

Absent: 2 - Eisenbeisz, and Potrzuski

Recused: 1 - Hunter

- J** [17-037](#) Approve a retail marijuana store license for Green Leaf, Inc. at 4612 Halibut Point Road
- Bean, the applicant, recused himself.
- A motion was made by Knox that this item be APPROVED. The motion PASSED by the following vote.**
- Yes:** 4 - Swanson, Guevin, Hunter, and Knox
- Absent:** 2 - Eisenbeisz, and Potrzuski
- Recused:** 1 - Bean

- K** [17-039](#) Authorizing the application for new Passenger Facilities Charges to fund the Sitka Rocky Gutierrez Airport terminal improvements
- Mayor Hunter explained the application was for the collection of passenger facility charges to help fund airport terminal improvements.
- A motion was made by Swanson that this Item be APPROVED. The motion PASSED by the following vote.**
- Yes:** 5 - Swanson, Guevin, Hunter, Knox, and Bean
- Absent:** 2 - Eisenbeisz, and Potrzuski

- L** [17-038](#) **Appeal of the denial of a public records request filed by Marko Dapceвич (possible executive session)**
- Municipal Attorney, Brian Hanson, offered procedural advice for the appeal. Hanson reminded the Assembly they were sitting as a quasi-judicial body. In addition, Hanson cautioned the Assembly, that the hearing comments must be directed to documents withheld pursuant to the attorney client privilege. Hanson outlined actions the Assembly could take: the decision whether or not to grant the appeal, review the privileged attorney-client communications in executive session, waive the privilege, postpone decision, or request outside counsel.
- Hanson, reminded that if any Assembly member had contact with the appellant with regards to the public records request those contacts should be disclosed to the Assembly. Bean read an email dated March 14, 2017 to the Assembly stating he wished to waive his attorney client privilege in relation to Mr. Dapceвич's public records request and shared that he had released email communication between himself, Mr. Hanson and Mr. Gorman to Mr. Dapceвич. Bean commented that Dapceвич had raised the same concerns he did back in October and reiterated his thoughts on the mishandling of the bidding process for the Gary Paxton Industrial Park dock project. Mayor Hunter asked Assembly member Bean to recuse himself.
- Dapceвич disagreed with the procedural advice given by Hanson and stated he had requested Hanson provide the privileged information to the Assembly prior to the Hearing.
- Mayor Hunter outlined the Hearing process and reminded comments should be directed to documents withheld pursuant to the attorney client privilege and whether

those documents should be released.

Hearing

Applicant/Staff presentations: Dapceвич stated the information withheld did not fall under attorney client privilege. Hanson said he had withheld the documents to protect his client, the Assembly. Hanson reminded, the Assembly could release the communications; he, however, did not have the right to release them.

Applicant/Staff response or clarifying statements: Dapceвич explained privilege was protected communications between the attorney and the client. He stated the client had to be privileged to the communications and the Assembly hadn't been. Hanson replied he had a legal obligation not to release these documents. The purpose of the appeal was to decide whether or not to release them.

A motion was made by Swanson to GO INTO EXECUTIVE SESSION, and exclude all staff, to review the communications that are the subject of this appeal which by law are required to be confidential and/or concern legal matters affecting the Municipality or legal consequences of past, present or future Municipal actions, i.e., the Gary Paxton Industrial Park dock contract. The motion PASSED by the following vote.

Yes: 4 - Swanson, Guevin, Hunter, and Knox

Absent: 2 - Eisenbeisz, and Potrzuski

Recused: 1 - Bean

The Assembly was in executive session from 7:58pm to 8:32pm.

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

Mayor Hunter announced the Assembly had read the documents. Swanson felt the information was privileged but wished to waive his right. Guevin and Hunter believed the Municipal Attorney was correct in his decision to withhold the documents. Knox agreed.

A motion was made by Knox TO DENY THE APPEAL. The motion PASSED by the following vote.

Yes: 4 - Swanson, Guevin, Hunter, and Knox

Absent: 2 - Eisenbeisz, and Potrzuski

Recused: 1 - Bean

Assembly members discussed waiving the attorney client privilege and releasing records, however, decided to wait until the Municipal Attorney, or outside legal counsel, reviewed and advised on the matter. Mayor Hunter stated if two Assembly members were interested in sponsoring a future agenda item to discuss the release of the documents to contact the Municipal Clerk.

XIII. PERSONS TO BE HEARD:

Bean requested that the privileged information shared with the Assembly in executive session be provided to him. Hanson invited Bean to stop by his office to review the documents in person.