



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, July 27, 2010

6:00 PM

Assembly Chambers

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

A motion was made by Hackett to change the orders of the day by moving item N to be taken up after item G.

Yes: 1 - Ozment

No: 6 - McAdams, Stein, Westover, Crews, Hackett, and McConnell

Government-to-Government Update with Sitka Tribe of Alaska

VI. PERSONS TO BE HEARD: None.

VII. REPORTS

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

Administrator: Dinley gave an update on Public Works projects and recognized Building Department employee Tim Hoyt on his achievement in receiving his Certified Building Official credentials. ASEA contract has been signed, currently working with PSEA, and IBEW will follow.

Attorney: Hillhouse mentioned a resolution would come forward at the next meeting on an advisory vote on electrical bonds.

Liaisons: Hackett informed the Sitka Historic Preservation Commission now has a quorum.

Clerk: Ingman reminded the filing period for the offices of mayor, assembly and school board are open until August 6 at 5:00 PM.

Other: Ozment relayed that the CNBC TV production crew was in town doing a story on bulk water which will air in September.

VIII. CONSENT AGENDA

A [10-128](#) Approve the minutes of the July 13, 2010 Assembly meeting.

This matter was APPROVED ON THE CONSENT AGENDA.

B [10-126](#) Reappoint/Appointments: 1) Curt Ledford (Library Commission), 2) Mary Ann Hall (Hospital Board, 3) Patricia Fager (Sitka Convention and Visitor's Bureau) and appoint 4) Jeff Mossige to an unexpired term on (Parks and Recreation Committee), and 5) Dale Williams to STA's seat on the (Sitka Historic Preservation Commission).

This matter was APPROVED ON THE CONSENT AGENDA.

C [RES 10-17](#) RES 2010-17: Supporting the Sitka Cross Trail from Cascade Creek to Kramer Avenue.

Sponsors: Ozment and Stein

This Resolution was APPROVED ON THE CONSENT AGENDA.

D [RES 10-19](#) RES 2010-19: Supporting the full utilization of fish waste by supporting a treatment facility for fish waste in the community.

Garry White of SEDA has been working with various fish processors throughout the community as well as private entities. A group called Mountlake Mining Company and Alaska Industrial Development and Export Authority (AIDEA) are wondering if the community supports the concept. Kim Elliott hopes the Assembly will support this. She often finds pieces of fish on their shores and believes it is from fish processors, so anything one can do to help mitigate she would appreciate. Lon Garrison, operations manager for NSRAA thinks there may be opportunities for regional aquaculture so he too is in support. Ozment added that right now the fish processors are allowed to discharge because there currently are no alternatives available to them.

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

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

E [10-124](#) Award a contract to KD Painting LLC for the exterior painting of the Sawmill Cove Industrial Park Administration Building.

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

F [10-123](#)

Award the Tree and Brush Clearing contract to Marshall Albertson dba Absolute Tree Care.

Stein asked for clarification as to why we were not awarding just the bid amount and authorizing up to \$125,000. He wanted to confirm that there are no additional adjustments anticipated. Dinley said the difference in the bid amount of \$102,500 and the \$125,000 is intended to cover any additional work that is unscheduled. Stein also wanted to clarify that there is no adjustments over time for the extensions and Dinley said that is correct. Westover asked if the \$102,500 is their base bid for the next three years. Brewton said the \$102,500 is what the budgeted amount will be. McAdams questioned why one contractor had entered an hourly rate for flagger and the other had entered zero. He just wanted to make sure the low bidder met the letter of specs in the bid. Brewton said when they did their evaluations they asked that question and the answer was those rates for those particular functions were incorporated in the other items. So we are not really getting charged extra for those two specific items.

A motion was made by Ozment that this Contract/Agreement be APPROVED. The motion PASSED by the following vote:

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

IX. UNFINISHED BUSINESS:

G [ORD 10-03](#)

ORD 2010-03: Amending SGC at Section 10.44.070 entitled "Offers of Sale and Presence on Licensed Premises (Standard Closing Hours)" to amend the Title and the Sunday hours

Sponsors: Hackett and McAdams

Police Chief Schmitt stated he did not oppose nor did the Police and Fire Commission take a firm stand.

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

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

No: 1 - Ozment

H [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.

Tim Riley, chair of the Parks and Recreation Committee spoke to a millage rate proposition a few years ago and as a committee they discussed this option of raising millage to these proposed levels. He stated there are groups that would like to work with the City if the City owned the building. Gretchen Clark said the importance of a community recreation center is not fully recognized and believes the repercussions of not having a center are enormous. Kenyatta Bradley and Carin Adickes spoke in favor of a more moderate property tax approach.

Administrator Dinley met with Mark Rowley of Pacific Tower Properties and reported the sale price would not be more than \$500,000. Stein reported he spoke to the

Finance Director and the City can clearly cover \$6M in expenses with a half mill increase in property tax.

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

Yes: 4 - Ozment, Stein, Hackett, and McConnell

No: 2 - Westover, and Crews

Recused: 1 - McAdams

A discussion ensued amongst the Assembly. Westover spoke against. McConnell and Hackett thought this to be a conservative approach and a compromise. Crews reiterated that this was addressed last year and that he brought it forward because he has seen nothing done. Crews recommended voting this down and bringing back a cleaner ordinance.

Motion to amend was made by Stein to reduce the amount "not to exceed" from \$15 M to \$6 M and to decrease the proposed tax millage increase from 1.5 mills or 7.5 to a half mill or 6.5 mill throughout this ordinance and to include transitional clerical edits as recommended by the Attorney.

Yes: 4 - Ozment, Stein, Hackett, and McConnell

No: 2 - Westover, and Crews

Recused: 1 - McAdams

- I [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.

Motion by Stein to instruct the attorney to bring back a substitute ordinance for 2010-07 that complies with the changes just made to Ordinance 2010-06.

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

No: 1 - Westover

Recused: 1 - McAdams

- J [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.

Motion by Stein to instruct the attorney to bring back substitute ordinance for 2010-08 that complies with the changes just made to Ordinance 2010-06.

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

No: 1 - Westover

Recused: 1 - McAdams

- K** [ORD 10-18](#) ORD 2010-18: Authorizing the issuance of General Obligation Bonds in an amount not to exceed \$2,410,000 to finance refurbishment and upgrades to the mechanical and electrical systems of Blatchley Middle School; and providing for the submission to the qualified voters of the City and Borough of Sitka, Alaska at the Regular Election to be held on October 5, 2010, of a proposition approving this ordinance and ratifying the authorization of the bonds.

School Board Chair, Lon Garrison, spoke in support of this Ordinance. This is an important upgrade to Blatchley Middle School.

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

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

- L** [ORD 10-19](#) ORD 2010-19: Authorizing the issuance of General Obligation Bonds in an amount not to exceed \$3,286,000 to finance major capital maintenance improvements to Blatchley Middle School; and providing for the submission to the qualified voters of the City and Borough at the Regular Election to be held on October 5, 2010, of a proposition approving this ordinance and ratifying the authorization of the bonds.

Sitka School Board Chair, Lon Garrison, explained the decision to split up the bonding for this project into two propositions. Kenyatta Bradley reminded the Assembly that the ventilation portion of this was included in the Climate Action Plan.

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

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

- M** [ORD 10-20](#) ORD 2010-20: Authorizing the use of the 1% Seasonal Sales Tax Revenue for the 35% Matching Funds for the approximately \$2.67 Million Pacific High School Major Maintenance Project, and putting the question to the voters at the next Regular Election on October 5, 2010.

School Board Chair, Lon Garrison, urged support and believes it is necessary to provide a safe, comfortable place for our students to learn. Steve Petro, suggested combining the three school related propositions and was informed because of the different match/debt service programs it was not an option. Ron Rau, a substitute teacher, urged passage. Phil Burdick, co-principal of Pacific High pointed out that the cost to the city is \$935,056. Westover contended the career center should be used for Pacific High, however, Kenyatta Bradley a graduate of Pacific High, said there is not sufficient room in the career center to house Pacific High. Superintendent of Schools Steve Bradshaw agreed. McConnell inquired if a second story could be supported looking toward the future. Finance Director, David Wolff, said the measure, if passed, would extend the 6% sales tax another year.

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

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

No: 2 - Westover, and Crews

X. NEW BUSINESS:

New Business First Reading - If Passed 2nd Reading will be on 8/10

- N** [ORD 10-22](#) An ordinance of the CBS amending SGC at Title 4 entitled "Revenue and Finance" by adding a new Chapter 27 entitled "Excise Tax on Nonalcoholic sugar-sweetened beverages," and amending the Sitka Charter to create a dedicated fund for proceeds from the excise tax on nonalcoholic sugar-sweetened beverages for a community recreation center, and placing these amendments on the ballot for the next Regular Municipal Election.

Motion by McConnell to amend by adding the phrase grocery store any time distributor is in the language and add a definition for grocery store. The definition would include convenience stores.

Yes: 4 - Ozment, Stein, Hackett, and McConnell

No: 2 - Westover, and Crews

Recused: 1 - McAdams

McAdams asked if he chose not to recuse himself what would be the ramifications. Hillhouse reasoned it could be challenged in court and the vote possibly thrown out. McAdams stepped down.

Gretchen Clark, Meagan Pasternak, Kenyatta Bradley, and Carin Adickes spoke in support of this ordinance and encouraged putting this measure before the voters. Gretchen reminded people this started as a citizens initiative, it was not driven by the Hames Task Force.

Steve Petro, Tim Riley, and Scott Calhoun, owner of Sitka Bottling, spoke against the ordinance.

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

Yes: 2 - Ozment, and Stein

No: 4 - Westover, Crews, Hackett, and McConnell

Recused: 1 - McAdams

Additional New Business Items

- O** [10-125](#) Approve the hire offer of Randall Hughes as Assessor.
- Westover thanked retiring Assessor, Jim Corak, for his service. Administrator Dinley said the City is honored to have had him serve as our Assessor.*
- A motion was made by Stein that this Item be APPROVED. The motion PASSED by the following vote:**
- Yes:** 7 - McAdams, Ozment, Stein, Westover, Crews, Hackett, and McConnell
- P** [10-127](#) Approve a conditional use permit requested by S&S General Contractors on Kasiana Island to operate a quarry and sale of rock with conditions.
- A motion was made by Stein to convene as the Board of Adjustment. The motion PASSED unanimously.**
- Staff and Planning Commission
Planning Director Wells Williams made a couple clarifying comments regarding his*

memo of July 21, 2010. The cubic yard segment should have read from 80,000 to 150,000 cubic yards. Also clarified was Condition No. 7 that should read construction or extraction and not and. Williams said it would not allow for transportation during the herring closure time. Condition 2 was proposed by Commissioner Twaddle because of his rock background. In regard to hours of operation that was drawn from the mining plan submitted by Mr. Bevan. It was made more restrictive in the Planning Commission's recommendation, to allow for light operations that do not include blasting. Jeremy Twaddle noted that the Planning Commission spent a lot of time coming up with these conditions and conducted a site visit. He feels the Planning Commission came up with good conditions and a recommendation.

Ozment asked why the Planning Commission didn't make a decision. Williams clarified with regard to conditional use permits it is the Planning Commission's obligation to make a recommendation only. Hackett wondered why there was a 5-year window. The Planning Commission wanted to give the neighbors a set window that allowed the permit to be open for five years.

Williams noted this request was brought forward for the specific purpose of allowing for commercial utilization of rock. Stein wondered if people knew when they purchased property that there was a possibility of the quarry being active. Williams recalled the process started with Mr. Bevan approaching the Planning Office on whether they needed to go through the conditional use permit. Williams determined that a conditional use permit would be required. Present zoning is in the General Island District.

The island went through a major subdivision process in 2004, it was given a great deal of attention at the time, almost exclusively with regard to the herring. Hackett thought that new zoning should have followed the subdivision and questioned the industrial use logic. She also expressed concern in the course of events when the subdivision was created and lots were sold. The buyers were asked to say they would not have any commercial use, yet the developers of the subdivision now want an industrial use. Williams explained that in order for the zoning to have changed there would have needed to be an ordinance. That did not occur. The full dialogue in 2004 surrounded herring and whether to add a herring note. It didn't occur to anybody at the time to look at the intent language. Follow up did not include a zoning change. Quarrying is still a use on Large Island Districts either category being discussed would require a conditional use permit. Williams read the intent language of General Island District. McAdams wondered if it would be reasonable that a person buying a piece of property in the General Island District would suspect there might be a mining use there. Stein reminded the burden of proof is on the applicant.

Applicant

Applicant Hugh Bevan, employee of S&S General Contractors, spoke. He pointed out the cost of cleaning up this lot for someone to buy it would be roughly \$75K. A topo map was created during the subdivision process and is available in the Planning Office. This property does not have to remain a rock quarry forever. The plan as presented has a lot of good attributes.

Public Testimony

Kim Elliott was astounded this request made it to the Assembly. Sue Litman hoped the Assembly had carefully read the conditional use permit, she read and handed out her written testimony. Mary Allen spoke against the request. She lived on the island before it was subdivided and noted it is an epic center for herring spawn. Peter Apathy read a prepared statement for Christian Fabian stating he would never have purchased the property in 2007 had he known. Yvette Martin, co-owner of Lot 2 on Kasiana mentioned she was under the impression that there would be no commercial

ventures when she purchased the property.

Motion by Westover to extend the meeting until 11:00 PM. Motion passed by unanimous consent.

Joel Martin co-owner of Lot 2 read his statement opposing quarry operations. Keith Nytray also read a statement opposed to the request. Janet Eddy said in spite of a history of an active quarry the herring are still very prevalent there. It was an obvious rock quarry when she purchased. This particular outcropping of rock is ugly and she was told it would be removed. She urged the Assembly to approve this request so S&S could remove the old rock quarry.

Assembly Deliberations

Stein reminded there is a history of quarrying on Kasiana Island. Investments were made but he is unsure if anything can mitigate 6 days of mining however. Ozment was perplexed that the original applicants who initially requested this be residential are now the ones coming back requesting an industrial use. Crews said there is an economic impact to consider. Westover acknowledged the Planning Commission worked hard to come up with the conditions. As much as she would like to see the rock used for the airport she wasn't sure she could support it. Hackett also thanked the Planning Commission and supported the project plan submitted by S&S. She wished the project was located somewhere more appropriate. McConnell did not feel the mitigation was adequate.

A motion was made by Stein that this Item be APPROVED. The motion FAILED by the following vote:

Yes: 1 - Crews

No: 6 - McAdams, Ozment, Stein, Westover, Hackett, and McConnell

A motion was made by Ozment to reconvene as the Assembly in regular session. The motion PASSED unanimously.

Findings of Fact:

Based on the record from the Planning Commission and testimony, the Assembly found the applicants have not met their burden of proof that the proposed conditional use permit will not:

- a. Be detrimental to the public health, safety, and general welfare;*
- b. Adversely affect the established character of the surrounding vicinity;*
- c. Be injurious to the uses, property, or improvements adjacent to, and in the vicinity of, the site upon which the proposed use is to be located.*

The Board expressed concerns on a) Noise generation; b) Visibility of quarry and its impact from adjacent lots, waterborne traffic and Halibut Point Road; and c) Distance from nearby adjacent and/or nearby parcels or islands.

Q [10-130](#)

Discussion on the Bear Attraction Nuisance Ordinance 2008-09.

This item will be taken up on August 10, 2010.

XIII. ADJOURNMENT

Motion by Ozment to adjourn the meeting. This meeting ADJOURNED at 11:00 PM. The meeting was previously extended to end at 11:00 PM.

ATTEST:

Colleen Ingman, MMC
Municipal Clerk