

CONSENT AGENDA

POSSIBLE MOTION

**I MOVE TO APPROVE THE CONSENT AGENDA
CONSISTING OF ITEMS A, B & C**

I wish to remove Item(s) _____

**REMINDER – Read aloud a portion of each item being
voted on that is included in the consent vote.**

Should this item be pulled from the Consent Agenda the following motion is suggested:

POSSIBLE MOTION

I MOVE TO approve the minutes of the
June 11 Assembly meeting.



CITY AND BOROUGH OF SITKA

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

Minutes - Draft

City and Borough Assembly

*Mayor Gary Paxton
Deputy Mayor Steven Eisenbeisz,
Vice Deputy Mayor Valorie Nelson,
Aaron Bean, Kevin Knox, Dr. Richard Wein, Kevin Mosher*

*Municipal Administrator: Keith Brady
Municipal Attorney: Brian Hanson
Municipal Clerk: Sara Peterson*

Tuesday, June 11, 2019

6:00 PM

Assembly Chambers

REGULAR MEETING

I. CALL TO ORDER

II. FLAG SALUTE

III. ROLL CALL

Present: 7 - Eisenbeisz, Knox, Bean, Wein, Paxton, Mosher, and Nelson

IV. CORRESPONDENCE/AGENDA CHANGES

Members discussed the idea of moving item V after item O, however, there was not consensus.

19-130 Reminders, Calendars and General Correspondence

V. CEREMONIAL MATTERS

None.

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

19-118 Public Works Department - Lincoln Street Paving: Harbor Way to Harbor Drive

Municipal Engineer Cliff Richter and Senior Engineer David Longtin provided an overview of the Lincoln Street Paving Project and answered questions of the Assembly.

VII. PERSONS TO BE HEARD

Rachel Roy, Executive Director of the Greater Sitka Chamber of Commerce and Visit Sitka, briefed the Assembly on recent events. Roy introduced the new Director of Visit Sitka Laurie Booyse.

Perry Edwards stated he was troubled by the recent actions and inactions of the Assembly.

Michelle Putz encouraged the Assembly to support staff and noted the current environment made it an undesirable place to work.

Stephen Courtright echoed the remarks of Edwards and Putz and reminded the Assembly to be forward thinking.

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

Administrator - Brady noted during the Alaska Water Wastewater Conference, City staff was recognized: Rob Dahlquist received the Wastewater Operator of the Year Award, Kacie Rear received a \$1,000 training scholarship, and Shilo Williams was sworn in as the President of the Alaska Water Wastewater Management Association. In addition, Brady relayed the community purpose exemption letters had been mailed and were due September 6, told of Sarah Cave's resignation from the Hospital Affiliation Project, reported he attended the change of command ceremony for the USCG Cutter Kukui, and told he would be going on vacation beginning June 12 and Dave Miller would serve as Acting Administrator.

Municipal Attorney - Hanson reviewed a list of projects he was devoting time and attention to.

Liaison Representatives - Knox reported on the recent Parks and Recreation Committee meeting.

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 - Eisenbeisz, Knox, Bean, Wein, Paxton, Mosher, and Nelson

A 19-119 Approve the minutes of the May 22 and May 28 Assembly meetings

This item was APPROVED ON THE CONSENT AGENDA.

B RES 19-17 Setting the millage rates for the fiscal year July 1, 2019 through June 30,

This item was APPROVED ON THE CONSENT AGENDA.

X. BOARD, COMMISSION, COMMITTEE APPOINTMENTS

- C 19-120** Reappoint Tyler Green to a three-year term on the Port and Harbors Commission
- A motion was made by Nelson that this Item be APPROVED. The motion PASSED by the following vote.**

Yes: 7 - Eisenbeisz, Knox, Bean, Wein, Paxton, Mosher, and Nelson

- D 19-121** Reappoint Morgan Doubleday to a three-year term on the Animal Hearing Board
- A motion was made by Nelson that this Item be APPROVED. The motion PASSED by the following vote.**

Yes: 7 - Eisenbeisz, Knox, Bean, Wein, Paxton, Mosher, and Nelson

- E 19-122** Appoint Rich Krupa to a three-year term on the Parks and Recreation Committee
- A motion was made by Nelson that this Item be APPROVED. The motion PASSED by the following vote.**

Yes: 7 - Eisenbeisz, Knox, Bean, Wein, Paxton, Mosher, and Nelson

XI. UNFINISHED BUSINESS:

- F RES 19-14A** Amending the Participation Agreement with the Public Employees Retirement System of Alaska by Sitka Community Hospital being removed from participation in the Public Employees Retirement System (amend as previously adopted on May 28, 2019 to change the participation removal date on line 31 to July 31, 2019)

A motion was made by Knox to amend Resolution 2019-14A as previously adopted at the May 28, 2019 Assembly meeting by changing the participation removal date on line 31 to July 31, 2019, thereby approving Resolution 2019-14A on first and final reading as amended, and authorizing the Municipal Administrator to sign Participation Agreement Amendment No. 1. The motion PASSED by the following vote.

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

No: 1 - Nelson

- G RES 19-15A** Amending the Participation Agreement with the Alaska Supplemental Benefits System of Alaska by Sitka Community Hospital being removed from participation in the Supplemental Benefits System (amend as previously adopted on May 28, 2019 to change the participation removal date on line 30 to July 31, 2019)

A motion was made by Knox to amend Resolution 2019-15A as previously adopted at the May 28, 2019 Assembly meeting by changing the participation removal date on line 30 to July 31, 2019, thereby approving Resolution 2019-15A on first and final reading as amended, and authorizing the Municipal Administrator to sign Participation Agreement Amendment No. 1. The motion PASSED by the following vote.

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

No: 1 - Nelson

- H ORD 19-17S** Adopting budgets and capital improvement plan for the General Fund, Internal Service Funds, and Special Revenue Funds for the fiscal year July 1, 2019 through June 30, 2020

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

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

No: 2 - Bean, and Wein

- I ORD 19-18S** Adopting the budget and capital improvement plan for the Electric Fund for the fiscal year July 1, 2019 through June 30, 2020

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

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

No: 2 - Bean, and Wein

- J ORD 19-19S** Adopting the budget and capital improvement plan for the Water Fund for the fiscal year July 1, 2019 through June 30, 2020

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

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

No: 2 - Bean, and Wein

- K ORD 19-20S** Adopting the budget and capital improvement plan for the Wastewater Fund for the fiscal year July 1, 2019 through June 30, 2020 and amending Title 15 "Public Utilities" of the Sitka General Code to increase Section 15.04.320 "Rates and Fees"

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

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

No: 3 - Bean, Wein, and Nelson

- L ORD 19-21S** Adopting the budget and capital improvement plan for the Solid Waste Fund for the fiscal year July 1, 2019 through June 30, 2020 and amending Title 15 "Public Utilities" of the Sitka General Code to increase solid waste disposal rates in Section 15.06.020 "Solid Waste Disposal Policy and Rates," Section 15.06.035 "Rates for Treatment and Collection," and Section 15.06.045 "Transfer Station Drop-Off Charges and Special Refuse Collection Charges"

Eisenbeisz although understanding of the need for a rate increase spoke to a recent meeting with staff in which ideas were mentioned to help reduce solid waste transfer off

the island. He hoped those could be implemented in the future. Wein spoke to the need for a comprehensive solid waste plan.

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

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

No: 3 - Bean, Wein, and Nelson

M ORD 19-22S

Adopting the budget and capital improvement plan for the Harbor Fund for the fiscal year July 1, 2019 through June 30, 2020

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

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

No: 2 - Bean, and Wein

N ORD 19-23S

Adopting budgets and capital improvement plans for the Airport Terminal Fund, the Marine Service Center Fund, and the Gary Paxton Industrial Park Fund for the fiscal year July 1, 2019 through June 30, 2020

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

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

No: 2 - Bean, and Wein

O ORD 19-24

Amending Sitka Home Rule Charter Article XI "Finance," Section 11.16 "Sitka Permanent Fund," Subsection (B) "Flow of money into the Sitka Permanent Fund," by changing the flow of net proceeds from the sale of any municipal real property solely to the Sitka Permanent Fund to an equal division between the Sitka Permanent Fund and Governmental Capital Project Fund; and, submitting the question of such an amendment to the qualified voters at a Regular Election on October 1, 2019

A motion was made by Mosher that this Ordinance be APPROVED ON SECOND AND FINAL READING. The motion FAILED by the following vote.

Yes: 2 - Mosher, and Nelson

No: 5 - Eisenbeisz, Knox, Bean, Wein, and Paxton

XII. NEW BUSINESS:

New Business First Reading

P ORD 19-25

Adopting the budget for Sitka Community Hospital for a portion of the fiscal year July 1, 2019 through June 30, 2020

Municipal Administrator Keith Brady clarified the amount of the request for authorization was approximately \$1.9 million. Sitka Community Hospital (SCH) Chief Executive Officer Rob Allen provided further explanation on revenue and expense noting

April 2019 had been used as the basis. When asked for an explanation of why the transaction had been delayed, Allen noted there were specific requirements for reporting that needed to be met. Allen offered that a marketing plan to announce the close down of services was being prepared and clarified that the ER was open at SCH.

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

Yes: 7 - Eisenbeisz, Knox, Bean, Wein, Paxton, Mosher, and Nelson

Q ORD 19-26

Amending Title 15 "Public Utilities" of the Sitka General Code by modifying Chapter 15.01 "Electric Utility Policies", Section 15.01.020 "Electrical Rates" which will shift the period for seasonal electric rates

Members discussed the ordinance proposing to shift the seasonal electric rate periods by one month with an effective date of the first billing cycle after November 1, 2019.

Eisenbeisz expressed concern that there could be a revenue shortfall in the Electric Fund if this ordinance was approved. Utility Director Bryan Bertacchi explained the lack of a herring fishery resulted in low electrical production which would yield a shortfall in revenue. His prediction was \$80,000 however reminded that was \$80,000 out of an \$18.2 million budget. Nelson believed that once the rates dropped, usage levels would increase. Wein expressed support and stated it was worth a try.

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

Yes: 7 - Eisenbeisz, Knox, Bean, Wein, Paxton, Mosher, and Nelson

R ORD 19-27

Making supplemental appropriations for fiscal year 2019 (legal fees and administration contracted services - Sitka Community Hospital sale)

Municipal Attorney Brian Hanson explained due to unforeseen complications, the hospital transaction needed additional appropriations. He stated the adjustments primarily involved due diligence and federal regulatory compliance issues. In addition, Hanson mentioned a portion of the appropriation request was for phase 4 of the project.

Eisenbeisz wished to know where the money would come from for the appropriation. Municipal Administrator Keith Brady offered it would come from the General Fund balance. Nelson wondered of the consequence if the appropriation was not approved. Hanson stated there could be potential liability to the City. Wein reminded this was the cost of doing the deal and questioned whether the compliance issues would have been identified had the affiliation project not occurred. Bean wondered where the money from July hospital revenue would be placed and if it could be used to pay for this appropriation request. Chief Finance and Administrative Officer Jay Sweeney explained at the date hospital operations ceased, all of the assets and liabilities associated with the hospital would go into a fund. Any surplus from July would go into the balance that transferred into a new special revenue fund. Knox reminded this request was indicative of the complex regulatory environment. Sweeney stated he would need to concur with the Municipal Attorney to determine if using funds from July would violate any provision of the asset purchase agreement. Sweeney concluded by briefing the Assembly on the escrow fund noting the amount from the General Fund to go into escrow was approximately \$4.5 million and would need to remain in such an account three to five years.

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

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

No: 2 - Wein, and Nelson

Additional New Business Items

- S 19-124** Consideration and award of the request for proposals submitted for the available funds (\$35,592) in the Fisheries Enhancement Fund
- Linda Behnken spoke to the proposal submitted by Alaska Longline Fisherman's Association (ALFA). Lisa Busch provided an overview of Sitka Sound Science Center's proposal.
- Speaking from the public, Eric Jordan, Meredith Redick, and Tara Racine spoke in support of the Alaska Longline Fisherman's Association (ALFA) proposal.
- Bean questioned whether or not ALFA fit in the category of fisheries enhancement. Nelson believed they did.
- A motion was made by Wein to award \$25,592 to Sitka Sound Science Center and award \$10,000 to the Alaska Longline Fisherman's Association. The motion PASSED by the following vote.**
- Yes:** 6 - Eisenbeisz, Knox, Wein, Paxton, Mosher, and Nelson
- No:** 1 - Bean
- T 19-123** Approve a Consent to Assignment for Security for Kootznahoo Fortress of the Bear
- Municipal Attorney Brian Hanson explained Fortress of the Bear (FOB) was seeking financing from First Bank for construction. He relayed part of the normal construction process was for the financier to request security and FOB was offering their lease as security.
- A motion was made by Knox that this Item be APPROVED. The motion PASSED by the following vote.**
- Yes:** 7 - Eisenbeisz, Knox, Bean, Wein, Paxton, Mosher, and Nelson
- U 19-125** Update and Discussion / Direction / Decision of Assembly Position Subcommittee recommendations from June 7 meeting
- A motion was made by Mosher to approve the recommendations of the Assembly Position Subcommittee as outlined in the draft meeting minutes of June 7, 2019 and forward to the Municipal Administrator:**
- 1) Recommend a Planning Director is an important position and should be filled
 - 2) Recommend a Police Chief is an important position and should be filled
 - 3) Recommend two Police Officer positions be filled
 - 4) Recommend one Jail Officer position be filled
 - 5) Recommend to the Assembly the need to proceed with evaluation of Human Resources and to consider new potential ways in order to offer quality service which may include contracting and to evaluate the Human Resource Assistant's role in what is done currently

- 6) Recommend one Street Maintenance worker position be filled
- 7) Recommend postponing the filling of the Community Affairs Director position until issue further vetted
- 8) Recommend position of Lease Manager not be created
- 9) Recommend Administrator move forward with a Grant Manager solution (e.g. contract position)

Wein noted the subcommittee was to act as a filter and not as an obstructionist. Paxton spoke to the importance of an Human Resources Director. Nelson wondered of the Gallagher report and if that process had been approved by a previous Assembly. Municipal Administrator Keith Brady reported it was something in the budget he had commissioned.

Speaking from the public, Max Rule noted the subcommittee while well intended hindered and delayed good governance in giving the Administrator the ability to fill positions. He encouraged the Assembly to fill the position of Human Resources Director.

A motion was made by Knox to AMEND the recommendations to allow for the Administrator to go forward with the hiring of an HR Director. The motion PASSED by the following vote.

Yes: 4 - Eisenbeisz, Paxton, Wein, and Knox

No: 3 - Bean, Nelson, and Mosher

The main motion as amended PASSED by the following vote.

- 1) Recommend a Planning Director is an important position and should be filled
- 2) Recommend a Police Chief is an important position and should be filled
- 3) Recommend two Police Officer positions be filled
- 4) Recommend one Jail Officer position be filled
- 5) Allow for the Administrator to go forward with the hiring of an Human Resources Director.
- 6) Recommend one Street Maintenance worker position be filled
- 7) Recommend postponing the filling of the Community Affairs Director position until issue further vetted
- 8) Recommend position of Lease Manager not be created
- 9) Recommend Administrator move forward with a Grant Manager solution (e.g. contract position)

Yes: 6 - Eisenbeisz, Bean, Wein, Paxton, Mosher, and Nelson

No: 1 - Knox

V RES 19-16

A preliminary resolution of the Assembly of the City and Borough of Sitka to remove Keith Brady as Administrator of the City and Borough of Sitka

Municipal Administrator Keith Brady stated he had been given an unsatisfactory evaluation in April with no path to success.

Those from the public testifying in opposition of the process and resolution to remove Brady were: Colleen Ingman, Rob Allen, John Dunlap, Jim Steffen, Robin Sherman, Ben Miyasato, Max Rule, Sam Skaggs, Mike Reif, Zach Kirpatrick, Joanna Perensovich, Tamy Stevenson, Greg Stevenson, and Patti Bauder. Speaking in support

of the resolution was Mary Ferguson. Anne Pollnow spoke in support of former employee Michael Scarcelli who had resigned while working for Brady.

A motion was made by Bean to go into executive session to discuss subjects that tend to prejudice the reputation and character of any person. The motion was later withdrawn. Speaking from the public in opposition to executive session were Jim Steffen, Spike Arnold, Shannon Haugland, and Max Rule.

A discussion of the Assembly occurred. Mosher, Bean, and Wein spoke in support of the removal of Brady. Paxton spoke in support of retaining Brady.

A motion was made by Mosher to EXTEND to 11:00 p.m. The motion PASSED by the following vote.

Yes: 6 - Bean, Wein, Nelson, Knox, Mosher, and Paxton

No: 1 - Eisenbeisz

A motion was made by Mosher to APPROVE this preliminary Resolution. The motion PASSED by the following vote.

Yes: 4 - Bean, Wein, Mosher, and Nelson

No: 3 - Eisenbeisz, Knox, and Paxton

XIII. PERSONS TO BE HEARD:

None.

XIV. EXECUTIVE SESSION

W 19-126

Legal Matter: Update from legal counsel regarding the status of the litigation arising out of the August 18, 2015 landslide events including consideration and potential action upon a settlement offer after executive session.

A motion was made by Bean to go into executive session to receive and discuss an update from legal counsel, David Bruce regarding the status of the litigation arising out of the August 18, 2015 landslide events, including consideration and potential action upon a settlement offer, and invite in Public Works Director, Michael Harmon. The motion PASSED by the following vote.

Yes: 7 - Wein, Knox, Eisenbeisz, Mosher, Paxton, Nelson, and Bean

The Assembly was in executive session from 10:35 p.m. to 10:55 p.m. Nelson left executive session at 10:40 p.m.

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

A motion was made by Bean to direct the Acting Administrator to enter into a settlement agreement with Sound Development. The motion PASSED by the following vote.

Yes: 5 - Knox, Bean, Wein, Paxton, and Mosher

No: 1 - Eisenbeisz

Non-voting: 1 - Nelson

- X 19-127** Financial Matter: Baranof Island Brewing Company Forbearance Agreement
- With minutes remaining before adjournment, the Municipal Attorney indicated items X, Y, and Z could be heard at the June 25 meeting. There was no objection from the Assembly.**
- Y 19-128** Legal Matter: Rutter dba 738 Taxi LLC lawsuit
- With minutes remaining before adjournment, the Municipal Attorney indicated items X, Y, and Z could be heard at the June 25 meeting. There was no objection from the Assembly.**
- Z 19-129** Legal Matter: Equipment Tampering / Power Theft Claim by the City and Borough of Sitka against a customer
- With minutes remaining before adjournment, the Municipal Attorney indicated items X, Y, and Z could be heard at the June 25 meeting. There was no objection from the Assembly.**

XV. ADJOURNMENT

A motion was made by Mosher to ADJOURN. Hearing no objections, the meeting ADJOURNED at 11:00 p.m.

ATTEST: _____
Sara Peterson, MMC
Municipal Clerk