



CITY AND BOROUGH OF SITKA

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

Minutes - Final City Assembly

MAYOR Scott McAdams
Jack Ozment, Deputy Mayor - Reber Stein, Vice Deputy Mayor
Cheryl Westover - Mim McConnell
Phyllis Hackett - Larry Crews

MUNICIPAL ADMINISTRATOR: Jim Dinley
MUNICIPAL ATTORNEY: Theresa Hillhouse
MUNICIPAL CLERK: Colleen Ingman, MMC

Tuesday, April 27, 2010

6:00 PM

Assembly Chambers

South Benchlands Land Planning Worksession 5:00 - 6:00 PM

REGULAR MEETING

- I. CALL TO ORDER
- II. FLAG SALUTE
- III. ROLL CALL

Present: 7 - McAdams, Ozment, Stein, Westover, Crews, Hackett, and McConnell

IV. CORRESPONDENCE/AGENDA CHANGES

0607 08



A motion was made by Ozment to postpone Items L, M, and N to the first regular Assembly meeting in July. The motion PASSED by the following vote:

Yes: 5 - McAdams, Ozment, Stein, Hackett, and McConnell

No: 2 - Westover, and Crews

V. CEREMONIAL MATTERS

- A 10-067 Mt. Edgecumbe High School Girls Basketball Team Awards

A proclamation was read and presented along with Certificates of Athletic Achievement to the Lady Braves Basketball Team.

- B 10-066 Sitka High School Girls Basketball Team Awards

A proclamation was read and presented along with Certificates of Athletic Achievement to the Lady Wolves Basketball Team.

VI. PERSONS TO BE HEARD

- F RES 10-14 RES 2010-14 authorizing the use of Title III funds to cover the costs of easement documentation for the City and Borough of Sitka's portion of the Herring Cove - Beaver Lake Trail.

Gerald Gangle noted that while he supports trails he did not support this method of funding. He is concerned with protecting the Search and Rescue funding source. Deborah Lyons of Sitka Trail Works explained the grant funding available cannot be used for this type of expense. Finance Director Dave Wolff reported the 2009 balance is \$634,821 and that the funds were established for different areas such as Search and Rescue and easements. The new rules went into affect 2 years ago. Wolff stated the funds decrease approximately \$60-\$70k a year. McConnell confirmed these are the Resource Advisory Committee (RAC) funds the USFS refers to.

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

Yes: 7 - McAdams, Ozment, Stein, Westover, Crews, Hackett, and McConnell

- G 10-081 Authorize moving \$9,000 from the Centennial Bldg. UST replacement project into a project budget for replacing the kitchen hood suppression system.

This matter was APPROVED ON THE CONSENT AGENDA

IX. UNFINISHED BUSINESS:

X. NEW BUSINESS:

New Business First Reading

- K ORD 10-05 Amending SGC 21.52.130 entitled "Penalties and Remedies" to include the exemption under Alaska law related to governmental owned property and certain plat requirements.

Garry White, Sawmill Cove Industrial Park Director, explained this ordinance resulted out of a motion from the Sawmill Cove Industrial Park Board. There have been three property sales at the park. It is the Board's desire to have the Assembly involved earlier in the process.

Municipal Attorney Hillhouse explained if parties start negotiating before a final plat is done they could be guilty of a misdemeanor. This provision would incorporate a provision that is in State law. McConnell and Hackett were both pleased that this had been brought forward. Hackett reminded there are many lots out there for lease or sale and urged citizens to see Garry White.

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

Yes: 7 - McAdams, Ozment, Stein, Westover, Crews, Hackett, and McConnell

- L ORD 10-06

ORD 2010-06: An ordinance authorizing the issuance of General Obligation Bonds in the amount not to exceed fifteen million dollars to finance the purchase of and capital improvements to the Hames Center, and providing for the submission of the proposition approving this ordinance and ratifying the authorization of the bonds to the qualified voters of the CBS at the regular election to be held on October 5, 2010.

This matter was POSTPONED

- I **ORD 10-04A** Amending SGC at Chapter 9.20 entitled "Smoking in Public Places and Places of Employment" to prohibit Smoking in Bars and in Private Clubs licensed to sell food or alcoholic beverages, set a minimum reasonable distance for non-smoking outside public places, make additional enforcement requirements, and make clarifying amendments.

Sponsors: McAdams and Stein

Eleven people testified in favor of passing the ordinance. They offered scenarios of days past when smoking was allowed in hospitals and on airplanes.

Twenty people testified against passage of the ordinance. They argued it is a voter's rights and liberty issue and were adamant that the Assembly should not have the power to implement this law on their own. It should go to a vote of the people as had been done twice before in the past. Stan Filler, Ernie's Bar owner, presented a petition to the Assembly with 470 (unverified) signatures of citizens opposing passage of this ordinance and requesting it to go to a vote of the people.

Assembly Deliberation

Crews did not does agree with the Assembly making the decision. These are private citizens, and private business decisions. McConnell said she would continue to vote in favor of the ordinance stating it was her duty. Westover commented she would like this on the ballot. Stein commented while it is a complex issue he believes there is a consensus to take it to a vote. Ozment defined it as a right's issue and would like to see it brought to a vote. Hackett has listened to all and appreciates the respectful comments. She added this is a government decision however since the issue had gone to voters in the past she believed it should go to a vote of the people again. Mayor McAdams offered if it went to a vote that it would be an affirmative vote. He supported this ordinance.

Six people testified on the amendment and supported taking the issue to a vote. One requested that the Municipal Attorney assure the ballot question not be ambiguous and the ballot language be clear.

A motion was made by Westover to APPROVE this Ordinance on third and final reading.

A motion was made by Stein to AMEND this ordinance by requesting that the Municipal Attorney take Ordinance 2010-04 and prepare it as a ballot question.

The amendment PASSED on a 6-1 roll call vote with Crews opposed.

The main motion as amended PASSED by the following vote:

Yes: 6 - McAdams, Ozment, Stein, Westover, Hackett, and McConnell

No: 1 - Crews

M **ORD 10-07**

ORD 2010-07: An ordinance placing a ballot question on the regular election on October 5, 2010 to amend the Home Rule Charter of the CBS at Article 13.03 entitled "Property Tax Limit" to increase the millage rate limit by one and one-half tenths of one percent (.0015) which would be seven and one-half tenths (.0075), or seven and one half (7.5) mills.

This matter was POSTPONED

N **ORD 10-08**

ORD 2010-08: An ordinance of the CBS placing a ballot question on the October 5, 2010 regular election to allow, but not require, the Sitka Assembly to pass a

resolution annually for the next 20 years in accordance with SGC 4.12.110A to set the millage rate at seven and one half (7.5) mills to pay for general obligation bonds not to exceed \$15,000,000 to be issued for purchase of and capital improvements to the Hames Center, and to pay for the Hames Center unfunded operating costs.

This matter was POSTPONED

Additional New Business Items

- Q 10-085** Authorize the Municipal Administrator to sign a Professional Services Agreement with Currents Consulting to provide engineering services for the Blue Lake Hydroelectric Expansion and Takatz Lake Feasibility Projects.
- Utility Director, Chris Brewton, explained this contract is for an engineer to assist staff to make sure the best value is received for our utility dollars. It is absolutely imperative, CBS cannot afford to make a mistake or go backwards.*
- A motion was made by McConnell that this Item be APPROVED. The motion PASSED by the following vote:**
- Yes:** 7 - McAdams, Ozment, Stein, Westover, Crews, Hackett, and McConnell
- R 10-087** Authorize the transfer of \$200K from the Water Fund working capital and amend the contract with CH2MHill to complete the preliminary design of the UV facility.
- McConnell referred to a recent conversation where it sounded like Sitka could get a waiver. Stein reported when he was in Petersburg he had asked Congressman Young about a waiver and learned that he was introducing language to exempt cities like Cordova and Sitka. Environmental Superintendent, Mark Buggins, had not heard about a waiver. It is a federal law that was passed several years ago however he would follow up on it. Buggins stressed the design needs to get going in order to obtain funding. Both the Administrator and Buggins were left with the understanding that the paperwork should begin, but that the City was not necessarily committing to spending the \$200,000 if it did not need to.*
- A motion was made by Westover that this Item be APPROVED. The motion PASSED by the following vote:**
- Yes:** 7 - McAdams, Ozment, Stein, Westover, Crews, Hackett, and McConnell
- S 10-089** Approve the hire offer of Gary Baugher as the Operations Manager.
- A motion was made by McConnell that this Item be APPROVED. The motion PASSED by the following vote:**
- Yes:** 7 - McAdams, Ozment, Stein, Westover, Crews, Hackett, and McConnell
- T 10-090** Approve soliciting for bids for Phase I of the Crescent Harbor Seawalk Project and schedule a worksession for June 22 on the project.
- Scott Brylinsky explained the decision to "chunk out" portions of the project that didn't appear to be controversial. Hackett would like to see the bus shelter done early on and would also like the community ride bus shelter to blend with the existing structures. Crews brought up some additional maintenance issues with the unit pavers. McConnell hoped the benches would be in the sun opposed to the shaded area under the shelter.*
- Brylinsky offered Phase II and beyond would be discussed at the June 22*

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2010 - 06

**BALLOT PROPOSITION FOR OCTOBER 5, 2010 ELECTION
AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA AUTHORIZING
THE ISSUANCE OF GENERAL OBLIGATION BONDS IN AN AMOUNT NOT
TO EXCEED FIFTEEN MILLION DOLLARS (\$15,000,000) TO FINANCE THE
PURCHASE OF AND CAPITAL IMPROVEMENTS TO THE HAMES CENTER,
AND PROVIDING FOR THE SUBMISSION OF A PROPOSITION APPROVING
THIS ORDINANCE AND RATIFYING THE AUTHORIZATION OF THE
BONDS TO THE QUALIFIED VOTERS OF THE CITY AND BOROUGH OF
SITKA AT THE REGULAR ELECTION TO BE HELD ON OCTOBER 5, 2010**

WHEREAS, the Assembly for the City and Borough of Sitka (“City and Borough”) has determined that the question should be placed before the voters of the City and Borough at the regular election to be held on October 5, 2010 regarding incurring debt and issuing not to exceed fifteen million dollars (\$15,000,000) principal amount of general obligation bonds (the “BONDS”) to pay for the purchase of and capital improvements to the Hames Center (the “Project”); and

WHEREAS, the City and Borough will also seek approval of the voters of the City and Borough by ballot propositions to: (1) amend the Sitka Charter at Section 13.03 to increase the real property tax millage rate limit by 1.5 mills to 7.5 mills to pay the principal of and interest on the Bonds, as well as for the unfunded operating costs of the Project; and (2) allowing the Assembly to annually pass a resolution under Sitka General Code (“SGC”) 4.12.110A to set the real property tax millage rate at 7.5 mills for 20 years to pay for the general obligation bonds for purchase of and capital improvements to the Project, and the unfunded operating costs of the Project. Issuance of the Bonds will be conditioned on the voters approval of all three propositions;

NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka, Alaska, as follows:

1. CLASSIFICATION. This ordinance is not of a permanent nature and is not intended to become part of the Sitka General Code (“SGC”).

2. FINDINGS. The Assembly finds and declares that the public welfare and benefit require that the City and Borough of Sitka undertake the purchase of and capital improvements to the Hames Center located in the City and Borough.

44 The City and Borough is currently negotiating to determine the purchase price for
45 the Hames Center. The City and Borough contracted with CTA Architects Engineers to
46 complete a Facility Condition Assessment and Repair Cost Estimate for the Hames
47 Center to determine the capital improvement costs. The report that was issued by this
48 consultant estimates that capital improvement costs for necessary repairs to be
49 \$13,314,157. These costs include all necessary design, architectural, engineering, legal,
50 and other consulting services, inspection and testing, administrative and relocation
51 expenses, purchases of equipment, and other costs incurred in connection with the
52 Project's capital improvement. The City and Borough would determine the specifications
53 for the Project regarding the capital improvements.

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55 The City and Borough shall determine the application of Bond proceeds to
56 accomplish the entire Project as nearly as may be possible, including the purchase price,
57 capital improvement costs, and bond financing charges. If proceeds of the Bonds are
58 insufficient to accomplish all of the capital improvement costs comprising the Project, the
59 City and Borough shall use Bond proceeds for those costs deemed by the Assembly most
60 necessary and in the best interest of the City and Borough. If proceeds of the Bonds
61 remain unexpended and unencumbered for costs of the Project, such remaining Bond
62 proceeds may be applied to pay the cost of additional improvements to the Hames Center
63 or to pay debt service on the Bonds, as the Assembly may determine.

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65 If the Assembly shall determine that it has become impractical to accomplish a
66 portion of the Project because of changed conditions, incompatible development or costs
67 substantially in excess of those estimated, the City and Borough shall not be required to
68 undertake such portion of the Project and may apply the Bond proceeds or any portion to
69 other portions of the Project, to other improvements to the Hames Center, or to payment
70 of principal of or interest on the Bonds.

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72 **3. AUTHORIZATION OF BONDS.** For the purpose of providing all or a
73 portion of the funds necessary to pay costs of the Project and costs of issuance of the
74 Bonds, the City and Borough shall issue and sell its general obligation bonds in the
75 aggregate principal amount of not to exceed FIFTEEN MILLION DOLLARS
76 (\$15,000,000) (the "Bonds"). The Bonds shall be issued in an amount not exceeding the
77 amount approved by the qualified voters of the City and Borough at the regular election
78 on October 5, 2010, and not exceeding the amount permitted by the constitution and laws
79 of the State of Alaska. The Bond proceeds shall not be used for other than the purposes
80 set out in this ordinance. The balance, if any, of the cost of the Project shall be paid out
81 of any other legally available funds and as authorized by the Assembly.

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83 The Bonds shall be issued in such amounts and at such time or times as found
84 necessary and advisable by the Assembly and as permitted by law. The Bonds may be
85 issued in one or more series and shall bear interest payable at a rate or rates authorized by

86 the Assembly. The Bonds shall mature in such amounts and at such times within a
87 maximum term of 20 years from the date of issuance of the Bonds, all as authorized by
88 the Assembly and as provided by law.

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90 The Bonds shall be general obligations of the City and Borough and the full faith,
91 credit and resources of the City and Borough shall be pledged to the payment of principal
92 of the interest on the Bonds. Unless paid from other sources, both principal of and
93 interest on the Bonds shall be payable out of annual tax levies to be made upon all
94 taxable property within the City and Borough without limitation as to rate or amount and
95 in excess of any constitutional or statutory tax limitation.

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97 The date, form, terms, redemption provisions, maturities, covenants and manner of
98 sale of the Bonds shall be as hereafter provided by ordinance or ordinances of the
99 Assembly. After voter approval of the Bond proposition and in anticipation of the
100 issuance of such Bonds, the City and Borough may issue short-term obligations as
101 authorized by the laws of the State of Alaska.

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103 **4. BOND ELECTION.** The proposition that this ordinance shall be
104 approved and that the City and Borough shall issue the Bonds to pay costs of the Project
105 shall be submitted to the qualified voters of the City and Borough for their ratification or
106 rejection at the regular election to be held in the City and Borough on October 5, 2010.
107 The bond proposition shall be in substantially the following form:

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CITY AND BOROUGH OF SITKA

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PROPOSITION

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**\$15,000,000 GENERAL OBLIGATION BONDS FOR THE PURCHASE OF AND
113 CAPITAL IMPROVEMENTS TO THE HAMES CENTER**

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115 Shall the City and Borough of Sitka incur debt and issue general obligation bonds
116 in the principal amount of not to exceed \$15,000,000, maturing within a maximum of 20
117 years, to finance the purchase of and capital improvements to the Hames Center, and
118 shall Ordinance No. 2009-72 of the City and Borough authorizing the issuance of the
119 bonds for such plan for the purchase of and capital improvement to the Hames Center be
120 approved?

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122 The bonds will be issued only if the voters of the City and Borough of Sitka also
123 approve related propositions regarding: (1) a Charter amendment to increase the real
124 property tax millage rate limit by 1.5 mills to 7.5 mills (Ballot Question No.), and (2)
125 allowing the Assembly to pass a yearly resolution for the next 20 years in accordance
126 with Sitka General Code 4.12.110A to set the real property tax rate at 7.5 mills to pay for

127 the purchase of, capital improvements to, and unfunded operating costs for the Hames
128 Center (Ballot Question No. 1).

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BONDS **YES** ____

BONDS **NO** ____

134 **5. APPROPRIATION AND RETIREMENT.** If the issuance of the Bonds
135 is ratified at the October 5, 2010 election, so much of the total authorization as shall be
136 necessary is appropriated from the general fund of the City and Borough to carry out the
137 provisions of this ordinance, including paying costs of the Project and costs of issuance
138 of the Bonds. The amounts expended under the appropriation made in this section shall
139 be reimbursed to the general fund from the proceeds of the sale of the Bonds or the short-
140 term obligations authorized by this ordinance. The Assembly declares that this section
141 shall constitute a declaration of the City and Borough’s intent to reimburse such fund
142 from proceeds of tax-exempt bonds within the meaning of Treasury regulation 1.150-2,
143 as promulgated under the Internal Revenue Code of 1986, as amended.

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6. NOTICE. Notice, publication and posting shall be given by the Municipal
Clerk of the City and Borough in accordance with the provisions of the Sitka General
Code, the Charter of the City and Borough of Sitka, and Alaska law.

149 **7. SEVERABILITY.** In the event that any one or more of the provisions of
150 this ordinance shall for any reason be held to be invalid, such invalidity shall not affect or
151 invalidate any other provision of this ordinance or the authorized Bonds, but this
152 ordinance and the Bonds shall be construed and enforced as if such invalid provision had
153 not been contained herein; provided, however, that any provision that shall for any
154 reason be held by reason of its extent to be invalid shall be deemed to be in effect to the
155 extent permitted by law.

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8. EFFECTIVE DATE. This ordinance shall become effective on the day
after the date of its passage.

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PASSED, APPROVED, AND ADOPTED by the Assembly of the City and
Borough of Sitka, Alaska this 11th day of May, 2010.

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Scott McAdams, Mayor

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ATTEST:

Colleen Ingman, MMC
Municipal Clerk