

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

## **POSSIBLE MOTION**

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**I MOVE TO** approve the minutes of the  
April 22, 2014 Assembly meeting.



# CITY AND BOROUGH OF SITKA

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

## Minutes - Draft

### City and Borough Assembly

*Mayor Mim McConnell*

*Deputy Mayor Matt Hunter*

*Vice-Deputy Mayor Phyllis Hackett, Pete Esquiro, Mike Reif,  
Benjamin Miyasato and Aaron Swanson*

*Municipal Administrator: Mark Gorman*

*Municipal Attorney: Robin L. Koutchak*

*Municipal Clerk: Colleen Ingman, MMC*

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Tuesday, April 8, 2014

6:00 PM

Assembly Chambers

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#### **WORKSESSION 5:00 - 5:50 PM**

Sound Development LLC gave a presentation to the Assembly on their plan for Tract C of the South Benchlands.

#### **REGULAR MEETING**

##### **I. CALL TO ORDER**

##### **II. FLAG SALUTE**

##### **III. ROLL CALL**

**Present:** 7 - McConnell, Hunter, Hackett, Esquiro, Reif, Swanson, and Miyasato

##### **IV. CORRESPONDENCE/AGENDA CHANGES**

None.

##### **1. 14-065 Reminders and Correspondence for April 8, 2014**

##### **V. CEREMONIAL MATTERS**

Mayor read and presented a proclamation on National Public Health Week.

##### **2. 14-066 National Public Health Week Proclamation**

##### **VI. SPECIAL REPORTS: Government to Government, Municipal Boards/Commissions/Committees, Municipal Departments, School District, Students and Guests (time limits apply)**

Benjamin Miyasato, vice chair of Sitka Tribe of Alaska announced the new general manager, Lawrence SpotteBird, would start Monday, April 14.

**VII. PERSONS TO BE HEARD**

Dr. William E. Davis spoke to the Greater Sitka Legacy Fund. He described it as a fund where one could leave a lasting remembrance to Sitka. Davis, expressing his gratitude, said the Fund received \$50,000 from the Rasmuson Foundation and provided an overview of other donations received to date.

Patrick Williams and Ellen Bailey passed out information on County Health Rankings for Sitka announcing Sitka was number two in the State with the goal to be number one.

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

Mayor - Attended the Choose Respect March; participated in a seafood chowder cook off; hosted a table at the Chamber Dinner honoring the USCG. Mentioned that Captain Edward Sandlin will be moving in June. Jesuit volunteers hosted a dinner for her where she learned about their pursuit and they learned about city and tribal governments. Attended an "Art Place" site on behalf of Alaska Arts Southeast informing that they had applied for a grant. Met with staff, Mike Reif and Hugh Bevan to discuss roads where a town hall meeting was proposed on the topic. Talked with Sitka Historical Society Executive Director Hal Spackman about Assembly members that might want to attend the Historical Society benefit function this Thursday. For anyone interested a table will be reserved, but members need to notify Hal.

Administrator spoke to a petition received by neighbors from the Shelikof Way neighborhood regarding a possible B&B violation; suggested a clarification ordinance may be needed at a future date. Noted the Tourism Summit had been downgraded. The hope was to get a couple Assembly members to work with the Sitka Convention and Visitor's Bureau to revisit their role etc. Received a proposal for a commercial pig farm. It was the City's conclusion that it was not a compatible use for the proposed location. He continued to receive concerns from the owners of Stereo North on the Community Ride location and held a meeting this week to discuss options. He added, there was an exhaustive community process that led to the current location. With regard to the Alaska Energy Authority (AEA) Loan - the good news was there should be language coming out of the Senate Finance Committee authorizing the loan, bad news, there was no appropriation. There was a current program that may not actualize, and in that event funding may come available. With regard to the Local Purchase Ordinance, the quote system would be ready to go live this week and local businesses would be able to apply. The State Capital Budget was released this week and there was \$3.3 Million Head Tax money identified for Sitka. This was new money that would tie to the city's priority list for head tax funding. Late last week the position of Police Lieutenant was offered to Jeffery Ankerfelt of Minnesota. The City had two very strong candidates for this position. Gorman added he met with Pacific High Government Class.

Attorney - Advised that she and Pete Esquiro (in his role as Tribal Court Judge) traveled to Anchorage to present on Sitka's Minor Consuming Infractions. Sitka's program is admired statewide. In Sitka, instead of arraigning them on their first offense they are given an opportunity to go through the Tribal Youth Diversion program. The program, started in 2005, teaches them about alcohol, self worth, etc. Koutchak noted the program was available to all youth.

Liaisons - Hackett attended the Health Needs and Community Services Commission and urged people to take a look at the data on the county health network ([www.countyhealthrankings.org](http://www.countyhealthrankings.org)). The Commission will give the Assembly an update at the next meeting. Reif attended the Chamber of Commerce Annual Banquet sat with and praised USCG Captain Edward Sandlin. Met with a number of city staff to discuss how we can get our roads to sustainability.

Other - Speaking to the Electric Department Report Reif asked about critical path items identified - wondering if we were close. Utility Director, Chris Brewton, responded this was delayed a couple days. He clarified the City was not expecting to use any diesel this spring. Brewton added, the Electric Department would be encouraging electrical and water conservation in the future during some major projects.

## IX. CONSENT AGENDA

**A 14-061** Approve the minutes of the March 25, 2014 Assembly meeting

**A motion was made by Hunter to adopt the CONSENT AGENDA consisting of Items A & B. The motion PASSED on the following vote.**

**Yes:** 7 - McConnell, Hunter, Hackett, Esquiro, Reif, Swanson, and Miyasato

**B 14-062** Approve close out and fund transfer for Capital Project #90647 (Jarvis Tank Inspection)

**This item was APPROVED ON THE CONSENT AGENDA.**

## X. UNFINISHED BUSINESS:

**C ORD 14-02** Amending Sitka General Code at Chapter 9.20 entitled "Smoking in Public Places and Places of Employment" to modify Section 9.20.035 regarding prohibition of children in places where smoking is permitted

Ryan Kaufman voiced his support of what he viewed as clarifying the language of the 2005 vote.

Davis Tjosmsland suggested the Assembly was going too far. He felt it was up to parents etc. He alleged the Assembly was micromanaging things parents should do.

Margaret Peterson, American Legion representative spoke against this. She said that it was going to stop a three hour kids Christmas party held once a year with several attendees. She wondered if passing this would mean that the Pioneers Home and local hotels would have to get rid of their smoking rooms. Peterson encouraged a vote of the people not just that of the Assembly. She believed the Assembly was overstepping their grounds.

Hackett spoke to a former Assembly member, Al Duncan, and his belief as to the intent of the ordinance: it was to keep children out of smokey environments. She spoke to the Elks Lodge going smoke free. She supports.

Reif personally does not know what the intent of the voters was back in 2005, he can

only speculate. He believed if the question was put before voters today they would support it.

Hunter was still conflicted. The language as written was unclear and therefore, very easy for people to make their own interpretation. He felt there should be a clarifying vote by the people as it had been ten years. Third-hand smoke was bad but not as bad as second-hand smoke and that data did not exist back in 2005. He would not support this ordinance for these reasons, yet he was very sensitive to the personal responsibility issue.

Hackett pointed out there were a lot of laws that were public safety issues the Assembly enforced without a vote of the people.

**The motion had been previously proposed until all seven Assembly members were present. The motion was renewed and PASSED by the following vote.**

**Yes:** 6 - McConnell, Hackett, Esquiro, Reif, Swanson, and Miyasato

**No:** 1 - Hunter

**D ORD 14-07**

Amending SGC Title 13 entitled "Port and Harbors" by Repealing and Reenacting certain sections to substantially update the laws governing the conduct and use of Sitka Municipal Harbor Facilities by adopting clear requirements for vessel maintenance and care and procedures for impounding nuisance vessels

Hackett thanked the Attorney and Harbormaster for their work.

Reif queried Harbormaster Stan Eliason and Port and Harbors Commissioner Stan Johnson on a few clerical edits. He expressed concern with contacting harbor users by certified mail. He believed that would be challenging for harbor users and suggested using text or email as harbor users were often out of town. Municipal Attorney Koutchak explained this was a procedural due process element that required certified mail. The law took a dim view of people being out of town and not having post office boxes. The other method was personal service.

A lengthy discussion took place on the absence of a penalty for leaving fuel burning appliances unattended. It was noted the Harbormaster could give verbal warnings and issue warning letters but the City didn't have the staff power to enforce. The USCG has the authority, the City does not. Koutchak stressed the rules needed to be there and could be enforced through warnings.

Commissioner Stan Johnson agreed on giving the harbormaster the leeway. As he recalled, part of the conversation had to do with the issue of soot and suggested the language include the word "unsafe."

**A motion was made that this Ordinance be PASSED ON SECOND READING. An amendment was made by Reif to add the word "unsafe." Both motions PASSED by the following vote.**

**Yes:** 7 - McConnell, Hunter, Hackett, Esquiro, Reif, Swanson, and Miyasato

- E ORD 14-08** Revising Chapter 4.09 of the SGC, at Subsection 4.09.110 entitled "Residence Construction Tax Refund" to extend the time period for applying for the refund to two years after the issuance of the building permit, and, to clarify that only one refund per building permit will be issued
- Reif mentioned he had formerly recused himself on first reading but after speaking with the Municipal Attorney was advised he really did not need to. That being said, he would participate in the discussion but refrain from voting on the ordinance.
- A motion was made by Hunter that this Ordinance be PASSED ON SECOND READING. The motion PASSED by the following vote.**
- Yes:** 6 - McConnell, Hunter, Hackett, Esquiro, Swanson, and Miyasato
- Recused:** 1 - Reif

**XI. NEW BUSINESS:**

**New Business First Reading**

- F ORD 14-06** Authorizing Sublease of space by Island Girl Coffee LLC at the Sitka Rocky Gutierrez Airport Terminal Building
- A motion was made by Hunter that this Ordinance be PASSED ON FIRST READING. The motion PASSED by the following vote.**
- Yes:** 7 - McConnell, Hunter, Hackett, Esquiro, Reif, Swanson, and Miyasato
- G ORD 14-09** Amending the Sublease with Ostrov Enterprises d/b/a Airport Gift Shop at the Sitka Rocky Gutierrez Airport Terminal Building to modify Lease Space and Square Footage due to the sale of Espresso Stand
- A motion was made by Swanson that this Ordinance be PASSED ON FIRST READING. The motion PASSED by the following vote.**
- Yes:** 7 - McConnell, Hunter, Hackett, Esquiro, Reif, Swanson, and Miyasato

**Additional New Business Items**

- H 14-064** Approve an amendment to the Sitka Coastal management Plan Enforceable Policy 1.4 to delete Picnic Cove as a permitted personal use floathouse site
- John DeLong, a float house owner, stated he and his son were currently putting together a float house with the idea of placing it in Picnic Cove. His son gathered some signatures on a petition of folks that want to continue to allow float houses in the Cove.
- Ward Eldridge voiced concern with affordable housing and unintended consequences.
- Scott Saline had float houses in the past and spoke to the Coastal Management Plan and his dissatisfaction with it. He would like to see the item postponed.

Brian Timmer found out about this agenda item a day ago and looked up the Coastal Management Plan speaking to Section 1.04 which grandfathered in the existing float house, of which his father owned. Timmer indicated new applicants still had to be approved. He felt there was plenty of space and didn't think the existing float house was obstructing the public access.

Jeff Wheeler was the previous owner of the other float in the bay. He relayed that all the good anchorage was in the middle of Picnic Cove. He didn't think the Assembly was getting all the facts.

Rob Miller, an avid hunter, fisherman, and subsistence gatherer, spoke to safe havens being taken away from people. Miller said he did not support the agenda item and did not feel there was a conflict of use between float houses and the public.

Mike Mayo told of a story when he was in Picnic Cove and ran across a man in a simple row boat. The float house served as a safe haven for the man and he favored keeping it there.

Government Relations/Coastal Management Director, Marlene Campbell, offered some history. The Coastal Management Program died in 2011 and funding ceased. The Assembly did adopt the enforceable policies. Department of Natural Resources owns them. Campbell stated DNR was currently receiving a number of inquiries and interest from the heirs of the former float house owner. DNR still recognized Sitka's Coastal Management Plan. Campbell noted there were no legal float houses in Picnic Cove. Other sites were much larger and could accommodate a number of float houses. Campbell continued to say there had been a lot of public concern for the Cove being too small to accommodate both float houses and recreational users. Bringing the agenda item forward was simply an attempt to see whether the City wanted to close the site because it had been problematic in years past. DNR was just waiting to hear whether Sitka wants to comment.

Mayor wondered if there was additional float house space in existing sites.

Miyasato mentioned that some people felt unsafe and unwelcome in Picnic Cove. The Mayor felt that situation had been rectified. Hackett wondered if the float house could be removed in the future or did it need to be done now. Campbell said past Regional Directors had always deferred to Sitka to set policy but ultimately it was DNR's decision as they were the ones to issue the permits. Hackett was torn and thought it a shame to get rid of a living off the grid opportunity. She also spoke strongly of public use.

One of the Mayor's concerns was whether the recreational boaters passing through were able to anchor up there. Miyasato was conflicted too, speaking to anchorage. The float house owners needed to recognize there was going to be public use in the Cove. Hackett would like to have the issue monitored and be informed if complaints were received.

**A motion was made by Hackett to amend the policy. The motion FAILED on the following vote.**

**No:** 7 - McConnell, Hunter, Hackett, Esquiro, Reif, Swanson, and Miyasato

I 14-063

Approve a blanket waiver of the \$100 penalty non-filing fee for 2014 property taxes

Ann Lowe spoke in support of the waiver.

A motion by Hunter to approve a blanket waiver of the \$100 penalty non-filing fee for 2014 property taxes. The motion PASSED on the following vote.

Yes: 7 - McConnell, Hunter, Hackett, Esquiro, Reif, Swanson, and Miyasato

**XII. PERSONS TO BE HEARD:**

None.

**XIII. EXECUTIVE SESSION**

None.

**XIV. ADJOURNMENT**

With no further business and no objections the Assembly ADJOURNED at 8:37 PM.

ATTEST: \_\_\_\_\_  
Colleen Ingman, MMC  
Municipal Clerk