



CITY AND BOROUGH OF SITKA

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

Minutes - Final

City and Borough Assembly

Mayor Gary Paxton
Deputy Mayor Steven Eisenbeisz,
Vice Deputy Mayor Kevin Mosher,
Kevin Knox, Dr. Richard Wein, Valorie Nelson, Thor
Christianson

Municipal Administrator: John Leach
Municipal Attorney: Brian Hanson
Municipal Clerk: Sara Peterson

Tuesday, March 10, 2020

6:00 PM

Assembly Chambers

REGULAR MEETING

I. CALL TO ORDER

II. FLAG SALUTE

III. ROLL CALL

Mayor Paxton expressed best wishes and prayers to the Allen family.

Present: 6 - Christianson, Eisenbeisz, Knox, Wein, Paxton, and Mosher

Absent: 1 - Nelson

IV. CORRESPONDENCE/AGENDA CHANGES

No agenda changes.

[20-068](#)

Reminders, Calendars, and General Correspondence

V. CEREMONIAL MATTERS

[20-061](#)

Awards - Sitka High School Drama, Debate, and Forensics Team

Mayor Paxton and Municipal Administrator John Leach presented certificates to the the Sitka High School Drama, Debate, and Forensics students and coaches.

VI. SPECIAL REPORTS: Government to Government, Municipal Boards/Commissions/Committees, Municipal Departments, School District, Students and Guests (five minute time limit)

[20-062](#)

SEARHC President Charles Clement: Sitka's Integrated Health Care System -

6 Month Report

SEARHC President Charles Clement gave a six month report on Sitka's Integrated Health Care System. He noted the committed high quality of care, increase access and satisfaction, striving to be Sitka's employer of choice, and to be a financially sustainable system that would continue to look into the future. Some Assembly members made comments and asked questions.

VII. PERSONS TO BE HEARD

Michelle Putz President of the Sitka Community Land Trust told of the housing fair and open house recently held and encouraged the Assembly to support affordable housing. Connor Nelson told of a PUD at the Burkhardt subdivision with regards to a pocket park that was removed for affordable housing. Michael Mayo gave suggestions with regards to the COVID-19 virus. Richard Wein told of the complications with the COVID-19 virus in Sitka and reminded of where to find information.

VIII. REPORTS

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

Administrator - Leach reported on meetings and mitigation the city was involved in with regards to the COVID-19 virus. He stated he was 8 days on the job and had been busy. He reported interviews would be held soon for Human Resources Director and Fire Chief and there was a visiting Utility Director applicant. He told of the offer by the State Department of Transportation of possible ferry service with costs and capacity asking if there was interest in this service to contact city hall.

Attorney - Hanson reported on various legal department priorities.

Liaison Representatives - Knox reported on Parks and Recreation Committee, Wein on the Planning Commission and Local Emergency Planning Committee.

Clerk - Henshaw reminded of online participation in the 2020 Census and the City Seal contest remained open until March 31 at 4:00 p.m.

IX. CONSENT AGENDA

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

Yes: 6 - Christianson, Eisenbeisz, Knox, Wein, Paxton, and Mosher

Absent: 1 - Nelson

A [20-060](#) Approve the minutes of the February 20 and February 25 Assembly meetings
This item was APPROVED ON THE CONSENT AGENDA.

B [20-059](#) Approve a liquor license renewal application for Beak LLC dba Beak Restaurant at 2 Lincoln Street, Suite 1A
This item was APPROVED ON THE CONSENT AGENDA.

X. BOARD, COMMISSION, COMMITTEE APPOINTMENTS

C [20-063](#) Reappoint Nicole Filipek to a three-year term on the Library Commission

Wein thanked Filipek for reapplying.

A motion was made by Christianson that this item be APPROVED. The motion PASSED by the following vote.

Yes: 6 - Christianson, Eisenbeisz, Knox, Wein, Paxton, and Mosher

Absent: 1 - Nelson

D [20-064](#) Appoint Nalani Natise-Durden James to an unexpired term on the Library Commission

A motion was made by Knox that this item be APPROVED. The motion PASSED by the following vote.

Yes: 6 - Christianson, Eisenbeisz, Knox, Wein, Paxton, and Mosher

Absent: 1 - Nelson

E [20-067](#) Appoint Jennifer Klejka to a three-year term on the Local Emergency Planning Committee under Category 2 (Law Enforcement, Civil Defense, Fire Fighting, First Aid, Local Evnt/Hospital, and Transportation Personnel)

Wein told of Klejak's history of attendance in meetings and was thankful she was applying to be a member.

A motion was made by Mosher that this item be APPROVED. The motion PASSED by the following vote.

Yes: 6 - Christianson, Eisenbeisz, Knox, Wein, Paxton, and Mosher

Absent: 1 - Nelson

XI. UNFINISHED BUSINESS:

F [ORD 20-02S\(A\)](#) Amending Title 6 "Business Licenses And Regulations", Title 19 "Building and Construction", and Title 22 "Zoning" of the Sitka General Code by modifying Chapter 6.12 "Mobile and Manufactured Homes and Mobile and Manufactured Home Parks", Chapter 19.09 "Residential Code", Chapter 22.08 "Definitions", Chapter 22.16 "District Regulations", Chapter 22.24 "Special Use Permits" and adding Sections 6.12.205 "Construction Requirements For Tiny Houses and Tiny Houses On Chassis", Section 22.08.798 "Tiny House", and Section 22.08.799 "Tiny Houses On Chassis" (*2nd and final reading*)

Wein noted that adjustments could be made in the future if need be. He stated he would like to see a quarterly report from the Planning Department.

Helen Craig told of complications with tiny homes and suggested more investigation prior to voting.

A motion was made by Mosher that this ordinance be APPROVED on SECOND AND FINAL READING. The motion PASSED by the following vote.

Yes: 6 - Christianson, Eisenbeisz, Knox, Wein, Paxton, and Mosher

Absent: 1 - Nelson

XII. NEW BUSINESS:

New Business First Reading

G [ORD 20-07](#) Making supplemental appropriations for Fiscal Year 2020 (Sitka Police Department Legal Expenses)

Municipal Attorney Brian Hanson suggested executive session. Mosher confirmed bills were already incurred. Wein noted the importance of process and would like to hear additional information. Hanson noted incurred defense costs with reasons to not disclose with the litigation that was in process.

A motion was made by Knox to go into executive session to discuss legal matters with the Municipal Attorney affecting the municipality regarding the Sitka Police Department lawsuits and the related defense costs, matters the immediate knowledge of which would adversely affect the finances of the municipality. The motion PASSED by the following vote.

Yes: 6 - Christianson, Eisenbeisz, Knox, Wein, Paxton, and Mosher

Absent: 1 - Nelson

The Assembly was in executive session from 7:07 to 7:18 p.m.

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

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

Yes: 5 - Christianson, Eisenbeisz, Knox, Paxton, and Mosher

No: 1 - Wein

Absent: 1 - Nelson

H [ORD 20-08](#) Making supplemental appropriations for Fiscal Year 2020 (Crescent Harbor Lightering Float Repairs)

Wein was not in support and told of concern for tender dock repair. He stated he supported it in principal but does not support policy for how the bids were sought. He said procurement was important as a fair process in order to get the best bid and wondered why this had not been put through the bid website. Municipal Administrator John Leach told of advertising and the procurement process. He noted the assessment report which estimated the total repair of \$240,000 however, staff went through the costs for what was necessary, what could be deferred, as well as unnecessary repairs. He stated if expanded it would cost more and create more staff time. Harbormaster

Stan Eliason stated he followed the procedures as outlined in the procurement policy. He noted the need for these repairs in FY2020 rather than waiting until FY2021 and preferred to have the work done prior to the first tender that would use the dock noting it was for repairs and maintenance. Eliason estimated the revenue at \$35,000 yearly in tender fees collected. He relayed the process had three responses. Eisenbeisz had concerns of a maintaining facilities that do not generate revenue. Mosher was in support and suggested the procurement policy be reviewed. Municipal Attorney Brian Hanson noted that procurement process and policy needed to be looked at but in the meantime RFP's and contracts needed to go out. Knox clarified that some of the repair work would be done by harbor department staff. Knox stated the process was followed.

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

Yes: 4 - Christianson, Knox, Paxton, and Mosher

No: 2 - Eisenbeisz, and Wein

Absent: 1 - Nelson

I [ORD 20-09](#)

Amending Title 22 "Zoning" of the Sitka General Code by modifying Chapter 22.08 "Definitions" and Chapter 22.16 "District Regulations", and adding Section 22.08.162 "Bulk Retail"

Planning Director Amy Ainslie stated code lacked a definition of bulk retail and was not allowed in an industrial zone. She felt bulk retail was a natural extension of retail which was allowed in most industrial zoning. She stated it would be allowed as a conditional use to avoid over saturation of retail in the industrial zone. Ainslie relayed that it was reviewed by the Planning Commission and had passed unanimously.

Wein believed that by enhancing economic diversity, it allowed for a cheaper and better product. He felt the changes were appropriate. Eisenbeisz wondered if the business license was issued to this business prior to. Ainslie noted that the State of Alaska required business license, not the city however, it was found that it was unallowable through the filing of the sales tax account. She stated that enforcement would not be pursued while going through the code change process. Eisenbeisz was in support of the definition, however had concerns with allowing the business to operate without proper approval first as it set a bad presendence. Christinason was in support, felt that it was easy for this situation to occur, and that everyone was working in good faith.

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

Yes: 6 - Christianson, Eisenbeisz, Knox, Wein, Paxton, and Mosher

Absent: 1 - Nelson

Additional New Business Items

J [20-058](#)

Discussion / Direction of the City and Borough of Sitka's response to climate change and next steps

Municipal Administrator John Leach explained the intent of this discussion was a high overview of the item, and stated it was not meant to form or create a resolution. He told of possible resolution options: 2008 forming the Climate Action Task Force, one from high school students, and another drafted by Assembly member Nelson. He stated he was looking for guidance.

Mosher said he read the resolutions, was in support of both, and did not want to put more burden on staff. He was in support of creating a task force with members of the public to make recommendations to the Assembly. Mayor Paxton stated he had met with high school students who wrote a resolution and noted the similarities between that and the one drafted by Nelson. He was in support of creating a climate task force. Christianson said he liked the resolution that came before the body previously. He had concerns with recreating the task force, felt there were things the city could enact and save money while reducing the carbon footprint. Eisenbeisz would like a resolution that took action. He thought that the Assembly could task current boards, committees, and commissions to vet ideas to mitigate climate change and increase the sustainability of Sitka. He stated these resident experts were underutilized, and thought this the perfect opportunity for them in which they could report back within a timeframe. Knox reminded what the Administrator was looking for stating it was through sponsors not through administration. He noted Nelson's resolution needed a co-sponsor and then it could be brought forward. Wein felt the task force should be reactivated. Mosher would be willing to co-sponsor Nelson's resolution for the next regular meeting. Christianson felt the task force would be more community related, but that the Assembly could only control what the city does.

Mel Gibson spoke in support of accountability for mitigating impacts of climate change, start a task force for a resolution to factor climate change into policy, and have coordinated state interaction. Darby Osborne spoke as a member of Youth for Sustainable Futures that a student voice was needed on the task force. Dave Nichol recommended joining the go100 percent.org movement to aim to lower the carbon footprint. Scott Saline stated that the dam was supposed to allow for electric cop cars and gave suggestions for the task force with regards to BTU's. Cora Dow member of Youth for Sustainable Futures thanked the Assembly for the conversation and encouraged them to continue moving forward with committing to action by mitigating the impacts of climate change. Andrew Thoms Director of the Sitka Conservation Society was in support of creating a task force and relayed state and federal government information. Juel Fowler was in support of a climate change task force and would like to have youths included.

K [20-065](#)

Approve a Request for Proposal for the construction and operation of a marine haul out and shipyard at the Gary Paxton Industrial Park

Municipal Administrator John Leach gave history that the RFP was drafted, had gone through the Gary Paxton Industrial Park (GPIP) Board of Directors which created a change and questions. He felt it needed to be vetted through the Assembly again. He stated the need to incentivize building a haulout to be up and running by next summer. GPIP Director Garry White agreed.

Jeff Farvour gave ideas of improvement for the RFP. He recommended the city take a bigger ownership stake and encouraged the development of a master plan. Michael Nurco suggested leasing the land.

Christianson pointed out negotiation was needed, agreed with leasing the property, and felt the RFP needed to go out now. Wein stated the city needed to be the tip of the spear on this and to begin to develop a master plan. He felt there was wasted time on the RFP. He noted the proposals were costly and felt negotiation would lead a developer to come in. He spoke to how valuable the land was. Mosher agreed with Christianson that the RFP needed to go out, to lease not sell the property, and that there was room for negotiation.

A motion was made by Christianson to approve a Request for Proposal for the construction and operation of a marine haul out and shipyard at the Gary Paxton Industrial Park by the following vote.

Yes: 5 - Christianson, Eisenbeisz, Knox, Paxton, and Mosher

No: 1 - Wein

Absent: 1 - Nelson

XIII. PERSONS TO BE HEARD:

None.

XIV. EXECUTIVE SESSION

L [20-066](#) Legal / Financial Matters: SCH / SEARHC Affiliation - U.S. Office of Inspector General Liability

A motion was made by Knox to go into executive session* to discuss communications with the Municipal Attorney and Chief Finance and Administrative Officer Jay Sweeney to discuss a legal matter affecting the municipality regarding the Sitka Community Hospital / SEARHC affiliation and the related settlement of CBS' self-disclosure to the U.S. Office of Inspector General, matters the immediate knowledge of which would adversely affect the finances of the municipality. The motion PASSED by unanimous voice vote.

The Assembly was in executive session from 8:29 to 9:15 p.m.

A motion was made by Christianson to reconvene as the Assembly in regular session. The motion PASSED by unanimous voice vote.

A motion was made by Christianson to approve an advance of escrow funds from the General Fund to Sitka Community Hospital Dedicated Fund to be repaid from future revenues, direct the administrator to expend escrow funds from Sitka Community Hospital Dedicated Fund to settle OIG Stark / Anit Kickback / liability, and direct the Administrator to sign the settlement agreement. The motion PASSED by the following vote.

Yes: 5- Christianson, Eisenbeisz, Knox, Paxton, and Mosher

No: 1- Wein

Absent: 1- Nelson

Municipal Administrator John Leach read the following statement:

Approval and authority to sign the Settlement Agreement with OIG has been obtained from the Assembly;

* For the Stark / AKB liability

* For Physician compensation violations

* Amount of \$4.125 Million

* Paid from City funded Escrow Account established in APA with corpus of \$4.5 Million

* Liability stems from SCH overcompensating physicians in violation of Stark / AKB

laws

SEARHC has cooperated, collaborated, and consented to the release of the \$4.125 Million from the City Funded Escrow Account to the OIG as required by the Settlement Agreement and in accordance with the APA.

CBS staff will continue to work with SEARHC by providing written assurances and plans which implement the Settlement Agreement as required and contemplated by the APA.

Remember, the Escrow account was intended to provide for all liabilities which CBS has retained and is obligated to pay under the APA. If there is a shortfall in escrow funds, which we believe is very unlikely, CBS is obligated to appropriate and pay that short fall.

We are confident we'll be able to continue to successfully collaborate with SEARHC in implementing the APA.

XV. ADJOURNMENT

A motion was made by Christianson to ADJOURN. Hearing no objections, the meeting ADJOURNED at 9:20 p.m.

ATTEST: _____

**Melissa Henshaw, CMC
Deputy Clerk**