



# CITY AND BOROUGH OF SITKA

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

## Minutes - Final

### City and Borough Assembly

*Mayor Matthew Hunter*  
*Deputy Mayor Bob Potrzuski*  
*Vice-Deputy Mayor Steven Eisenbeisz*  
*Tristan Guevin, Kevin Knox*  
*Aaron Bean, and Aaron Swanson*

*Municipal Administrator: Mark Gorman*  
*Municipal Attorney: Brian Hanson*  
*Municipal Clerk: Sara Peterson*

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Tuesday, April 11, 2017

6:00 PM

Assembly Chambers

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#### REGULAR MEETING

#### I. CALL TO ORDER

#### II. FLAG SALUTE

#### III. ROLL CALL

Assembly member Guevin arrived at 6:15pm.

**Present:** 7 - Swanson, Eisenbeisz, Guevin, Potrzuski, Hunter, Knox, and Bean

#### IV. CORRESPONDENCE/AGENDA CHANGES

[17-067](#) Reminders, Calendars and Correspondence

None.

#### V. CEREMONIAL MATTERS

[17-060](#) Sitka High School Drama, Debate, and Forensics Team

Mayor Hunter read and presented outstanding performance awards to members of the Sitka High School Drama, Debate, and Forensics Team for first place in Drama, Debate, and in Overall Sweepstakes at the 2017 State Tournament.

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

School Board members, Dr. Tom Conley and Dr. Jennifer McNichol, reported on the fiscal challenges facing the School District.

**VII. PERSONS TO BE HEARD**

Valorie Nelson spoke in opposition to funds being used for a utility subsidization program.

Aleene Henning thanked the Assembly for their work. In addition, Henning urged enforcement of the law prohibiting cell phone use while driving.

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

Deputy Mayor - Potrzuski reported on the Washington DC Legislative Trip with Municipal Administrator, Mark Gorman and Community Affairs Director, Maegan Bosak.

Administrator - Gorman reported preinstallation work for the flashing strobe lights at the Halibut Point Road/Peterson Street intersection was underway, stated the Blue Lake overlook project was going out to bid, and cautioned citizens about snow avalanche activity.

Attorney - Hanson encouraged the public to stop by the Legal Department with City related questions.

Clerk - Peterson offered a reminder of Municipal Administrator and Municipal Attorney evaluations scheduled for April 18.

**IX. CONSENT AGENDA**

**A motion was made by Knox that the Consent Agenda consisting of items A & B be APPROVED. The motion PASSED by the following vote.**

**Yes:** 7 - Swanson, Eisenbeisz, Guevin, Potrzuski, Hunter, Knox, and Bean

**A**     [17-062](#)           Approve the minutes of the March 21, 22, and 28 Assembly meetings

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

**B**     [17-061](#)           Liquor License applications: 1) Approve a liquor license renewal for JL Totem, Inc. dba Totem Square Inn, 2) Approve a liquor license renewal for Baranof Island Brewing Company, LLC dba Baranof Island Brewing Company, and, 3) Approve a duplicate liquor license for Mean Queen LLC dba Mean Queen

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

**X. BOARD, COMMISSION, COMMITTEE APPOINTMENTS**

None.

**XI. UNFINISHED BUSINESS:**

- C**     [17-056](#)            Discussion/Direction regarding the Municipal Administrator selection process

Valorie Nelson supported a local hire.

**A motion was made by Eisenbeisz to interview three candidates, two (Carey Meyer and Dave Miller) as a final interview and one (Sheldon Schmitt) as an initial videoconference interview. After that, if the Assembly can't reach a decision then go to a recruiter. The motion PASSED by the following vote.**

**Yes:** 7 - Swanson, Eisenbeisz, Guevin, Potrzuski, Hunter, Knox, and Bean

- D**     [ORD 17-05S](#)            Amending Sitka General Code Chapter 15.01 entitled "Electric Utility Policies" by amending Section 15.01.020 entitled "Electrical Rates" (*third and final reading*)

Valorie Nelson voiced opposition to reconsideration of the motion.

Potrzuski stated the consequences and ramifications were considerable if this ordinance was not reconsidered. Guevin, who had previously spoke in opposition to the ordinance, stated he could now support the ordinance after direction was given at the April 6th budget meeting to set aside \$400,000 for a needs based electric subsidy program. Bean questioned how long the subsidy would last. Sweeney said it would depend on how the program was administered - for example, how much of a subsidy and how often. Municipal Administrator, Mark Gorman, reminded the subsidy program was not sponsored by Administration but by two Assembly members - Guevin and Potrzuski. Guevin reminded the program was not guaranteed but that money had been set aside.

**A motion was made by Guevin to RECONSIDER the motion to approve Ordinance 2017-05S on second and final reading. The motion PASSED by the following vote.**

**Yes:** 4 - Guevin, Potrzuski, Hunter, and Knox

**No:** 3 - Swanson, Eisenbeisz, and Bean

Valorie Nelson spoke in opposition to the ordinance.

Mayor Hunter and Assembly members Potrzuski, Guevin and Knox spoke in support of the ordinance offering that while a rate increase was difficult, it was the responsible decision. Swanson feared citizens would switch to oil to avoid high electric rates. Bean spoke in support of an independent rate study by the Regulatory Commission of Alaska. Eisenbeisz reminded raising rates was just one solution and wondered what alternative solutions may exist.

**A motion was made by Knox to AMEND the effective date of the ordinance to the day after the date of its passage. The motion PASSED by the following vote.**

**Yes:** 7 - Swanson, Eisenbeisz, Guevin, Potrzuski, Hunter, Knox, and Bean

It was noted a change in the effective date would require one more reading of the ordinance.

**A motion was made by Knox that this Ordinance be APPROVED on SECOND**

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

**Yes:** 4 - Guevin, Potrzuski, Hunter, and Knox

**No:** 3 - Swanson, Eisenbeisz, and Bean

- E**     [ORD 17-09](#)     Expanding the authorized uses of the Gary Paxton Industrial Park Contingency Fund and adjusting the FY17 Budget for appropriations from the Contingency Fund

**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 - Swanson, Eisenbeisz, Guevin, Potrzuski, Hunter, Knox, and Bean

**XII. NEW BUSINESS:**

**New Business First Reading**

- F**     [ORD 17-10](#)     Amending Sitka General Code Chapter 9.24 entitled "Bear Attraction Nuisance" by amending Section 9.24.050 entitled "Fines"

Andrew Thoms, Executive Director of Sitka Conservation Society, stated a group had been organized a few years ago to educate citizens on problem bears. There were three components to the group's work: education, prevention and enforcement. This ordinance served as the enforcement piece.

Stephen Bethune, Area Management Biologist with the Alaska Department of Fish and Game, spoke in support of the ordinance and noted the issue wasn't problem bears but instead problem people. He urged citizens wait until trash day to put their garbage receptacles out, thereby reducing the number of issues.

Municipal Attorney, Brian Hanson, explained the Police Department had stated there were enforcement problems with the way the initial bear attraction nuisance ordinance had been structured; a mandatory court appearance was required and fines weren't specified. This ordinance rectified those problems.

**A motion was made by Guevin that this Ordinance be APPROVED on FIRST READING. The motion PASSED by the following vote.**

**Yes:** 7 - Swanson, Eisenbeisz, Guevin, Potrzuski, Hunter, Knox, and Bean

**Additional New Business Items**

- G**     [17-063](#)     Discussion/Direction/Decision of Sitka Historical Society's request to appropriate \$50,000 of Commercial Passenger Excise Tax (CPET) funds for completion of the Sitka History Museum's interior

Swanson wondered of the legality of using CPET funding. Administrator Gorman stated the Sitka Historical Society (SHS) would need to demonstrate a methodology (e.g. survey) on how the percentage of cruise ship visitors had been determined. The SHS was aware of this requirement and did not feel it would be a major barrier.

Knox and Guevin voiced support for appropriating \$50,000 and noted the importance of the SHS and Museum. Eisenbeisz wondered because visitors would be required to pay an entrance fee if that changed the legalities of using CPET funds. Staff was

asked to research the issue.

Chief Finance and Administrative Officer, Jay Sweeney, noted if the Assembly was in agreement of appropriating \$50,000, the item would come back to the Assembly in the form of an ordinance.

**A motion was made by Swanson to appropriate \$50,000 to Sitka Historical Society contingent upon finding no problem with using CPET funds when charging user fees. The motion PASSED by the following vote.**

**Yes:** 7 - Swanson, Eisenbeisz, Guevin, Potrzuski, Hunter, Knox, and Bean

**H**     [17-064](#)

Selection and award of a contract in the amount of \$150,000 for transit services between Old Sitka Dock and Harrigan Centennial Hall parking area for the 2017 cruise ship season

Administrator Gorman informed the process had been modeled after the non-profit grant funding process. In addition, he noted there was an alternate shuttle option in Halibut Point Marine Services proposal, outside of the \$150,000 set aside for the standard shuttle option.

Chris McGraw of Halibut Point Marine Services answered questions of the proposal and informed a majority of the land tours were configured so the morning tours departed from the Old Sitka Dock (OSD) but then visitors were dropped off at Harrigan Centennial Hall (HCH) and vice versa for the afternoon tours - visitors picked up at HCH and dropped off at OSD after completion of tour.

The Assembly expressed interest in hearing more about the alternate shuttle option. Gorman stated he would ask Mr. McGraw for additional information.

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

**Yes:** 7 - Swanson, Eisenbeisz, Guevin, Potrzuski, Hunter, Knox, and Bean

**I**     [17-065](#)

Discussion/Direction/Decision on the release of documents withheld from the Public Records Request filed by Marko Dapceвич on December 17, 2016 (*possible executive session*)

Mayor Hunter inquired of Assembly member Bean as to whether or not he had shared information with Mr. Dapceвич previously. Bean responded the emails disclosed to Dapceвич were emails he also cc'd the press on as well as emails cc'd to Municipal Attorney Hanson and Municipal Administrator Gorman. Bean indicated he had waived his attorney client privilege. Bean assured the Assembly that he was not working with Mr. Dapceвич on the lawsuit and would not share information from the executive session with Mr. Dapceвич.

**A motion was made by Potrzuski to recuse Assembly member Bean from consideration of this Item. The motion FAILED by the following vote.**

**No:** 6 - Swanson, Eisenbeisz, Guevin, Potrzuski, Hunter, and Knox

**Non-voting:** 1 - Bean

**A motion was made by Potrzuski to go into Executive Session to review the communications that were withheld from the response to Mr. Dapceвич's Public Records Request, receive, and consider release of those communications to Mr. Dapceвич by waiver of the attorney-client privilege,**

which was the basis (upheld on appeal) for withholding the communications - all of which concern the lawsuit filed by Mr. Dapcevich on March 30, 2017. The motion PASSED by the following vote.

Yes: 7 - Swanson, Eisenbeisz, Guevin, Potrzuski, Hunter, Knox, and Bean

The Assembly was in Executive Session from 8:45pm to 9:08pm.

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

No action was taken on this item.

XIII. PERSONS TO BE HEARD:

None.

XIV. EXECUTIVE SESSION

J [17-066](#) *Legal matter - Dapcevich lawsuit filed on March 30, 2017*

A motion was made by Potrzuski to go into Executive Session to receive advice from the Municipal Attorney regarding legal issues affecting the Municipality as a result of the lawsuit filed by Marko Dapcevich on March 30, 2017. The motion PASSED by the following vote.

Yes: 7 - Swanson, Eisenbeisz, Guevin, Potrzuski, Hunter, Knox, and Bean

The Assembly was in Executive Session from 9:10pm to 10:00pm.

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

A motion was made by Guevin to direct the Municipal Attorney to hire outside counsel and proceed with the legal defense. The motion PASSED by the following vote.

Yes: 6 - Swanson, Eisenbeisz, Guevin, Potrzuski, Hunter, and Knox

No: 1 - Bean

XV. ADJOURNMENT

A motion was made by Guevin to ADJOURN. Hearing no objections, the meeting ADJOURNED at 10:03pm.

ATTEST: \_\_\_\_\_  
Sara Peterson, CMC  
Municipal Clerk