, Blake, Christianson, Esquiro, and Reif

- F **ORD 12-03S** Amending the official Sitka Zoning Map to rezone Lot 25 Block 1 of Sitka Indian Village USS 2542 A&B from R-1 Single Family and Duplex District to CBD Central Business District.

Duck Didrickson spoke against the ordinance.

This item was PASSED ON SECOND READING.

Yes: 6 - Westover, McConnell, Blake, Christianson, Esquiro, and Reif

XI. NEW BUSINESS:

New Business First Reading - City and Borough of Sitka Fiscal Sustainability Overview

Municipal Administrator Dinley gave an overview on Sitka's Fiscal Sustainability.

Proposed Tax Ordinances Testimony.

Sales Tax Ordinances

Reif requested the public address what service cuts they would like. Christianson indicated there would be cuts and wanted to hear from the public. Blake urged the need to come together collectively. McConnell mentioned Doug Osborne had some good ideas and she'd like feedback on those. Mayor Westover stated she would not support targets to a particular group; everyone would need to feel the pain. Esquiro said he would remain open-minded, however, was beyond ignoring the problem.

Public Hearing

Jan Nelson spoke on behalf of the White Elephant Shop. They were opposed to charging sales tax and noted to date they had donated \$1,038,960.32 to nonprofits. Matt Donohoe would support a new age of 67 and grandfathering the existing exempt senior citizens; would like to see published the revenue this would raise. He would like to see city vehicles last a couple more years and emphasized the City needed to stop building stuff it could not pay for. Duck Didrickson supported the senior exemptions. He feared more people would shop in Juneau or leave town. Janet Eddy believed the discussion was premature and wanted to know what other options there were. She would be willing to pay extra to keep the library open. Dan Teas compared the 2000 and 2010 Census to the number of city employees and the increases in wages and benefits. He added the City needed to stop taxing groceries, rent and fuel. David Tjomsland spoke in support of the current tax system. He contended the forgiveness of the property tax for Sitka Fine Arts and the new iPads in the school system were areas money could have been saved. He suggested the Southeast Mayors get together and find a steady stream for timber. Sitka needs to manufacture something. Rob Rau believed the Sitka Police Department was one service that could be cut. Jeff Bud stressed non-profits helped the city in many ways and saved the city

money. He suggested using non-profits to do some of the services. He also noted the city should pay for the use of Centennial Hall. Two hospitals for 9,000 people didn't compute. Millage could be increased by one. He believed if Parks and Recreation were to be cut then you would need to cut Finance as well. Ron Field was opposed to doing away with the senior exemption. He eats daily at the Senior Center and had only found 3 people who could afford the tax. He didn't understand why CBS would consider taxing the non-profits. He believed the city could be even more active in recycling. Sitka Rose Gallery owner, Eugene Soloyvov, announced less cruise ships were coming to Sitka. Increasing the sales tax cap from \$1,000 would further deter them. He stated the last time the issue was brought before voters it was voted down 2-1. He added internet sales negatively impacted many local businesses. Don Jones contended sales tax was regressive and impacted people least able to afford it. He suggested giving some thought to the ideas Osborne advanced. Consider raising the age to 70 and grandfather the seniors receiving it now. He didn't favor cutting any services because they made Sitka a nice community to live in. Tam Fondell, owner and operator of Gold Smith Gallery, spoke. When the cruise industry cut back, her business took cuts, they didn't go to the business across the street to pay for their short fall; the City and Schools need to make serious cuts. They have some ideas but need to do the due diligence first. Jennfier Robinson, Chamber of Commerce Executive Director, read a prepared statement. "The Greater Sitka Chamber of Commerce supports the development of a comprehensive local tax structure that will improve the economic vitality of Sitka, place Sitka at a competitive advantage and improve the quality of life in our community." She encouraged the Assembly to develop a comprehensive, broad-based, fairly administered tax structure that would be sustainable over time. The Chamber requested a fully transparent process be initiated where city officials and business leaders would work together to develop this comprehensive tax structure and avoid making short-term decisions and instead address the full complexity of the issue. Shirley Robards believed the exemption was a need not a want. She didn't agree with comparing Sitka to Juneau; there is a big difference. Juneau gets 1,000,000 visitors and Sitka gets 100,000. Internet buying is hurting the town. Lindsay Evans, who works with the elderly, relayed the senior citizens she works with are outraged at the idea. She agreed 70 years of age sufficient. She has witnessed abuse of the senior exemption and wondered if there was a way to prosecute those and still save the exemption for those that really need it. Christianson stated he would like to know how much money each of the five proposals would generate so he could make a more informed decision. Seth Bone stated raising the cap on fishing packages that had already been collected would be troublesome and business owners would need to pay the difference out of pocket. He contended raising the cap would reduce money coming in, money that would be circulated throughout the local economy. He would be willing to pay 6% sales tax year round or increase millage opposed to raising the tax cap. If it had to be raised a smaller incremental amount say \$1,200 would be more palatable. Bone also expressed concern with the effective date and how it related to the people that had already booked/paid. He hoped the Assembly would grandfather those that had already paid.

Finance Director, Jay Sweeney, offered estimates of the potential proceeds. Raising the cap to \$5,000 would generate between \$1,800,000 - \$2,000,000. With regard to the Senior Citizens rebate he estimated the city would capture \$400,000. Non-profits were the most difficult to project, somewhere between \$140,000 - \$800,000. Christianson pointed out this would only apply to non-profits that had no employees, he didn't think there would be many dollars earned.

G ORD 12-06

Amending the Sitka General Code by repealing the sales tax exemption provision currently at Sitka General Code subsection 4.09.100Y for "exemption for retired persons who have reached the age of sixty-five," and adding a new section 4.09.105 entitled "Sales Tax Exemption for Sitka Senior Residents or Members of their

households"

A motion was made by Reif that this Ordinance be AMENDED by striking on Line 251 "I intend to remain a resident of the City and Borough of Sitka." The motion PASSED by the following vote.

Yes: 6 - Westover, McConnell, Blake, Christianson, Esquiro, and Reif

A motion was made by Christianson that this Ordinance be AMENDED at Line 171 by inserting after rentals "solely for the personal use and consumption of a member of the Sitka Senior resident's household" and to reflect the change in the purpose section. The motion PASSED by the following vote.

Yes: 6 - Westover, McConnell, Blake, Christianson, Esquiro, and Reif

A motion was made by Christianson that this Ordinance be AMENDED at line 268 by inserting a maximum of 7. The motion PASSED by the following vote.

Yes: 6 - Westover, McConnell, Blake, Christianson, Esquiro, and Reif

Esquiro was strongly opposed to the publicizing and IRS portions but no amendment was offered.

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

Yes: 6 - Westover, McConnell, Blake, Christianson, Esquiro, and Reif

H ORD 12-09

Amending the Sitka General Code by repealing the Sales Tax Exemption provision currently at Sitka General Code Subsection 4.09.100Y for "Exemption for Retired Persons who have Reached the Age of Sixty-Five," and adding a new section 4.09.105 entitled "Tax Rebate for Sitka Senior Citizen Residents".

Jeff Budd spoke in opposition to the ordinance. He said there was a risk the City could lose money going that route. Mayor Westover voiced concern with the administrative part and noted misuse wasn't addressed.

A motion was made by Westover that this Ordinance be POSTPONED INDEFINITELY. The motion PASSED by the following vote.

Yes: 6 - Westover, McConnell, Blake, Christianson, Esquiro, and Reif

I ORD 12-05

Amending Sitka General Code 4.09.100 entitled "Exemptions" to remove subsection L regarding sales made by nonprofit charitable organizations.

Christianson didn't think much money would be generated and in the end would be detrimental to organizations.

A motion was made by Blake that this Ordinance be APPROVED. The motion FAILED by the following vote.

No: 6 - Westover, McConnell, Blake, Christianson, Esquiro, and Reif

J ORD 12-07

Amending the Sales Tax Exemption at Sitka General Code Subsection 4.09.100N entitled "Over One Thousand Dollars on Sales and Rents of Tangible Personal Property and on Sales of Services, and Over One Thousand Dollars in Rent or Lease of Real Property on a Monthly Basis"

The makers of the motion compromised on the cap amount by reducing it from the initial proposed \$3,000 to \$2,000 and finally \$1,500. McConnell noted it took a long time to get into this situation and would take time to correct it. Blake said the City's target should not just be churning money within our community. He could support

\$1,500, but not a higher amount.

Tam Fondell, business owner, felt the \$1,500 cap was manageable. Sitka Rose Gallery owner, Eugene Solovyov, noted the amount of the increase was too high. Dave Wolff and Jamie Cagle of Allen Marine spoke in opposition to the effective date. They suggested it be made effective either October 1, 2012 or January 1, 2013 because businesses need more lead time. Additionally, by raising the cap to \$5,000 they feared losing cruises and would possibly entertain moving cruises out of town to ports with lower tax caps. Wolff and Cagle explained how tax was applied to cruises that debarked in multiple ports. The majority of Allen Marine's capacity was Sitka-to-Sitka roundtrip being charged Sitka sales tax. Wolff commented on the CAFR and contended the City had cash for emergencies and wondered why those funds were not being used. Tam Fondell could guarantee sales would be lost by local business owners if the cap was raised to \$5,000. Fondell noted the City would lose those sales and gain nothing. Comparing Juneau to Sitka was like comparing apples to oranges. Fondell stated the tax impacts locals as well and would shop elsewhere. She urged consideration of the broader ramifications. Theresa Weiser, president of Sitka Charter Boat Operator Association, and an employer, stressed the need to encourage sport anglers to come to Sitka and spoke of the challenges they are facing with the new halibut limits and the economic downturn. Weiser said both negatively impact their operations. She added Sitka was the only community with a Fish Box Tax. Weiser expressed concern with the size of the cap increase and said the date of implementation needed to change to October or later because customers had already been invoiced. Weiser would like to see the Fish Box Tax repealed. If the Fish Box Tax continued Weiser suggested it be applied to commercial caught fish as well.

A motion was made by Reif that this Ordinance be AMENDED by reducing the \$5,000 suggested tax cap to \$1,500. The motion on the AMENDMENT PASSED by the following vote.

Yes: 6 - Westover, McConnell, Blake, Christianson, Esquiro, and Reif

A discussion on the impacts of imposing different effective dates ensued.

A motion was made by Reif that this Ordinance be AMENDED at line 90 by changing the effective date to September 1, 2012. The motion to AMEND FAILED by the following vote.

Yes: 3 - Westover, Blake, and Esquiro

No: 3 - McConnell, Christianson, and Reif

Motion to Extend Meeting until 11:00 PM

MOTION by McConnell to EXTEND the meeting until 11:00 PM. The motion FAILED by the following vote.

Yes: 2 - McConnell, and Reif

No: 4 - Westover, Blake, Christianson, and Esquiro

Motion to Extend Meeting 10 minutes

MOTION by Reif to EXTEND for 10 minutes until 10:40 PM. The motion PASSED by the following vote.

Yes: 6 - Westover, McConnell, Blake, Christianson, Esquiro, and Reif

- J ORD 12-07** Amending the Sales Tax Exemption at Sitka General Code Subsection 4.09.100N entitled "Over One Thousand Dollars on Sales and Rents of Tangible Personal Property and on Sales of Services, and Over One Thousand Dollars in Rent or Lease of Real Property on a Monthly Basis"
- A motion was made by Christianson that this Ordinance be AMENDED at line 90 Effective Date and insert following effective on July 1, 2012. However, any agreement subject to SGC 4.09.100 entered into prior to April 1, 2012 or the date of passage of this ordinance (whichever is later), shall not be subject to this ordinance amendment. The motion PASSED by the following vote.**

Yes: 4 - McConnell, Christianson, Esquiro, and Reif

No: 2 - Westover, and Blake

The meeting RECESSED until 6:00 PM on Wednesday, February 15, 2012.

- J ORD 12-07** Amending the Sales Tax Exemption at Sitka General Code Subsection 4.09.100N entitled "Over One Thousand Dollars on Sales and Rents of Tangible Personal Property and on Sales of Services, and Over One Thousand Dollars in Rent or Lease of Real Property on a Monthly Basis"
- McConnell brought up a couple terms not being consistent. It was grammatical and would be revised to mirror the Juneau code.*
- A motion was made by Christianson that this Ordinance be AMENDED by adding to the previous motion "as long as the agreement concludes by October 1, 2012." The motion on the amendment PASSED by the following vote.**

Yes: 6 - Westover, McConnell, Blake, Christianson, Esquiro, and Reif

A motion was made by Reif that this Ordinance be AMENDED by reinserting on Page 2 Lines 76-83 beginning with "The exemption...and to add "domestic partner" at the end. The motion to AMEND PASSED by the following vote.

Yes: 6 - Westover, McConnell, Blake, Christianson, Esquiro, and Reif

Theresa Weiser cautioned if this amendment passed the Assembly should get rid of the Fish Box Tax. She spoke against it. Seth Bone spoke in opposition. Jennifer Robinson, Executive Director of the Greater Sitka Chamber of Commerce, reiterated the Chamber wanted the Assembly to consider a Comprehensive Financial Business Plan for how the City operates.

A motion was made by Reif that this Ordinance be AMENDED by increasing the \$1,500 cap annually by \$100 until it reaches \$2,000. The motion to AMEND FAILED by the following vote.

No: 6 - Westover, McConnell, Blake, Christianson, Esquiro, and Reif

Reif outlined various scenarios for Finance Director, Jay Sweeney, in an attempt to clarify unbundling. Sweeney responded when it was an all inclusive price, if packaged together, it could be a single invoice. However, if they made exceptions that were not part of that package they would be taxed separately. Other scenarios were offered

and interpreted. It was expressed that these interpretations were confusing.

A motion was made by Blake that this Ordinance be PASSED ON FIRST READING. The ordinance PASSED as AMENDED by the following vote.

Yes: 5 - Westover, McConnell, Christianson, Esquiro, and Reif

No: 1 - Blake

K ORD 12-10

Amending the Sales Tax Exemptions at Sitka General Code 4.09.100 Subsection D entitled "Dues and Fees," Subsection F entitled "Freight and Wharfage," Subsection I entitled "Loans," Subsection J entitled "Medical and Veterinary Services," Subsection M entitled "Outside City and Borough," Subsection P entitled "Resale," Subsection V entitled "Government-Funded Agencies," Subsection W entitled "Child and Adult Dependent Care," and Subsection Z entitled "Youth Camps;" Repealing and Reenacting Subsection O entitled "Public Food" to "School Sales" and Subsections R entitled "Telephone and Telegraph" to "Mobile Telecommunications"; Repealing Subsection T entitled "Long-Term Motor Vehicle and Equipment Rentals;" and adding Subsection AB entitled "Sale of Services on Consignment and Commission".

A motion was made by Reif that this Ordinance be AMENDED by directing the Administrator to work with the Finance Director to rework Section P. so it works for the business community of Sitka and allows clear interpretation for both the community and the finance office. They do not want something to be taxed twice. The motion PASSED by the following vote.

Yes: 6 - Westover, McConnell, Blake, Christianson, Esquiro, and Reif

Finance Director, Jay Sweeney, explained the ordinance was a clarification of the elements of the sales tax code. The one element that was the most contentious was the re-write of P. Resale.

Regarding P, Seth Bone stated if he bought food from the grocer and paid tax then he would have to collect it again from clients and the same seemed to apply to hotels so the City would be collecting tax twice. He believed P was written to support the Finance Department's interpretation. Theresa Weiser agreed with Bone and added the new wording was complicated. There needs to be a clear definition for "services" and "integrated"; she believed the definitions were at the mercy of the Finance Department.

A motion was made by McConnell that this Ordinance be REFERRED TO STAFF for a rewrite. The motion PASSED by the following vote.

Yes: 6 - Westover, McConnell, Blake, Christianson, Esquiro, and Reif

L ORD 12-08

Amending Sitka General Code Section 4.09.010 entitled "Levy of Sales Tax" to reallocate the percentages of the Fish Box Sales Tax.

A motion was made by Westover that this Ordinance be AMENDED by reallocating the percentages so that 60% goes to Harbors, 20% to General Fund and 20% to Fish Enhancement. The motion to AMEND PASSED by the following vote.

Yes: 5 - Westover, McConnell, Blake, Christianson, and Esquiro

Recused: 1 - Reif

Reif excused himself from Item L. because he was strongly biased on the subject.

Scott Harris and Nancy LeClerc-Davidson, both board members of the Sitka Sound

Science Center, read a prepared statement urging 30% for fisheries enhancement be maintained. Theresa Weiser mentioned the Fish Box Tax was considered to be punitive by charter operators because they were the only user group in the State of Alaska to be taxed in this manner. Weiser spoke against the ordinance as written. If the Fish Box Tax were to continue, then she wouldnt want the enhancement portion taken away. Ideally, she would like the entire tax eliminated because she felt it identified Sitka as an unfriendly place to visit and the tax would not be applied to all.

Mayor Westover spoke in support of 60% for Harbors. The reason she sought to change it was to take care of the fish waste expense that is being billed to the harbor department budget. Christianson mentioned it was a public vote which made him hesitant to play with it. McConnell concurred; it was a public process and should return to that. Fish Enhancement was a component of that vote. The charter folks expressed concern it was hard enough to sell the Fish Box Tax to their clients and only the fish enhancement portion made it easier. Esquiro inquired if the hatchery planned to have this as source of funding forever or did they have plans to become self sustaining. Harris responded they hoped not to continue to plan on the enhancement funds for the long-term and they did have a plan for sustainability. Receipt of the Fish Enhancement Funds had worked well for them because it showed tangible community support. They will not be applying for and using these funds indefinitely. Weiser preferred a bigger percentage going to the Harbor.

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

Yes: 4 - Westover, McConnell, Blake, and Esquiro

No: 1 - Christianson

Recused: 1 - Reif

Additional New Business Items

M **12-22** Discussion/Decision regarding the draft policy of Harrigan Centennial Hall and rates.

This item was pulled and the agenda readvertised prior to the meeting.

N **12-19** Authorize an interdepartmental budget transfer of \$1,000 - Assessing.

Assessor Hughes explained this was an attempt to educate staff. As a member of the Alaska State Assessor's Education Board he reported they would not get this class in Alaska again for a number of years.

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

Yes: 6 - Westover, McConnell, Blake, Christianson, Esquiro, and Reif

O **12-23** Discussion to direct the Municipal Administrator to provide the number of City employees, by department, as of January 1 of 1992, 2002, and 2012. This information will be provided at the next regular scheduled Assembly meeting, February 28, 2012.

Reif explained his reasons for requesting this information.

Administrator Dinley explained the limitations: unions, bumping rights, and the impacts of the "Termination Study".

Mayor Westover stated she would ask the School Board for the same information for both classified and unclassified.

All would like to see some concepts soon to assist them in their decision making.

The number of municipal employees by comparison from 1995 to 2012 were provided.

XII. PERSONS TO BE HEARD:

Coffee shop owner, Joan Berg, stated she would like to relocate her shop to the former location of the Lord Baranof Yacht Club. She noted she had operated at the harbor successfully for a number of years.

Blake relayed he had heard Berg speak at Port and Harbors and they were supportive of her operation at that location.

Christianson and Reif wanted to sponsor an ordinance that supported her situation and did not require competitive bid nor require a survey.

XIII. ADJOURNMENT

A motion was made by McConnell that the meeting be ADJOURNED. The motion PASSED by a unanimous vote and the meeting adjourned at 9:30 PM on February 15, 2012.

ATTEST: _____
Colleen Ingman, MMC
Municipal Clerk