

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 13 and 20, 2010 Assembly meetings.



# CITY AND BOROUGH OF SITKA

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

## Minutes - Draft 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**

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Tuesday, April 13, 2010

5:00 PM

Assembly Chambers

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### Worksession - 5:00 PM to 6:00 PM

### Sitka Rocky Gutierrez Airport Terminal Building Expansion Planning Project

#### REGULAR MEETING

I. CALL TO ORDER

II. FLAG SALUTE

III. ROLL CALL

**Present:** 6 - McAdams, Ozment, Westover, Crews, Hackett, and McConnell

**Telephonic:** 1 - Stein

IV. CORRESPONDENCE/AGENDA CHANGES

*Ozment noted the grants Sitka received from the federal government and also acknowledged the Sitka Green Business Award presented to the Assembly. Westover pointed out NOAA's letter complimenting Harbormaster Stan Eliason.*

A 10-072 Assembly reminders, calendar and correspondence.

**This matter was HEARD**

V. CEREMONIAL MATTERS

*Mayor McAdams recognized the Jesuit Volunteers and AmeriCorps Members and thanked them for their services to our community.*

B 10-068 Recognition of Jesuit Volunteers

10-069 Recognition of AmeriCorps Members

**VI. PERSONS TO BE HEARD**

*Jim Case of the Sitka Historical Society informed how the Fortuna Strait became named. They plan to bring forward a piece of history each month to share.*

*Garry White invited the Assembly and public to the "State of Sitka's Economy" to be held Wed. April 28 from 1:15 until 4:15 PM in the Harrigan Centennial Hall.*

*Nancy Yaw Davis addressed the Assembly. The SJC Subdivision is being addressed by the Planning Commission and she would also like it addressed by the Assembly. She would like the code to be changed before moving further. Ms. Yaw Davis informed the Assembly two PTP companies exist.*

**VII. REPORTS****a. Mayor**

*Spoke to the recent Visioning Session. The Mayor noted it was good to get together and brainstorm.*

**b. Administrator**

*Stated the Parks and Recreation folks anticipate the new ballfields to be open May 8. He also apprised the Assembly on other Public Works projects.*

**c. Attorney**

*She will be traveling to the Alaska Bar Association meetings on April 28.*

**d. Liaison Representatives**

*Hackett advised the Historic Preservation Commission has had several requests for review. They recently approved the Blockhouse transfer, which will be on the Planning Commission agenda for April 20. McConnell attended the Sawmill Creek Transmission Line public meeting. She continues to work with the Long Range Planning and Economic Development Commission on research, social and housing actions. Westover mentioned there would be a reception at Sitka Community Hospital to introduce and welcome their new surgeon Dr. Wein. The Complete Count Committee is about 56% complete.*

**e. Clerk**

*Mentioned the LRPEDC desires a worksession with the Assembly. She will work with Mayor McAdams on this. Reminded evaluations are due Friday April 16 for the Municipal Administrator and Municipal Attorney.*

**f. Other**

*Ozment mentioned two and a half weeks ago the Climate Action Plan Task Force met and only two Assembly members attended which concerned him. The group is about done with the plan and will bring their report to the Assembly soon.*

**VIII. CONSENT AGENDA**

- C 10-064** Approve the minutes of the March 23, 2010 and March 30, 2010 Assembly meetings.

**This matter was Approved on the Consent Agenda**

- D 10-065** Appoint Annabel Lund to a three-year term on the Local Emergency Planning Committee, reappoint Jeremy Twaddle to a three-year term on the Planning Commission, and reappoint Chris Gale to a three-year term on the Tree and Landscape Committee.

**This matter was Approved on the Consent Agenda**

- E 10-044** Approve Larkspur Cafe Liquor License Restaurant Designation Permit and Ludvig's Bistro Change in Ownership.

**This matter was Approved on the Consent Agenda**

- F RES 10-10** Opposing "an initiative creating an Alaska anti-corruption act" which will be on the 2010 Alaska Primary Election Ballot.

**MOTION PASSED on the following vote.**

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

- G RES 10-11** Requesting the Legislature amend the Fisheries Business Tax (Raw Fish Tax) Law to share more than the current 50% of the tax revenue with qualified municipalities.

*McConnell read a letter from the City of Petersburg asking Sitka to join them in urging our Alaska State Legislators to amend the Fisheries Business Tax to share more than the current 50%. "We feel that an increased share of the tax revenue would encourage municipalities to continue to maintain, upgrade and operate the public boat harbors that were transferred from State ownership to municipality ownership."*

**MOTION PASSED on the following vote.**

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

- H RES 10-12** Supporting the upgrade and return to meaningful service of the Sitka Ranger Boat to the Sitka Ranger District, U.S. Forest Service.

*Crews said he was not in favor as he felt it would appear we are trying to tell the USFS how to run their infrastructure. Ozment concurred. McConnell said this issue came up because the decision had not been finalized and there appeared to be a lot of interest in the community to continue the use. Both she and Hackett expressed concerns of the diminishing USFS personnel in Sitka and would like to ask them to maintain a strong presence in Sitka. Stein didn't see it as micromanagement but instead a diminished service in the Sitka area. McConnell added she viewed the Assembly as a partner in helping the USFS accomplish their goals. Westover wondered if the USFS asked or encouraged us to support this resolution. McConnell attended a research station meeting of Forest Service staff and there was a discussion where they aired their frustration of not having the Ranger Boat available to do their work.*

**MOTION PASSED on the following vote.**

**Yes:** 5 - McAdams, Stein, Westover, Hackett, and McConnell

No: 2 - Ozment, and Crews

**IX. UNFINISHED BUSINESS:**

- I      **ORD 10-02**      Adjusting the FY 2010 Budget for changes identified during the Second Quarter FY 2010 Formal Budget Execution Review

**Sponsors:**      Administrator's Office

*Administrator Dinley explained this formalizes the previous budget processes.*

**MOTION PASSED on the following vote.**

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

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

**Sponsors:**      McAdams and Stein

*Sixteen people testified in opposition to passage of this ordinance. They spoke to freedom, choice, property rights and individual rights issues. They don't feel the Assembly has the right to legislate this and urged taking it back to a vote of the people. They further mentioned practical problems that would surface when smokers are forced out onto the sidewalks and streets, enforcement, economic concerns, and the ability to continue to fund scholarships and non-profits.*

*Thirteen people testified in favor of passage of this ordinance. They spoke to freedoms, a responsibility to protect the public, the health risks of smoking and of second-hand smoke, the need to protect employees in the workplace, and most felt there would not be the economic impact folks feared. Informed 28 states have gone smoke free.*

*Testimony from two adjacent property owners to Ernie's Bar:  
Olga Borland owner of Random House testified they are next door to Ernie's and have never experienced smoke, odor, or anything detrimental from that place of business. However, if this ordinance passes and smoking is prohibited in the bar that would force people out to the sidewalk right in front of her door. She added she wouldn't want someone to tell her how to conduct her business.*

*Garry White, representing Robertson's Gallery (next door to Ernie's Bar) testified that they have no problem with Ernie's Bar. However, he expressed concern if smokers are forced to the sidewalks and streets they would likely congregate in front of his wife's business, impeding their business entrance/exit with secondhand smoke.*

*Both business owners wanted to make it clear that neither of them had ever lodged any complaints.*

*Moose Lodge*

*Larry Faude, administrator of the Moose Lodge, explained they do not have children there except for one day a month when the Hawaiian dancers practice, and that's upstairs. If they lose a third of their business like the Elks Club there would be less for everybody. He referenced the final words of the Pledge of Allegiance ... "under liberty*

*and justice for all.”*

*American Legion*

*George Howard, clarified the American Legion does not allow children under age. They serve veterans who served our country. We have our rights too.*

*Ernie's Bar/CHARR*

*Stan Filler, owner of Ernie's Bar and representing CHARR, spoke to their contributions over the last 9 years. He is worried if this passes it may infringe on what they are able to do. There is no doubt there will be an economic impact.*

*Chamber of Commerce*

*Shelia Finkenbinder, speaking on behalf of the Greater Sitka Chamber of Commerce stated the Chamber does oppose a smoking ban in these establishments. She expressed concern with smokers on our sidewalks and streets.*

*Assembly Deliberation*

*Westover thought the issue was one of choice; it is an individual choice to go into these establishments. She reiterated she did not like that business owners were not notified. McConnell stated with freedom comes responsibility. She didn't believe business loss would be long-term, if she did she wouldn't vote for it. Hackett asked the Attorney to explain the enforcement. Municipal Attorney Hillhouse clarified the manager/owner is to call in a person smoking, not cite the person themselves. Hackett explained she didn't want individual freedoms taken away, and was feeling indecisive. While not a proponent of smoking, Ozment is for personal choice and is concerned about Sitka's economic health. He believes the citizens should make this choice. Hillhouse pointed out that this ordinance just addresses bars, private clubs and distances. Crews brought up smoking is still legal and smokers need a public place to do that. If this passes there will be numbers of people standing on the sidewalk smoking. Mayor McAdams mentioned the logic of a Latin term propter hoc ... "Because it is, therefore it is." For him the issue of charitable gaming, which is the revenue source for charitable giving, is a separate issue from smoking.*

**MOTION PASSED on second reading on the following vote. A third reading is required.**

**Yes:** 4 - McAdams, Stein, Hackett, and McConnell

**No:** 3 - Ozment, Westover, and Crews

**X. NEW BUSINESS:**

**New Business First Reading**

**Additional New Business Items**

- K 10-070** Adoption of the new fee structure for public use of City and Borough of Sitka park facilities and increase of fees for the Tom Young cabin rental and commercial operators use of City and Borough lands beginning on January 1, 2011.

*Administrator Dinley said it is time for a nominal charge to users. The Parks and Recreation Committee reviewed the fee matrix and recommended approval. Finance Director Dave Wolff reported the Parks and Rec expenditures currently exceed revenues. Ozment believed the fees to be fair and reasonable. Hackett appreciated the issue going to the Parks & Recreation Committee first.*

**MOTION PASSED on the following vote.**

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

**L 10-074** Discussion/Direction on Commercial Operator Rules at Tendering Facilities.

*Municipal Attorney Hillhouse explained the idea was to do this yearly so if there were any issues they could be dealt with before the start of the summer season. Hackett believed it worked well last year; she comes and goes through the tendering facilities frequently. Crews reflected that it was strange under the bridge facility with the painted squares. Nothing is being adopted, if there are problems during the season corrections can be made.*

**XI. PERSONS TO BE HEARD:**

*None.*

**XII. ADJOURNMENT**

**MOTION by Westover to adjourn. The meeting adjourned at 9:02 PM on unanimous consent.**

**Attest:**

**Colleen Ingman, MMC  
Municipal Clerk**



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ASSEMBLY CHAMBERS  
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## Minutes - Draft City Assembly

**MAYOR** Scott McAdams  
**Deputy Mayor** - Reber Stein, **Vice Deputy Mayor**  
Cheryl Westover - Mim McConnell  
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**MUNICIPAL ADMINISTRATOR:** Jim Dinley  
**MUNICIPAL ATTORNEY:** Theresa Hillhouse  
**MUNICIPAL CLERK:** Colleen Ingman, MMC

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Tuesday, April 20, 2010

5:30 PM

City Hall Conference Room

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### SPECIAL MEETING

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

*The Mayor joined the meeting at 7:10 PM.*

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

### IV. NEW BUSINESS:

- A 10-078 Evaluation of the Municipal Attorney - Executive Session Anticipated

*Hillhouse was asked if she wanted to have her evaluation in public or in executive session. She opted for an executive session saying she appreciated the ability to have a more candid discussion.*

**MOTION by Westover to go into Executive Session under the statutory category of discussing subjects that tend to prejudice the reputation and character of any person; for a candid discussion and review of the Municipal Attorney's strengths and weaknesses surrounding her performance as Municipal Attorney for the City and Borough of Sitka and invite Theresa Hillhouse in when ready.**

**Motion PASSED by unanimous consent.**

**MOTION by Westover to come out of executive session at 7:10 PM.**

**Motion PASSED by unanimous consent.**

**A recess was taken from 7:10 until 7:20 PM.**

**B**      **10-077**      Evaluation of the Municipal Administrator - Executive Session Anticipated

**MOTION by McConnell to go into Executive Session under the statutory category of discussing subjects that tend to prejudice the reputation and character of any person; for a candid discussion and review of the Municipal Administrator's strengths and weaknesses surrounding his performance as Municipal Administrator for the City and Borough of Sitka and invite Jim Dinley in when ready.**

**Motion PASSED by unanimous consent.**

**MOTION by Westover to come out of Executive Session.**

**Motion PASSED by unanimous consent.**

**V.      ADJOURNMENT**

*Following both evaluation sessions the Mayor reported the Assembly had evaluated both the Municipal Attorney and the Municipal Administrator and continue to enjoy the Assembly's full confidence. The Assembly looks forward to working with both into the future. They also discussed the Assembly's goals that came out of the recent visioning session.*

**MOTION by Westover to adjourn the meeting. With no further business the meeting adjourned by unanimous consent at 8:59 PM.**

**ATTEST:**

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**Colleen Ingman, MMC**  
**Municipal Clerk**