



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, April 28, 2015

6:00 PM

Assembly Chambers

WORK SESSION - Mike Gatti on Taxation - 5:00 - 5:50 PM

REGULAR MEETING

I. CALL TO ORDER

Present: 5 - Hunter, Swanson, Eisenbeisz, Guevin, and Putz

Absent: 1 - Miyasato

II. FLAG SALUTE

III. ROLL CALL

IV. CORRESPONDENCE/AGENDA CHANGES

[15-062](#) Reminders, Calendars and General Correspondence

V. CEREMONIAL MATTERS

Service certificates were read and presented to retiring employees: Marlene Campbell, Colleen Ingman, Chris Brewton, Randy Hughes and *Nancy Buckmaster.
*Not present.

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

None.

VII. PERSONS TO BE HEARD

Matt Donohoe expressed concerns in funds shortages for next year. He contends

Sitka has the most expensive moorage with the exception of Juneau in southeast.

VIII. REPORTS

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

Mayor - Attended Thursday's budget worksession after just returning from extended travels.

Administrator - Pointed out that seventy years just passed before your eyes, referring to the combined number of service years from the employees retiring. Mentioned a press release naming McMillen and City and Borough of Sitka. McMillen Jacobs Associates coordinated Community Involvement and Contribution in the Blue Lake Hydroelectric Expansion Project. Met with Connie McKenzie of Senator Murkowski's office. Presented at the Chamber summit. Met with Terry Trapp about the sale of water, with the School Board, and with the School District and city staff regarding Community Schools. Reminded the public that there will be an open house from 5-7 PM at City Hall for an art share program. Met regarding the Benchland sale and the discovery that the city sold two pieces of property that shouldn't have, working on an agreement that works for both parties and stated he would like calls directed to his office.

Liaison - Guevin reported that the School Board passed the FY16 Budget and they are losing three teacher positions.

Clerk - May 4 there will be a special meeting for second reading of the electrical rate related ordinances.

Other - Hunter was not able to attend the Port and Harbors Commission meeting. The CORPs of Engineers has some stipulations with how the city disposes of old harbor materials.

IX. CONSENT AGENDA

- A** [15-057](#) Approve the minutes of the April 14, 2015 Assembly meeting
- A motion was made by Hunter to APPROVE the Consent Agenda consisting of Items A, B, C, F & G. The motion Carried by a 6-0 roll call vote.**
- B** [15-056](#) Appointments: Reappoint Anne Pollnow to a term on the Historic Preservation Commission
- This item was APPROVED ON THE CONSENT AGENDA.**
- C** [15-055](#) Approve transfers: 1) From CIP No. 90512 (Road Upgrades Express Feeder) to CIP No. 90648 (Transmission & 1220 Upgrade) - \$135,000; and 2) From CIP No. 90261 (Island Improvements) to CIP No. 80003 (Feeder Improvements) - \$100,000
- This item was APPROVED ON THE CONSENT AGENDA.**
- F** [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"

This item was PASSED ON FIRST READING ON THE CONSENT AGENDA.

- G** [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"

This item was PASSED ON FIRST READING ON THE CONSENT AGENDA.

- D** [RES 15-11](#) Amending moorage rates to include Float Homes and adding a rental fee for the Net Shed

Port and Harbor Chair Kevin Knox addressed Putz questions. Hunter is very impressed with how well the P&H Commission has addressed these issues and the amount of public testimony they hear is staggering.

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

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

Absent: 1 - Miyasato

- E** [ORD 15-26](#) Adjusting the FY15 Budget

Mayor read the title.

Putz inquired as to the number of approvals these items take. Sweeney offered an explanation.

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

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

Absent: 1 - Miyasato

X. UNFINISHED BUSINESS:

- H** [ORD 15-14](#) Proposing to clarify the SGC by Amending Title 10 Public Safety and Morals, under Chapter 10.88 Firearms at Section 10.88.020 Prohibitions, Title 13 Port and Harbors, under Chapter 13.13 at Section 13.13.025 Emission of Soot from an Oil Stove In a Vessel, Title 4 Streets and Sidewalks, under Chapter 14.04, at Section 14.04.020 Ice and Snow Removal, Title 15 Public Utilities, under Chapter 15.05 Water System at Section 15.05.400 Cross-Connections, Title 18 Property Acquisition and Disposal, under Chapter 18.08 Personal Property Acquisition and Disposal at Sections 18.04.010 (I) Personal Property Definition and Title 18 Footnote 2 to Correct Statute References, Title 19 Building and Construction, under Chapter 19.01 Building Code at Section 19.01.013 Adoption of Excavation and Grading Standards, Section 19.01.020 Building Permit Fees, Section 19.08.040 Definition of Islands, Title 22 Zoning, Chapter 22.08 Definitions at Section 22.08.585 Manufactured Home, and Section 22.08.590 Mobile Home

Mayor read the title.

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, Swanson, Eisenbeisz, Guevin, and Putz

Absent: 1 - Miyasato

- I [ORD 15-15](#) Proposing to clarify the Sitka General Code by Amending Title 1 General Provisions, at Sections 1.01.010 Adoption, and 1.01.030 Codification Authority to update Alaska Statute References, Amending Title 2, at Sections 2.04.010 Agenda Testimony Time, 2.04.170, Assembly Meeting Time, 02.12.010 Clarifying Physician Members on Hospital Board, 2.40.100 Acceptance of Nomination, 2.40.290 Election Supplies and Equipment, 2.40.300 Instructions to Voters, 2.40.410 Preservation of Ballot After Counting, Title 3, Procurement at Sections 3.16.030 Open Market Procedures, 3.16.060 Exceptions to Competitive Bidding Requirements, 3.16.080 Procurement Monitoring, Title 4, Revenue and Finance in Sections 4.26.165 (A) and 4.26.165 (E) to clarify Alaska Appellate Court Name, in Section 4.28.040 (C) to update the best practices recommendation, in Section 4.44a.010 (B) to remove an incorrectly placed word, and Title 6, Section 6.19.030 (E) Commercial Operations Permit to clarify fee expense

Mayor read the title.

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

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

Absent: 1 - Miyasato

- J [ORD 15-22](#) Temporarily Instituting All-Mail-Ballot for Municipal Elections in 2015 and 2016 while Sitka's polling place of Harrigan Centennial Hall undergoes renovation and is inaccessible for voting

Mayor read the title.

Clerk noted that on line 43 it should read "may" instead of "will" in the event for some unforeseen reason the by mail ballot election cannot be orchestrated timely.

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

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

Absent: 1 - Miyasato

XI. NEW BUSINESS:

New Business First Reading

- K [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

Mayor read the title.

Guevin spoke to the free services that Sitka Community Hospital has been providing and estimated that a pack of cigarettes costs the city about \$10 on health related fees.

Putz realized it cannot be used on anything but the hospital. Gorman said the hospital has included this potential revenue in their proposed budget. Hunter brought up the hospital's loan and Sweeney informed that currently they are only paying interest.

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

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

Absent: 1 - Miyasato

L [ORD 15-24](#)

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

Mayor read the title.

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

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

Absent: 1 - Miyasato

M [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

Mayor read the title.

Sitka School District Superintendent Mary Wagner thanked the Assembly, she stated they have been looking at efficiencies and cut three teacher positions. \$1 M = ten teaching positions. "We are efficient and down to the bones," she said.

Matt Donohoe is opposed to this proposal. Price of diesel has not gone down. Raising the sales tax will put an additional tax on the commercial fisherman and charter fleet. The big boats will buy fuel out of town. He insisted that revenue will not be raised by doing this.

Nichols Becker, a teacher, explained that one of the reasons to remain in Sitka is to give their children an opportunity to attend great schools. Supports funding schools.

Heather Powell has three children in the district and is a graduate from the district.

Education is a priority. She supports an increase in sales tax to support schools.

Rachel Roy, a graduate of Pacific High attended UAS and SJC and sees the importance of education. One of the reasons she moved back here was class size and parent teacher ratio.

Vanessa De la Torre has children in the school system and wants schools supported.

Jennifer Robinson Executive Director of the Chamber of Commerce supports funding the School District. She will follow up with a resolution.

Mike Reif both commercial fishes and operates charters and this sales tax will affect him. He is willing to pay extra tax.

Hunter supports. Putz admits that when she put it forward she didn't realize it would be dedicated to schools but is OK with that, and voiced the need to be careful and strategic about putting this out to a vote. Guevin is opposed to this ordinance, he thinks too much of our revenue comes from lower income families, at the same time he believes we should fund schools to the cap. He would rather see a millage rate increase. Putz has same concerns and would like to increase property tax and take off tax on food. Mayor would like to hear more from the public. Guevin might be inclined to support if there was an exception for food and fuel. Eisenbeisz supports this, mentioned giving people a choice and perhaps do a millage at the same time. Gorman informed that staff is working on two other ordinances that are moving forward, however they do not include a millage rate at this time. Hunter said property tax hits a majority of Sitkans. Seasonal sales tax comes from many outside people and he would argue that we have zero in the winter and a much higher seasonal tax.

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

Yes: 5 - McConnell, Hunter, Swanson, Eisenbeisz, and Putz

No: 1 - Guevin

Absent: 1 - Miyasato

Additional New Business Items

N [15-060](#) Consideration of a Conditional Use Permit for an Assessor Dwelling Unit at 707 Lake Street filed by Mark and Phyllis Hackett previously denied by the Planning Commission

Putz disclosed that she is filling Hackett's seat and wanted to be sure there was no conflict in her participating. Municipal Attorney Koutchak clarified that she didn't get the seat by paying for it etc., and therefore, there is no conflict.

STAFF

Community Development Director Bosak explained that the commission is recommending denial. The Planning Commission denied 2-3. Coming up with four findings that the commission felt could not be met:

1. a. Be detrimental to the public health, safety, and general welfare; *since it will not be owner occupied there were concerns expressed about general welfare and safety.*
- b. Not adversely affect the established character of the surrounding vicinity; the R-1 single family and duplex residential district is intended primarily for single-family or duplex residential dwellings at moderate densities. *There was testimony from neighbors that felt they would be adversely impacted and parking issues.*

c. Not 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. *Neighbors objected to allowing a third dwelling on the property.*

3. That all conditions necessary to lessen any impacts of the proposed use are conditions that can be monitored and enforced. *It was felt that enforcement was an issue.*

4. That 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. *Ingress and egress concerns were expressed.*

Municipal Attorney Koutchak explained the Board's role is to assess whether the Planning Commission abused their discretion or if their reasoning was flawed or if they made any mistakes.

APPLICANT

Mark Hackett co-owner of 707 Lake Street relayed that he was out of town for the first meeting and there was no public testimony taken or allowed at the second meeting. He stated that they bought it for a home and intend to occupy the ADU and at some point would move into the duplex. This request meets Sitka General Code. Over the last two months the Assembly allowed multiple-use conditional use permits. The property is unique, each unit has its own level of access and two are out of site, private, and buffered from the neighbors. There were six letters of support and four letters opposing.

He contends Lake Street is one of the busiest and it is comparable to Edgecumbe Drive. Often they would be walking or riding a bike so there is no additional ingress and egress issues. Parking is not an issue, there is space for nine cars. He can see two other duplexes and a short-term rental in close proximity. Within a two minute walk there is a radio station, business offices, etc. They will not adversely impact the neighbors. We will be adding an affordable housing unit. He argues there are no adverse impacts. The condition of owner operator stated that two units be rented and one owner occupied to review in one year. He addressed the four criteria that the Planning Commission voted down.

1. Continues rental use of site and the small size is limited. The lot sits on a 1/2 acre parcel and has been there for 30 years. Being owner occupied we would be quick to circumvent and violations.
2. Existing structure since 1977. Lake Street is fully built up to our property. Granting of the permit is consistent and compatible with Comprehensive Plan. The adjoining property owners on each side and across the street have no objections.
3. No means of enforcement because there were no conditions put on the permit. The Planning department does annual reviews and conditions could be placed on the property.
4. Increasing the number of dwellings from two to three with the 3rd one being only 300 sf, with only one tenant does not pose any ingress and egress concerns as adding one more person will not impact parking. He contends the neighbors will not even notice the change. Does not change the character of the neighborhood.

Eisenbiesz asked how many people plan on living in the ADU - Hackett replied one person. Putz mentioned the number of neighbors that were not against. Hackett responded that the two adjoining property owners and the property owner across street had no concerns. SEDA wrote a letter. Guevin when he was reading through the documents that one of the conditions that the owner would live on the property. Hackett confirmed an owner would be living there unless traveling etc.

PUBLIC

Ron Phelps lives directly across from the property and says there are five neighbors

that expressed concern. He believes the radio station etc., is in a different zone. The concern is the curve in the road is bad for traffic. One other car there wouldn't be a problem.

Lois Rhodes lived there since 1972. When built they learned that R-1 allowed duplexes. She opposes putting another rental on there opening up for more ADUs in the neighborhood.

Chris Spivey, Planning Commission Chair stated there was no bias, their decision was made by the people who showed up and testified and that is why they voted it down.

Darrell Windsor was on the Planning Commission when ADUs were created and recalled placing very specific guidelines stated this is why they are a conditional use.

Karl Jordan brought up that it's expensive to live here. The ADUs are going to be on your plate a lot. It is good to have these affordable options. They built one a couple years ago and it has been successful. Any of the neighbors concerned about traffic should put in speed bumps. Grant the permit and follow up. He supports the request.

STAFF Rebuttal

Bosak is available for additional questions. It was explained that the board could add any conditions that they felt relevant, as long as they were legal and it could be remanded back to the Planning Commission.

HACKETT Rebuttal

Clarified that the first meeting was April 7 and the findings were made on April 21st therefore, planning members did not receive the letters of support at their April 7 meeting when they denied the request. There is already a conditional use permit in the neighborhood. He sees this location as affordable, and very walkable distance from the core downtown. He doesn't see parking issues. Most of the neighbors' concerns are arbitrary and somewhat objective and emotional. The mention of accidents had to have transpired before he ever owned the place and that could happen anywhere anytime. There are even steeper driveways in nearby properties. Been occupied for over 33 years, parking is not an issue. Asked to give them the opportunity to prove there are no concerns, with a one year review and they will work with the neighbors to mitigate.

Hunter asked what Hackett's thoughts were on maximizing the number of people who can occupy the property. Hackett doesn't have a problem. He is coming from island life, they like quiet. Currently there are two people downstairs and four people upstairs. Limit to eight, and a condition that two out of three be rentable, and one owner occupied, with a one year review, and none could be short-term rentals. Hackett said those conditions would be acceptable.

DELIBERATION

Eisenbeisz asked if limiting number of people to live on property discriminatory. Robin responded "No" not in this case, suggested doing an owner occupied as a safety supervisory issue. She suggested limiting number of people and amount of vehicles. Any court would frown at anything that was unduly restrictive like no children allowed. Putz thanked all those that commented and feels strongly that we should follow commission's recommendation whenever we can. However, at the same time she looked at this she doesn't feel the adverse effect or burden of proof was proven. Thinks there is available parking. ADUs make it clear that they would fit and nothing would be added. Saying we don't want ADUs in this area "not in my backyard" issues brought up are common. Doesn't feel it will impact the Lake Street traffic that much.

There was no real proof that the proposal was injurious. McConnell would not support not having home businesses that doesn't necessarily draw additional traffic and that potential needs to be preserved. Guevin sees points on both sides. Expressed concern that the conditions of the Planning Commission were not unanimous votes. He felt the Planning Commission did their due diligence. He would be supportive of remanding it back to Planning Commission with further conditions. Swanson supports restrictions on the ADU, but not the existing rentals. Putz read a definition of R-1 emphasizing the word "moderately" and spoke to the density. Hunter recognized the Planning Commission and Hackett's argument. He offered six conditions for the board to consider. Eisenbeisz likes where Hunter is going. Putz likes Hunter's initial conditions and requested to add no short-term rentals.

A motion was made by Hunter to convene as the Board of Adjustment. The motion PASSED by unanimous consent.

A motion was made by Hunter that the Conditional Use Permit for an ADU at 707 Lake Street be APPROVED with the following conditions:

- 1. Restrict the ADU to one person.**
- 2. Only two of three units could be rented at any one time, with the third unit being owner occupied.**
- 3. Maximum number of vehicles five.**
- 4. Review after one year by Planning Commission.**
- 5. Inspection by staff allowed with ten day notice to assure conformity with conditions.**
- 6. No short-term rentals allowed.**

In response to the Planning Commission findings the Board of Adjustment addressed them individually.

- 1. a "Be detrimental to the public health, safety and general welfare; since it will not necessarily be owner occupied there were concerns expressed about general welfare and safety." The board addressed this finding by imposing condition 2 above.**
- 1. b. "Not adversely affect the established character of the surrounding vicinity; the R-1 single-family and duplex residential district is intended primarily for single-family or duplex residential dwellings at moderate densities. There was testimony from neighbors that felt they would be adversely impacted and parking issues." The board believes with the ADU being restricted to one person occupancy as well as the restriction of a maximum of five vehicles and that the definition reads "primarily" addresses this finding.**
- 1 c. "Not 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. Neighbors objected to allowing a third dwelling on the property." The board believes that restricting the ADU to one person or owner occupied, plus the maximum number of vehicles allowed addresses this finding.**
- 3. "That all conditions necessary to lessen any impacts of the proposed use are conditions that can be monitored and enforced. It was felt enforcement was an issue." The board finds that the enforcement issue is addressed by the**

conditions 4 and 5 above.

4."That 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. Ingress and egress concerns were expressed." Again the board felt this finding would be resolved by the conditions and restrictions set out on the Conditional Use Permit.

The motion on the Findings of Fact and Decision PASSED by the following vote.

A motion was made by Putz to reconvene as the Assembly in regular session. The motion PASSED by unanimous consent.

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

Absent: 1 - Miyasato

O [15-058](#)

Discussion/Direction on examining changing the name of Kettleon Memorial Library

Kurt Ledford Chair of the Library Commission told about Mr. Foster's proposal to change the name of Kettleon Memorial Library. Library Director Robb Farmer informed that thus far the library board has been unable to reach a decision and library staff is split 50-50.

Bill Foster brought forward the idea of changing the name of the library coming from the position of a patron and member of the Friends of the Library. He offered 92 years of history on the library. Ted Kettleon contributed substantial funds in 1966 and that resulted in the renaming at that time. Louis Brightman was mentioned as she served as a librarian for 40 years. It started as Sitka Public Library and there are still books in the collection that note that. Sitka Public or Sitka Community Library is a name Foster supports. Putz doesn't see this as something the Assembly needs to deal with. Assembly members said they would like to see a ballot box at the library and learned they are doing that now. Guevin doesn't like places named after people just because they had the financial means to contribute.

The Assembly asked the board to come back with their decision and to be sure and let Public Works know what name they come up with so that the proper lettering can be ordered.

The Assembly directed the Library Board to make a decision on the name for the library and report back and to include Public Works Director Michael Harmon so that the proper signage could be ordered.

P [15-059](#)

Award a professional services contract to Alaska Permanent Capital Company to manage Sitka's Permanent Fund as recommended by Sitka's Investment Committee - \$48,067

Mayor read the item. Putz is the liaison for this committee and informed that this was well thought, well vetted and this contractor was the clear favorite. Staff strongly supports we have a certain liability doing this in house.

Investment Committee member Mike Reif testified that they are fortunate to have them and that they are big in Alaska stating that the city is going to make more money in the valued services and it frees up Sweeney to do other things. The

committee plans to bring a ballot measure forward to change our take out formula that is currently in the Charter.

Sweeney added twenty years ago he would not have been a proponent of this, but over the years he has learned the value of professionals and how much the odds are stacked against the individual that is trying to make the investment. One example he offered was as an individual he is only able to buy at pure retail.

Eisenbeisz asked if there was any costs savings to municipality? Gorman responded No. Hunter inquired if the premium was going to be based on a percentage of return? Fixed annual fee was the answer.

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

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

Absent: 1 - Miyasato

XII. PERSONS TO BE HEARD:

Chris Spivey thanked the Assembly for their patience and looking at multi-ways of getting more revenues. The Planning Commission is excited about looking at the plan. He referenced Gorman's comment regarding cutting community schools "It's like handing us a hand grenade with the pin out." There is a group of people working on the community schools issue.

XIII. ADJOURNMENT

A motion was made by Putz to AJOURN. With no further business the meeting ADJOURNED at 9:54 PM.

ATTEST:

**Colleen Ingman, MMC
Municipal Clerk**