



CITY AND BOROUGH OF SITKA

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

Minutes - Final City and Borough Assembly

Mayor Mim McConnell
Deputy Mayor Matt Hunter
Vice-Deputy Mayor Benjamin Miyasato
Aaron Swanson, Steven Eisenbeisz
Tristan Guevin, and Michelle Putz

Municipal Administrator: Mark Gorman
Municipal Attorney: Robin L. Koutchak
Municipal Clerk: Sara Peterson, CMC

Tuesday, May 12, 2015

6:00 PM

Assembly Chambers

REGULAR MEETING

I. CALL TO ORDER

II. FLAG SALUTE

III. ROLL CALL

Present: 7 - McConnell, Hunter, Swanson, Miyasato, Eisenbeisz, Guevin, and Putz

IV. CORRESPONDENCE/AGENDA CHANGES

[15-075](#) Reminders, Calendars and General Correspondence

V. CEREMONIAL MATTERS

Mayor McConnell read a proclamation celebrating May 18, 2015 as Arbor Day in Sitka. Joe D'Arienzo, Chair of the Tree and Landscape Committee, accepted the proclamation.

[15-064](#) Arbor Day Proclamation

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

Lawrence SpottedBird, General Manager of Sitka Tribe of Alaska (STA), provided an update to the Assembly. SpottedBird reported the recent Town Hall meeting between the Sitka Police Department and STA was a success. He also mentioned STA was looking for property to purchase in Sitka to build a bus maintenance facility.

VII. PERSONS TO BE HEARD

Ann Wilkinson, urged the Assembly to look into the possibility of an alcohol tax.

Robb Farmer, Director of the Kettleson Memorial Library, reminded the public the annual adult spelling bee would be held May 24.

Ed Kimmel, spoke to the cost of living and high turnover rate of employees.

Michelle Putz, speaking as a member of the public, expressed concern over the increasing number of short-term rentals and the effect on the long-term rental supply.

VIII. REPORTS

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

Mayor - Attended the opening of the art show at City Hall May 1 and encouraged the community to stop by and enjoy the display during the month of May, attended the Hospital Stakeholder Focus Group meeting on May 6, and attended two events the week of May 4 celebrating the completion of the Blue Lake Hydroelectric Dam Expansion project. The first was a dinner hosted by Barnard Construction and the second was the dedication ceremony at the new powerhouse. She added this was the largest municipal project the City had ever done in turn providing local employment and new careers for some Sitkans. She further added the project would provide stable, clean, renewable, affordable energy today, tomorrow and for generations to come. She thanked Sitkans for seeing the need and voting to approve the important project. On May 8, Mayor McConnell attended the dedication ceremony of the new Tech Center at Sitka High School and was impressed by what was happening in this new, sheltered space. Most noticeable were cars up on lifts and three buildings under construction, including a tiny home. She added students for many years to come would be graduating from high school with hands-on knowledge of careers that would set them up well for their futures. On Mother's Day, Mayor McConnell joined some other Sitkans for the inaugural visit of the Norwegian Sun cruise ship. Plaques were exchanged, photos taken, and lunch was served in one of the restaurants. She noted on May 13 she was traveling to Juneau to attend the Alaska Municipal League spring board meeting for two days.

Administrator - Gorman met with Sound Development partners to work on a land swap, informed by DNR last week that a mistake had been made in conveyance of tidelands to CBS, announced there would be a Town Hall meeting May 13 to talk about city services and municipal government, and reported the temporary fencing at the overlook area at Blue Lake was unsafe for public access and CBS was working with the Forest Service to determine access and solutions.

Liaisons - Putz mentioned a tree ordinance would be coming forward May 27, Hunter reported the Port and Harbors Commission would like to be involved in further worksessions regarding the transient float project, Miyasato reported the Library Commission recommended keeping the library hours at status quo and were continuing to have discussions regarding the library name change. Guevin attended the School District strategic planning worksession on May 6.

Clerk - Outlined the process and timeline for a citizen ballot initiative and announced that the 2015 municipal election would not be conducted by mail. Peterson shared she was in the process of securing two precinct locations with the State of Alaska Division of Elections.

IX. CONSENT AGENDA

- A [15-066](#) Approve the minutes of the April 21, 23, 28 and May 4 Assembly meetings

This item was **APPROVED** on the Consent Agenda.

- B [15-065](#) Appoint Lauren Hughey to an unexpired term on the Health Needs and Human Services Commission and appoint Dr. Debra Pohlman to serve as Medical Staff Liaison on the Hospital Board through December 31, 2015

This item was **APPROVED** on the Consent Agenda.

- C [ORD 15-31](#) Clarifying Sitka General Code Title 2 Administration, at Chapter 2.40 Elections, Section 2.40.095 Candidate Biographical Information

This item was **APPROVED** on the Consent Agenda.

X. **UNFINISHED BUSINESS:**

- D [ORD 15-24A](#) Amending SGC Section 4.09.100 N entitled Over One Thousand Five Hundred Dollars on Sales and Rents of Tangible Personal Property and on Sales and Services to increase the taxable transaction limit from \$1,500 to \$3,000 (*amend as previously adopted on May 12, 2015 to amend the effective date to October 1, 2015 and reinsert previously stricken language on line 44 "on a Monthly Basis") - a third and final reading of this ordinance will be required on June 9, 2015*

Shirley Robards, Ann Wilkinson, Greg Kane, Theresa Weiser, John Belcher, Mike Trotter, David Russell, Peggy Gipple, Chuck McNamee, Seth Bone and Casey Gould spoke in opposition to the ordinance. Wilkinson and Kane spoke in opposition to an effective date of July 1, 2015. Bone suggested a smaller increase.

Lon Garrison and Christine Pate spoke in support of the ordinance.

Phil Burdick and Robin Taylor encouraged the Assembly to support the schools in whatever way possible.

Jay Sweeney, Chief Finance and Administrative Officer, commented that the revenue generation estimate of \$400,000-\$800,000 was just that, an estimate. There would be a cost of \$150,000-\$200,000 delaying this until October.

Assembly members Miyasato, Putz, Eisenbeisz, Hunter and Guevin offered their opinions on the ordinance.

A motion was made by Putz that this Ordinance be APPROVED on second and final reading. The motion PASSED by the following vote.

Yes: 5 - McConnell, Hunter, Miyasato, Guevin, and Putz

No: 2 - Swanson, and Eisenbeisz

Lon Garrison, Seth Bone, Theresa Weiser and Michelle Kane spoke in support of the amendment.

Eric Jordan spoke in opposition to the amendment.

Administrator Gorman and Chief Finance and Administrative Officer, Jay Sweeney, offered the amendment would be difficult for the Finance Department staff to enforce and it would therefore be on the honor system.

A motion was made by Hunter to AMEND the main motion to exempt sales agreed to prior to May 12, 2015 for services to be provided prior to October 1, 2015. The motion to AMEND FAILED by the following vote.

Yes: 3 - Hunter, Swanson, and Miyasato

No: 4 - McConnell, Eisenbeisz, Guevin, and Putz

E [ORD 15-25](#)

Amending Title 4 Revenue and Finance, at Chapter 4.26 Excise Tax on Cigarettes and Tobacco Products, under Sections 4.26.010 Applicability of Chapter; 4.26.020 Tax on Cigarettes; and 4.26.030 Tax on other Tobacco Products

Lon Garrison spoke in support of the ordinance.

A discussion ensued among Assembly members. Guevin offered the proposed ordinance put an additional burden on low income populations. Hunter shared some research he had done on the extended health consequences and healthcare costs associated with smoking. He felt tobacco was costing Sitka a lot of money and spoke in support of the ordinance. Eisenbeisz stated it was unfair for SEARHC beneficiaries to have to subsidize the Hospital more than they already did and offered this might be a worthwhile ballot proposition.

A motion was made by Eisenbeisz to AMEND the ordinance to be considered as a ballot proposition for 2015. The motion FAILED by the following vote.

Yes: 2 - Swanson, and Eisenbeisz

No: 5 - McConnell, Hunter, Miyasato, Guevin, and Putz

A motion was made by Eisenbeisz to POSTPONE this item to the June 9, 2015 Assembly meeting. The motion PASSED by the following vote.

Yes: 6 - McConnell, Hunter, Swanson, Eisenbeisz, Guevin, and Putz

No: 1 - Miyasato

F [ORD 15-26](#)

Adjusting the FY15 Budget

Eisenbeisz asked for further explanation on the water main easement line item. Jay Sweeney, Chief Finance and Administrative Officer, along with Michael Harmon, Public Works Director, explained the easement was not on City property and was essentially in trespass. To provide land that was needed to protect and maintain the line, Public Works was taking care of the issue now.

A motion was made by Hunter that this Ordinance be APPROVED on second and final reading. The motion PASSED by the following vote.

Yes: 6 - McConnell, Hunter, Swanson, Miyasato, Guevin, and Putz

No: 1 - Eisenbeisz

G [ORD 15-28](#)

Amending SGC Title 2 Administration, Chapter 2.62 Sitka Investment Committee Section 2.62.010 Established-Membership-Terms to add a

member category entitled "Alternate Voting Member"

A motion was made by Putz that this Ordinance be APPROVED on second and final reading. The motion PASSED by the following vote.

Yes: 7 - McConnell, Hunter, Swanson, Miyasato, Eisenbeisz, Guevin, and Putz

H [ORD 15-29](#)

Amending SGC Title 2 Administration, at Chapter 2.04.010 Agenda, to add an item under Order of Business entitled "Board, Commission, Committee Appointments"

A motion was made by Swanson that this Ordinance be APPROVED on second and final reading. The motion PASSED by the following vote.

Yes: 7 - McConnell, Hunter, Swanson, Miyasato, Eisenbeisz, Guevin, and Putz

I [ORD 15-30](#)

To amend Title 4, Revenue and Finance, of the SGC by amending Section 4.09.010, Levy of Sales Tax, to raise the sales tax in the April through September period from six percent to seven percent; proposing to amend the Home Rule Charter of the City and Borough of Sitka to create a dedicated fund for Sitka School District and place in that dedicated fund any revenues gained from that seasonal increase in the sales tax from six to seven percent; and submitting to the voters these amendments for ratification - Ballot Proposition

Mary Wagner, Jennifer McNichol, Lon Garrison, Davey Lubin, Dawn Barragan, Heather Powell, Mikolas Bekeris, Christine Pate, Cory Kelly, Kris Fulton, and Ben White spoke in support of the ordinance.

Assembly members offered comments on the ordinance and some suggested they wanted to explore other revenue raising options.

A motion was made by Putz to POSTPONE this item to the June 23, 2015 Assembly meeting. The motion PASSED by the following vote.

Yes: 6 - McConnell, Hunter, Swanson, Eisenbeisz, Guevin, and Putz

No: 1 - Miyasato

XI. NEW BUSINESS:

J [15-070](#)

Consider waiving personal property non-filing fees in their entirety for: 1) David Coleman, 2) Thomas Emerson, 3) Edward Kimmel, 4) Robert Reid, 5) Robert Rules, 6) Wayne Taranoff, and 7) Joseph Weyhmiller. *Note: On May 4, 2015 the Assembly reduced the personal property non-filing fee from \$100 to \$20 for Tax Year 2015.*

Ed Kimmel expressed his displeasure at the process and explained his reasons for filing late.

Wendy Lawrence, Assessor, explained all taxable personal property was required to be self-reported by February 15 annually and that the applicants before the Assembly were requesting a waiver of the personal property non-filing fee for tax year 2015. The waiver amount had previously been reduced from \$100 to \$20 at the May 4, 2015 Assembly meeting.

Attorney, Robin Koutchak, reminded the Assembly there needed to be a compelling reason for missing the filing deadline and ultimately waiving the fee.

A motion was made by Miyasato to APPROVE waiving the personal property non-filing fee which was reduced from \$100 to \$20 at the May 4, 2015 Assembly meeting for David Coleman, Thomas Emerson, Edward Kimmel, Robert Reid, Wayne Taranoff and Joseph Weyhmiller. The motion FAILED by the following vote.

Yes: 2 - Swanson, and Miyasato

No: 5 - McConnell, Hunter, Eisenbeisz, Guevin, and Putz

K [15-067](#)

Approve the transfer of \$10,000 from the Public Works Street Department Snow Removal budget to the Other Expenditures, Donations budget, and authorize an expenditure of \$10,000 to the Sitka Historical Society for a grant match for the Sesquicentennial (150th) Grant

The Assembly discussed the options of taking the money from the Visitor Activities Enhancement Fund or the Southeast Economic Development Fund rather than the FY15 snowplowing budget.

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

Yes: 6 - McConnell, Hunter, Swanson, Miyasato, Guevin, and Putz

No: 1 - Eisenbeisz

L [15-068](#)

Sitka School District Budget Funding for FY16

Lon Garrison, President of the Sitka School Board, spoke in support of the motion.

Administrator Gorman provided clarification of the funding for Community Schools.

A motion was made by Hunter to approve \$6,537,658 for the FY16 Sitka School District (SSD) budget. Additionally, the SSD would receive 50% of any Federal Secure Rural Schools funding received by the municipality, and up to \$150,000 for building repair and maintenance, and, \$179,863 to fund Community Schools. SSD would manage Community Schools for the first quarter at a cost of \$44,966 and contract out the service thereafter with the remaining \$134,897. The motion PASSED by the following vote.

Yes: 7 - McConnell, Hunter, Swanson, Miyasato, Eisenbeisz, Guevin, and Putz

M [15-069](#)

Approve a lease agreement, with the option to purchase Block 4 Lot 8 of Gary Paxton Industrial Park, between Alaska & Pacific Packing and the City and Borough of Sitka (CBS) and a tidelands lease agreement between Alaska & Pacific Packing and CBS as recommended by the Gary Paxton Industrial Park Board and authorize the Municipal Administrator to execute the documents

Troy Denkinger, President of Silver Bay Seafoods, urged the Assembly to put restrictions and requirements on the Alaska & Pacific Packing (APP) lease. Rich

Riggs, CEO of Silver Bay Seafoods, expressed similar concerns and feared if APP didn't follow through with its business plan that there would be a hole left in the Industrial Park delaying plans for further development.

Pat Glaab of Alaska & Pacific Packing explained his proposal and that it had been fully vetted and approved by the Gary Paxton Industrial Park (GPIP) Board.

Steven Reifensuhl suggested the City put the property out to bid.

Putz asked Garry White, Executive Director of the Gary Paxton Industrial Park, whether the proposal met the needs of the GPIP and if the proposal would interfere with future plans. White noted that a location for the big dock had not yet been chosen. Overall, the GPIP Board felt the mission of the Park was to create jobs and bring tax revenue into the City and Borough and the Board felt that this proposal met that need. White stated he stood behind the recommendations of the Board and indicated the sale could happen once Glaab met the four benchmarks.

Hunter clarified that the water meter building would not be sold. White confirmed and noted a survey would be done.

Guevin spoke in opposition to the sale of public land and believed some of the steps in the strategic plan had not been accomplished. He added that far less conditions were placed on the sales to Silver Bay Seafoods and Monarch Tannery and that Glaab's proposal had gone through a longer public process.

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

Yes: 6 - McConnell, Hunter, Swanson, Miyasato, Eisenbeisz, and Putz

No: 1 - Guevin

A motion was made by Hunter to extend the meeting time to 11pm. The motion PASSED by the following vote.

Yes: 6 - Hunter, Guevin, Miyasato, Putz, McConnell, Swanson

No: 1 - Eisenbeisz

N [15-071](#)

Board of Adjustment: Approve a conditional use permit request for operation of a short-term rental filed by Chris and Tiffany Bryner at 413 Baranof Street

A motion was made Hunter to CONVENE as the Board of Adjustment. The motion PASSED by the following vote.

Yes: 7 - Swanson, Miyasato, Eisenbeisz, Putz, McConnell, Guevin, Hunter

Maegan Bosak, Planning and Community Development Director, gave an overview of the request.

The applicant, Chris Bryner, provided a summary of his short-term rental request. He hoped to rent his home for a three week period this summer.

A motion was made by Hunter to APPROVE a conditional use permit filed by Chris and Tiffany Bryner for operation of a short-term rental at 413 Baranof Street, and further, adopt the conditions and findings as recommended by the Planning Commission and request that they are listed in their entirety as part

of the official record:

Required Findings

1. The city may use design standards and other elements in this code to modify the proposal. A conditional use permit may be approved only if all of the following findings can be made regarding the proposal and are supported by the record that the granting of 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; nor
 - 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.
2. The granting of the proposed conditional use permit is consistent and compatible with the intent of the goals, objectives and policies of the comprehensive plan and any implementing regulation.
3. All conditions necessary to lessen any impacts of the proposed use are conditions that can be monitored and enforced.
4. The proposed use will not introduce hazardous conditions at the site that cannot be mitigated to protect adjacent properties, the vicinity, and the public health, safety and welfare of the community from such hazard.
5. The conditional use will be supported by, and not adversely affect, adequate public facilities and services; or that conditions can be imposed to lessen any adverse impacts on such facilities and services.
6. Burden of Proof. The applicant has the burden of proving that the proposed conditional use meets all of the criteria in subsection B of this section.

The city may consider any or all criteria listed and may base conditions or safeguards upon them. The assembly and planning commission may require the applicant to submit whatever reasonable evidence may be needed to protect the public interest. The general approval criteria are as follows:

1. Site topography, slope and soil stability, geophysical hazards such as flooding, surface and subsurface drainage and water quality, and the possible or probable effects of the proposed conditional use upon these factors;
2. Utilities and service requirements of the proposed use, including sewers, storm drainage, water, fire protection, access and electrical power; the assembly and planning commission may enlist the aid of the relevant public utility officials with specialized knowledge in evaluating the probable effects of the proposed use and may consider the costs of enlarging, upgrading or extending public utilities in establishing conditions under which the conditional use may be permitted;
3. Lot or tract characteristics, including lot size, yard requirements, lot coverage and height of structures;
4. Use characteristics of the proposed conditional use that affect adjacent uses and districts, including hours of operation, number of persons, traffic volumes, off-street parking and loading characteristics, trash and litter removal, exterior lighting, noise, vibration, dust, smoke, heat and humidity, recreation and open space requirements;
5. Community appearance such as landscaping, fencing and screening, dependent upon the specific use and its visual impacts.

CONDITIONS

1. Contingent upon a completed satisfactory life safety inspection.
2. The facility shall be operated consistent with the application and plans that were submitted with the request.
3. The facility shall be operated in accordance with the narrative that was submitted with the application.
4. The applicant shall submit an annual report every year, covering the information on the form prepared by the Municipality, summarizing the number of nights the facility has been rented over the twelve month period starting with the date the facility has begun operation. The report is due within thirty days following the end of the reporting period.
5. The Planning Commission, at its discretion, may schedule a public hearing at any time following the first nine months of operations for the purpose of resolving issues with the request and mitigating adverse impacts on nearby properties.
6. Failure to comply with any of the conditions may result in revocation of the conditional use permit.

The motion **PASSED** by the following vote.

Yes: 7 - McConnell, Hunter, Swanson, Miyasato, Eisenbeisz, Guevin, and Putz

O [15-072](#)

Board of Adjustment: Approve a conditional use permit request for operation of a short-term rental filed by Ali Clayton at 1601 Davidoff Street

Maegan Bosak, Planning and Community Development Director, and applicant, Ali Clayton, provided an overview of the request for a short-term rental.

A motion was made by Hunter to APPROVE a conditional use permit filed by Ali Clayton for operation of a short-term rental at 1601 Davidoff Street, and further, adopt the conditions and findings as recommended by the Planning Commission and request that they are listed in their entirety as part of the official record:

Required Findings

1. The city may use design standards and other elements in this code to modify the proposal. A conditional use permit may be approved only if all of the following findings can be made regarding the proposal and are supported by the record that the granting of 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; nor
 - 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.
2. The granting of the proposed conditional use permit is consistent and compatible with the intent of the goals, objectives and policies of the comprehensive plan and any implementing regulation.
3. All conditions necessary to lessen any impacts of the proposed use are conditions that can be monitored and enforced.
4. The proposed use will not introduce hazardous conditions at the site that cannot be mitigated to protect adjacent properties, the vicinity, and the public health, safety and welfare of the community from such hazard.
5. The conditional use will be supported by, and not adversely affect, adequate public facilities and services; or that conditions can be imposed to lessen any adverse impacts on such facilities and services.
6. **Burden of Proof.** The applicant has the burden of proving that the

proposed conditional use meets all of the criteria in subsection B of this section.

The city may consider any or all criteria listed and may base conditions or safeguards upon them. The assembly and planning commission may require the applicant to submit whatever reasonable evidence may be needed to protect the public interest. The general approval criteria are as follows:

1. Site topography, slope and soil stability, geophysical hazards such as flooding, surface and subsurface drainage and water quality, and the possible or probable effects of the proposed conditional use upon these factors;
2. Utilities and service requirements of the proposed use, including sewers, storm drainage, water, fire protection, access and electrical power; the assembly and planning commission may enlist the aid of the relevant public utility officials with specialized knowledge in evaluating the probable effects of the proposed use and may consider the costs of enlarging, upgrading or extending public utilities in establishing conditions under which the conditional use may be permitted;
3. Lot or tract characteristics, including lot size, yard requirements, lot coverage and height of structures;
4. Use characteristics of the proposed conditional use that affect adjacent uses and districts, including hours of operation, number of persons, traffic volumes, off-street parking and loading characteristics, trash and litter removal, exterior lighting, noise, vibration, dust, smoke, heat and humidity, recreation and open space requirements;
5. Community appearance such as landscaping, fencing and screening, dependent upon the specific use and its visual impacts.

CONDITIONS

1. Contingent upon a completed satisfactory life safety inspection.
2. The facility shall be operated consistent with the application and plans that were submitted with the request.
3. The facility shall be operated in accordance with the narrative that was submitted with the application.
4. The applicant shall submit an annual report every year, covering the information on the form prepared by the Municipality, summarizing the number of nights the facility has been rented over the twelve month period starting with the date the facility has begun operation. The report is due within thirty days following the end of the reporting period.
5. The Planning Commission, at its discretion, may schedule a public hearing at any time following the first nine months of operations for the purpose of resolving issues with the request and mitigating adverse impacts on nearby properties.
6. Failure to comply with any of the conditions may result in revocation of the conditional use permit.

The motion **PASSED** by the following vote.

Yes: 7 - McConnell, Hunter, Swanson, Miyasato, Eisenbeisz, Guevin, and Putz

P [15-073](#)

Board of Adjustment: Approve a conditional use permit request for an accessory dwelling unit (ADU) filed by George and Tamara Eliason at 2314 Halibut Point Road

Maegan Bosak, Planning and Community Development Director, explained the

request and the intent behind accessory dwelling units.

A motion was made by Hunter to APPROVE a conditional use permit filed by George and Tamara Eliason for an accessory dwelling unit (ADU) at 2314 Halibut Point Road, and further, adopt the conditions and findings as recommended by the Planning Commission and request that they are listed in their entirety as part of the official record:

Required Findings

1. The city may use design standards and other elements in this code to modify the proposal. A conditional use permit may be approved only if all of the following findings can be made regarding the proposal and are supported by the record that the granting of 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; nor
 - 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.
2. The granting of the proposed conditional use permit is consistent and compatible with the intent of the goals, objectives and policies of the comprehensive plan and any implementing regulation.
3. All conditions necessary to lessen any impacts of the proposed use are conditions that can be monitored and enforced.
4. The proposed use will not introduce hazardous conditions at the site that cannot be mitigated to protect adjacent properties, the vicinity, and the public health, safety and welfare of the community from such hazard.
5. The conditional use will be supported by, and not adversely affect, adequate public facilities and services; or that conditions can be imposed to lessen any adverse impacts on such facilities and services.
6. Burden of Proof. The applicant has the burden of proving that the proposed conditional use meets all of the criteria in subsection B of this section.

The city may consider any or all criteria listed and may base conditions or safeguards upon them. The assembly and planning commission may require the applicant to submit whatever reasonable evidence may be needed to protect the public interest. The general approval criteria are as follows:

1. Site topography, slope and soil stability, geophysical hazards such as flooding, surface and subsurface drainage and water quality, and the possible or probable effects of the proposed conditional use upon these factors;
2. Utilities and service requirements of the proposed use, including sewers, storm drainage, water, fire protection, access and electrical power; the assembly and planning commission may enlist the aid of the relevant public utility officials with specialized knowledge in evaluating the probable effects of the proposed use and may consider the costs of enlarging, upgrading or extending public utilities in establishing conditions under which the conditional use may be permitted;
3. Lot or tract characteristics, including lot size, yard requirements, lot coverage and height of structures;
4. Use characteristics of the proposed conditional use that affect adjacent uses and districts, including hours of operation, number of persons, traffic volumes, off-street parking and loading characteristics, trash and litter removal, exterior lighting, noise, vibration, dust, smoke, heat and humidity, recreation and open space requirements;
5. Community appearance such as landscaping, fencing and screening,

dependent upon the specific use and its visual impacts.

CONDITIONS

1. The facility shall be operated consistent with the application and plans that were submitted with the request.
2. The Planning Commission, at its discretion, may schedule a public hearing at any time following the first year of operation for the purpose of resolving issues with the request and mitigating adverse impacts on nearby properties.
3. Failure to comply with any of the conditions may result in revocation of the conditional use permit.

The motion **PASSED** by the following vote.

Yes: 7 - McConnell, Hunter, Swanson, Miyasato, Eisenbeisz, Guevin, and Putz

Q [15-074](#)

Board of Adjustment: Approve a conditional use permit request for operation of an outdoor restaurant/portable structure filed by Ashley Moore at 331 Lincoln Street

Maegan Bosak, Planning and Community Development Director, explained the request and noted an outdoor restaurant/portable structure was a conditional use permit request in the Central Business District.

Ashley Moore, applicant, explained her request. She stated the subject property allowed her to be closer to town.

Putz thanked staff for their work.

A motion was made by Putz to APPROVE a conditional use permit filed by Ashley Moore for an outdoor restaurant/portable structure at 331 Lincoln Street, and further, adopt the conditions and findings as recommended by the Planning Commission and request that they are listed in their entirety as part of the official record. The owner of record is Christopher Bowen.

Required Findings

1. The city may use design standards and other elements in this code to modify the proposal. A conditional use permit may be approved only if all of the following findings can be made regarding the proposal and are supported by the record that the granting of 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; nor
 - 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.
2. The granting of the proposed conditional use permit is consistent and compatible with the intent of the goals, objectives and policies of the comprehensive plan and any implementing regulation.
3. All conditions necessary to lessen any impacts of the proposed use are conditions that can be monitored and enforced.
4. The proposed use will not introduce hazardous conditions at the site that cannot be mitigated to protect adjacent properties, the vicinity, and the public health, safety and welfare of the community from such hazard.
5. The conditional use will be supported by, and not adversely affect, adequate public facilities and services; or that conditions can be imposed to lessen any adverse impacts on such facilities and services.

6. **Burden of Proof.** The applicant has the burden of proving that the proposed conditional use meets all of the criteria in subsection B of this section.

The city may consider any or all criteria listed and may base conditions or safeguards upon them. The assembly and planning commission may require the applicant to submit whatever reasonable evidence may be needed to protect the public interest. The general approval criteria are as follows:

1. Site topography, slope and soil stability, geophysical hazards such as flooding, surface and subsurface drainage and water quality, and the possible or probable effects of the proposed conditional use upon these factors;
2. Utilities and service requirements of the proposed use, including sewers, storm drainage, water, fire protection, access and electrical power; the assembly and planning commission may enlist the aid of the relevant public utility officials with specialized knowledge in evaluating the probable effects of the proposed use and may consider the costs of enlarging, upgrading or extending public utilities in establishing conditions under which the conditional use may be permitted;
3. Lot or tract characteristics, including lot size, yard requirements, lot coverage and height of structures;
4. Use characteristics of the proposed conditional use that affect adjacent uses and districts, including hours of operation, number of persons, traffic volumes, off-street parking and loading characteristics, trash and litter removal, exterior lighting, noise, vibration, dust, smoke, heat and humidity, recreation and open space requirements;
5. Community appearance such as landscaping, fencing and screening, dependent upon the specific use and its visual impacts.

CONDITIONS

1. The facility shall be operated consistent with the application and plans that were submitted with the request including the location.
2. The Planning Commission, at its discretion, may schedule a public hearing at any time following the first year of operation for the purpose of resolving issues with the request and mitigating adverse impacts on nearby properties.
3. Failure to comply with any of the conditions may result in revocation of the conditional use permit.
4. Must gain all necessary agency permits.
5. Must submit an updated site plan showing the proposed tent and tables.

The motion **PASSED** by the following vote.

Yes: 7 - McConnell, Hunter, Swanson, Miyasato, Eisenbeisz, Guevin, and Putz

A motion was made by Hunter to **RECONVENE** as the Assembly in regular session. The motion **PASSED** by a unanimous voice vote.

XII. PERSONS TO BE HEARD:

Administrator Gorman noted that he would be working with staff to have a special meeting for Board of Adjustment items in the future.

XIII. EXECUTIVE SESSION

None.

XIV. ADJOURNMENT

A motion was made by Hunter to ADJOURN. Hearing no objection the meeting
ADJOURNED at 10:39pm.

ATTEST: _____
Sara Peterson, CMC
Municipal Clerk