



CITY AND BOROUGH OF SITKA

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

Minutes - Draft

City and Borough Assembly

Mayor Cheryl Westover
Deputy Mayor Pete Esquiro, Vice-Deputy Mayor Thor
Christianson,
Terry Blake, Phyllis Hackett, Mim McConnell, and Mike Reif

Municipal Administrator: Jim Dinley
Municipal Attorney: Theresa Hillhouse
Municipal Clerk: Colleen Ingman, MMC

Tuesday, June 12, 2012

6:00 PM

Assembly Chambers

REGULAR MEETING

I. CALL TO ORDER

Present: 7 - Westover, McConnell, Blake, Christianson, Esquiro, Reif, and Hackett

II. FLAG SALUTE

III. ROLL CALL

V. CORRESPONDENCE/AGENDA CHANGES

Motions were made and approved to take several of the items up out of order throughout the meeting.

VI. PERSONS TO BE HEARD

None.

VII. REPORTS

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

Mayor - Met with Governor Parnell last Wednesday thanked him for all the funding provided to Sitka. Saturday greeted the Wilderness Explorer for their inaugural visit to Sitka.

Administrator - Spoke to the numerous public works projects.

Clerk - Continued to advertise for candidates to fill Assembly member Blake's seat up until the October election. Interested people may apply up until noon on June 20. Had received three so far: Jack Ozment, Bill Paden and Michelle Putz.

Other - McConnell reported on behalf of Linda Behnken on the Gulf of Alaska Halibut Bycatch. When Behnken testified recently in Kodiak she referred to the CBS Assembly resolution. Reif questioned the filtration system. Harmon replied that

currently they are focusing on the Indian River site because of the existing infrastructure and pumps. Additionally, it is isolated from the Blue Lake Dam project. Wells will be explored in the Starrigavan area where there is a very good possibility of a water source.

VIII. CONSENT AGENDA

- A 12-78** Approve the minutes of the May 22 & 29 and June 5, 2012 Assembly meetings.

This item was APPROVED ON CONSENT AGENDA.

- C 12-79** Approve a Request for Proposal award to Sitka Sound Science Center for \$35,300 in Fisheries Enhancement Funds

SSSC Board Chair Jim Seeland, appreciates the funding. Spoke to the changes they have or are planning to make and all their partnerships. Steve Reifentstahl of NSRAA, supports SSSC proposal for the funds. It is an interregional part of the fisheries. Spoke to the economic value of the fish which is in the millions.

This item was APPROVED ON CONSENT AGENDA.

- D 12-82** Award contract to furnish Diesel Fuel for CBS, Sitka School District and Sitka Community Hospital to Petro Marine Services- bid amount \$127,682.50

This item was APPROVED ON CONSENT AGENDA.

- B 12-80** Reappoint: 1) Grant Miller, 2) Aaron Wilkinson & 3) Charles Horan to terms on the Sawmill Cove Industrial Park Board and 4) Linda Speerstra to a Tree & Landscape Committee

Reif publically thanked the individuals for filling additional terms. He took the opportunity to encourage people to run for the Assembly.

A motion was made by Christianson that these Appointment be APPROVED. The motion PASSED by the following vote.

Yes: 7 - Westover, McConnell, Blake, Christianson, Esquiro, Reif, and Hackett

IX. UNFINISHED BUSINESS:

- E ORD 12-17** Adopting Budgets for the Fiscal Year July 1, 2012 through June 30, 2013

Hillhouse explained that in accordance with Charter and Code provisions if there are any substantial amendments tonight the Administrator's budget would go into affect. You have the option in next fiscal year to do supplemental amendments. Hackett does not support this budget because of the cut to non-profits. She continues to

support the budget process starting earlier. Christianson believes we will have a supplemental budget ordinance next month for consideration and urged members to consolidate their desires into one ordinance if possible.

A motion was made by Hackett that this Ordinance be PASSED ON SECOND AND FINAL READING AS AMENDED. The motion PASSED by the following vote.

Yes: 5 - Westover, McConnell, Blake, Christianson, and Reif

No: 2 - Esquiro, and Hackett

- F ORD 12-07S** Amending the Sales Tax Exemption at Sitka General Code Subsection 4.09.100N entitled "Over One Thousand Dollars in Sales and Rents of Tangible Personal Property and on Sales of Services," and "Over One Thousand Dollars in Rent or Lease of Real Property on a Monthly Basis."

Sweeney projected the revenue for a nine month period to be roughly \$500,000 however, he clarified that it is a speculative guess. Reif hopes the additional funds will go into a maintenance/infrastructure "Sinking Fund." Westover cautioned; until we see how it plays out we really have no idea what we will collect.

A motion was made by McConnell that this Ordinance be PASSED ON FIRST READING AS PREVIOUSLY AMENDED. The motion PASSED by the following vote.

Yes: 7 - Westover, McConnell, Blake, Christianson, Esquiro, Reif, and Hackett

- I 12-85** Authorize the Administrator to execute an agreement for Contract No. 3 - Supply of Gates and Hoist for the Blue Lake Expansion Project to Linita Design and Manufacturing Corporation - not to exceed \$817,690.00

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

Yes: 7 - Westover, McConnell, Blake, Christianson, Esquiro, Reif, and Hackett

- K 12-81** Approve the award and design contract for Centennial Hall Renovations to McCool Carson Green Architects with a not to exceed amount of \$1,217,763

Esquiro brought up the money the city spends on planning and design. It is a costly piece that warrants careful consideration. Mayor has shared some of the same concerns; yet realizes the need to get it right the first time. Harmon informed that the industry standards for percentages are: 7-10% for raw design with no public process. Blatchley Middle School is a good example of that. You add in the public process and it bumps the costs up to 15%, and if you have extensive permitting it goes to 15-18%, sometimes even higher.

Reif wondered if it would make sense to do the renovations before the parking. Harmon's plan is to address the parking first, which will still accommodate staging areas for construction.

Esquiro wanted to know what the plans were to fund the balance of the project. Harmon responded that it was a Legislative Priority this year and he assumes it will be requested again next year. There are also areas for cost savings between the original plan and what is now before us. There are grant funds for visitor's centers that may be shifted over and a portion of our cruise ship dollars. Dinley added, that the library and museum will also be seeking independent funding.

A motion was made by McConnell that this Contract be APPROVED. The motion PASSED by the following vote.

Yes: 7 - Westover, McConnell, Blake, Christianson, Esquiro, Reif, and Hackett

IV. CEREMONIAL MATTERS

Mayor Westover presented Athletic Awards to the Sitka High School Lady Wolves Softball Team for their three-peat state win at the 2012 Alaska State Small-School Softball Championship in Anchorage, AK.

Coach Potruski commented that this wouldn't be possible without the Assembly's support of Sitka Schools and their programs. Coach Hagen presented the mayor with a ball signed by the teammates.

G 12-45 Anderson APPEAL of Planning Commission's decision to grant variances submitted by Boyd Didrickson - 428 Kaagwaantann Street

Motion by Reif to convene as the Board of Adjustment. Motion PASSED by the following vote.

Yes: 7 - Westover, McConnell, Blake, Christianson, Esquiro, Reif, and Hackett

Christianson moved to add to 1: The area was developed during an era when zoning codes did not exist. The motion to AMEND PASSED on the following vote.

Yes: 6 - Westover, McConnell, Christianson, Esquiro, Reif, and Hackett

No: 1 - Blake

Reif moved to further amend by adding to 1: The placement of the existing structure is extremely close to a platted road and granting the variances would move the structure significantly back from the road. The motion to AMEND PASSED on the following vote.

Yes: 7 - Westover, McConnell, Blake, Christianson, Esquiro, Reif, and Hackett

Westover moved to add to 2: To allow him to reconstruct a larger house, rather than a small cabin. The motion to AMEND PASSED on the following vote.

Yes: 6 - Westover, McConnell, Christianson, Esquiro, Reif, and Hackett

No: 1 - Blake

Reif moved to add to 3: Public welfare is improved by the removal of the existing structure and by placement of the new structure farther back from the road. The motion to AMEND PASSED on the following vote.

Yes: 6 - Westover, McConnell, Blake, Christianson, Esquiro, and Reif

No: 1 - Hackett

Reif moved to add to 4: The applicant plans to construct the home using some Native art work similar to his prior structure. The motion to AMEND PASSED on the following vote.

Yes: 7 - Westover, McConnell, Blake, Christianson, Esquiro, Reif, and Hackett

Reif moved to approve the variances approved by the Planning and Zoning Commission:

1. Reduction of the front setback from 20 feet to 10 feet;
 2. Reduction of both side setbacks from 5 feet to 3 feet;
 3. Increase in allowable lot coverage from 35% to 50%; and
 4. Reduction in the parking requirements from 2 spaces to 1 space.
- With the findings as amended.**

The motion to APPROVE THE VARIANCES PASSED on the following vote.

Yes: 6 - Westover, McConnell, Christianson, Esquiro, Reif, and Hackett

No: 1 - Blake

Reif moved to insert ALL FOUR in between grant and variances and insert AS AMENDED after findings.

The motion to AMEND PASSED on the following vote.

Yes: 7 - Westover, McConnell, Blake, Christianson, Esquiro, Reif, and Hackett

City and Borough of Sitka

Planning Director, Wells Williams participated telephonically. He explained this is the second time this is in front of the assembly; there was a title issue two years ago. Planning Commission Chairman Twaddle informed that they had considerable deliberations over many meetings. There are several variances requested on this piece of property. Eventually the Planning Commission was able to find a solution that would work for the property owner.

Hackett and Reif asked if the commission talked about a possible compromise. Hackett thinks the height is the issue. Planning responded, we can't control what the applicant submits. If Didrickson wanted he could build up to three stories in height. Reif confirmed that it was standard in the village that many of the lots and structures do not meet Sitka's current setbacks.

Didrickson

Applicant Boyd Didrickson has shown he owns the property. He had a title search done in the 1980's and has been paying the taxes. He would like to build a two story house. It has already been approved twice.

Appellant

William and Don Anderson were present and represented by Attorney Todd Araujo. He spoke to SGC as it relates to the size being substandard. Spoke to word "special" and their views. Believes having a small lot in this zone does not justify granting a variance. No evidence that Didrickson suffered a hardship that is not shared by other neighbors. He contends an undue hardship cannot be established in this case. As for the third finding, he believes it was regurgitated language and restated in the affirmative. With regards to the fourth finding, that it will not adversely affect the Comprehensive Plan. He fails to see the logic of tearing it down as that does not preserve existing structure.

Lastly, they don't think it enhances the neighborhood. It is going to be completely different and new. He sees each of the Planning Commission's findings as conclusions of law and not findings of fact.

Anderson's would like the decision overturned or at a minimum remanded back to the Planning Commission.

RebuttalsCity and Borough of Sitka

Planning Director Williams respectfully disagrees with numerous points of Anderson's attorney. It is the view of the Planning office that we did indeed do the work that is required of our office by the code and so did the Planning Commission in their evaluation of the property. The submission by Didrickson is different and there have been alterations to lessen the impact to the Andersons. We spent many meetings trying to reach a compromise. Chairman Twaddle added, they looked at the rear set back of 10 foot not requiring a reduction. The intention of the applicant is to rebuild his home and include some of the cultural significance. We talked to him about reducing his eaves, but he didn't want to do it for esthetic purposes. The ten foot front set back is the only issue left. He believes it will largely improve safety. Twaddle doesn't view this as a lot of variances for the size of lot. This is substandard lot size. There are multiple non-conforming existing structures in the village. The best overall outcome to move the dwelling back from the road with a new structure.

Reif recalled that when the village was platted in 1956 that it became known as the Indian Village Plat. It was based on a village and foot traffic; today's model is much different.

Didrickson

The house will be in the back of my existing house and be 12 feet higher. I just want a big eave so snow and rain doesn't get on my windows. He doesn't want to go smaller. He plans to put carvings up again.

Appellant Anderson

Don Anderson - The driveway is very small. He spoke to a telephone pole that could be moved. However, he learned to move the pole would cost around \$20K and to go underground was more expensive. Our road system is only eight feet wide.

BOA Deliberation

Spoke to adopting additional findings. Mayor Westover recapped that this is a tough

decision. Both sides have good points and I know the Planning Commission worked many years on this. She wondered if the city could get involved in helping move the pole. One suggestion was to remand it back and get the electric department input. Hackett does have a problem with the findings, especially number 4. Also mentioned Williams comment on the Planning Commission minutes of March 6, where he mentioned a possible framework with the STA. It might be time to come up with a framework to help deal with these situations. This is not the rest of Sitka, it is the Village and it is unique. Christianson believes we should make a decision one way or the other. He doesn't want to remand it back to the Planning Commission, we owe it to everyone involved to make a decision. Reif would also like this body to vote on it.

McConnell moved to uphold the Planning Commission's decision to grant all four variances to Boyd Didrickson of 428 Kaagwaantaan and adopt the following findings as amended:

- 1. There are special circumstances to the intended use that do not generally apply to the other properties. Specifically the size of the parcel is substandard and if the applicant were to chose to rebuild the building in its current position, the structure is a greater detriment rather than moving it back; The area was developed during an era when zoning codes did not exist The placement of the existing structure is extremely close to a platted road granting the variances would move the structure significantly back from the road.**
- 2. The variance is necessary for the preservation of a substantial property right to allow to reconstruct a house on this lot of record. Regardless of how the property was obtained, it is a deeded property; To allow him to reconstruct a larger house, rather than a small cabin.**
- 3. The granting of this variance will not be injurious to nearby parcels, or public infrastructure by moving the building back from the road it will allow greater access. The 10 foot rear setback being maintained constitutes an effort to ensure that it is not injurious to the adjacent parcel; Public welfare is improved by the removal of the existing structure and placement of the new structure farther back from the road.**
- 4. The granting of this variance will not adversely affect the Comprehensive Plan. It facilitates 2.3.15 To publicly encourage community awareness of the value of protecting historic and cultural resources; and 2.3.17 To encourage the preservation and/or renovation of historical building and sites on public lands; and it is consistent with 2.4.3 To encourage the prevention of deteriorating building conditions and the rehabilitation of deteriorating residential areas; and 2.4.4 To enhance the historic character of older neighborhoods, including the Native Village. The applicant plans to construct home using native art work similar to his prior structure.**

And further support that the Didrickson proposal will improve the neighborhood.

The original motion as amended PASSED on the following vote.

Esquiro moved to reconvene as the Assembly in regular session. The motion PASSED on unanimous roll call vote.

Yes: 5 - Westover, McConnell, Christianson, Esquiro, and Reif

No: 2 - Blake, and Hackett

J 12-84

Approve 95% Design Milestone for Pacific High School project

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

Yes: 7 - Westover, McConnell, Blake, Christianson, Esquiro, Reif, and Hackett

X. NEW BUSINESS:

H 12-83 Direction/Decision regarding a request for a vacation right-of-way 4600 HPR - Conner and Valerie Nelson

Conner Nelson testified when he bought the property he thought it was a private right of away (ROW). When Carlson subdivided back in 1977, the Planning Commission mandated he put aside a 20' ROW should he ever subdivide. In 1981, Wyatt subdivided the property and contributed 20' to the 40' easement that was to be dedicated for city access to the Benchlands. At that time, there was a plat note that the city had five years to develop the ROW, which the city did not do. So in 1986, Wyatt figured the ROW was gone. Conner spoke to the terrain and offered a picture depicting a rock wall, which he thought would be very difficult to develop.

Valorie Nelson spoke to a Stipulation for Judgment in the early 1990's where no more rock quarrying would occur.

Williams advised that the Carlson Subdivision Plat from 1978 has four lots and a ROW and includes a dedication certificate, which is a standard vehicle in which public ROWs are dedicated. The four lots are individual parcels that are distinct from that. Nelson got a deed for the lots. The adjacent property owners do not own it. In order for the public process to vacate it there has to be an affirmative decision that the ROW is not needed.

Hackett believes the subdivision plat of Carlson is the official document.

Williams disclosed, in 2003 he understood that it was an easement. Now, he says he was in error. Since then there has been a more careful review of the records. The plat spells out that it is ROW, not an easement.

Hillhouse advised, concerning the rules on property you refer to the plat. In this particular case it could be vacated, purchased or you may still want an easement. The city's issue is: are we willing to give up the ROW that the city may need in the future.

Harmon mentioned that this is a public ROW; how does the public vacate that? You always want to have at the minimum utility access to your property. Rock cliffs don't mean a lot to us. We know what owners want to do today; but how do you answer that for the future. If Nelson wants to come up with a different location we would be supportive of that.

A motion was made by McConnell to extend the meeting 10 minutes, to 10:40pm. The motion PASSED by unanimous vote.

Christianson queried an easement versus ROW; is the easement of lesser value. Harmon responded, depending on how the easement is worded; if you word it correctly it could be close to equal value. Harmon sees its potential for a utility easement versus a road. It would be hard to be used as a road. Christianson wondered if it could be moved over; would that be amicable to both parties? Harmon recalls it was discussed in some of the processes. If a straight shot could be kept

and moved, he would be flexible on an equal trade basis.

The Mayor announced this item and the other items of unfinished business will be taken up at the June 26, 2012 Assembly meeting.

XI. NEW BUSINESS- First Reading

- L ORD 12-18** Amending SGC at Section 4.12.020 Entitled "Property Subject to Tax" to increase the Biennial Motor Vehicle Registration Tax to be used for municipal roads

The Assembly did not get to this item due to time constraints.

XII. PERSONS TO BE HEARD:

Valorie Nelson testified that they have been put off many times on this issue. This was heard at the May 1 Planning meeting and should have been on the next Assembly meeting, it wasn't. She called the Planning Department and was basically told: We are not going to put it on, it is your responsibility and you need two sponsors for an ordinance. "You asked us to buy into this town because it's our community. Then you treat us like this. It feels it is the community against the assembly and administration. The assembly and mayor need to be a balance between assembly and administration. Make sure that the rules are followed." She was disappointed in what she saw tonight.

Planning Commission Chair Twaddle contributed that the city definitely does need a ROW in that area. There is another piece of nearby property that would perhaps serve for this purpose.

XIII. EXECUTIVE SESSION - Mike Litman & Jeff Farvour vs. CBS Litigation

The Assembly did not get to this item due to time constraints.

XIV. ADJOURNMENT

Christianson moved to adjourn the meeting. The meeting **ADJOURNED at 10:37 PM.**

ATTEST:

Colleen Ingman, MMC
Municipal Clerk