



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, June 23, 2020

6:00 PM

Assembly Chambers

REGULAR MEETING

I. CALL TO ORDER

II. FLAG SALUTE

III. ROLL CALL

Knox participated by videoconference

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

IV. CORRESPONDENCE/AGENDA CHANGES

No agenda changes.

[20-131](#)

Reminders, Calendars, and Correspondence

V. CEREMONIAL MATTERS

None.

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

[20-121](#)

Special Report: Alaska's Chief Medical Officer, Dr. Anne Zink (via videoconference)

Municipal Administrator John Leach thanked Dr. Zink for her time. Dr. Anne Zink shared data specific to Sitka for COVID-19 testing. She noted that there was not 100% accuracy on testing but that all positives should be treated as such. She encouraged

social distancing, wearing a mask, and keeping social circles small to avoid spreading the disease. She told of contract tracing and tracers, investigations, and mandatory reporting. She noted that Alaska was the 8th most tested state with the lowest rate. She answered Assembly member's questions surrounding testing with regards to positive and negative results and the timeline.

Wein said that Alaska was lucky to have Dr. Zink and thanked her for her difficult job.

VII. PERSONS TO BE HEARD

Garry White Chair of University of Alaska Southeast Sitka Campus Advisory Council informed of the potential close down of southeast campuses in FY2022. He extended an invitation for an Assembly Member to sit on the Council. Doug Osborne told of an online petition to remove the statue of Baranov in front of Harrigan Centennial Hall. He asked the Assembly to consider the removal. Harriet Miyasato Beleal, Nancy Furlow, Paulette Moreno, Tom Gamble, Chandler O'Connell, Bob Sam, Scott Maxwell, and Nicholas Galanin spoke in support of removal of the Baranov statue. Andrew Hames, Brian Hames, and Roger Hames spoke to the history of the statue, that it was a gift and asked that if it were removed, it go to a museum. Valorie Nelson spoke as a member of the public and told of concerns of the divisiveness of the statue.

VIII. CONSENT AGENDA

A motion was made by Nelson that the Consent Agenda consisting of items A, B, and C be APPROVED. The motion PASSED by the following vote.

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

- A** [20-123](#) Approve the minutes of the June 9 Assembly meeting
- This item was APPROVED ON THE CONSENT AGENDA.**
- B** [20-124](#) Approve a new liquor license application and premises diagram application for Harbor Mountain Brewing Company at 1209 A Sawmill Creek Road
- This item was APPROVED ON THE CONSENT AGENDA.**
- C** [20-125](#) Approve an application for the renewal of a retail marijuana store license for Anna M. Cleaver dba Weed Dudes at 1321 Sawmill Creek Road Suite J & K
- This item was APPROVED ON THE CONSENT AGENDA.**
- D** [RES 20-22](#) Setting the millage rates for the fiscal year July 1, 2020 through June 30, 2021
- A motion was made by Wein that this resolution be APPROVED on FIRST AND FINAL READING with the clerical change in the total amount of assessed value as \$1,178,465,990. The motion PASSED by the following vote.**
- Yes:** 7 - Christianson, Eisenbeisz, Knox, Wein, Paxton, Mosher, and Nelson

IX. BOARD, COMMISSION, COMMITTEE APPOINTMENTS

- E** [20-126](#) Appoint Jeff Budd to an unexpired term on the Library Commission

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

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

X. UNFINISHED BUSINESS:

F [ORD 20-32](#) Making supplemental appropriations for fiscal year 2020 (*Secure Rural Schools Support*)

Eric Van Cise Sitka School Board Clerk spoke in support of funding the schools and wondered of the splitting of funds historically.

Wein stated the Secure Rural Schools Act was dual purpose to be used for both schools and roads. He noted the monies that would be given to the School District from the CARES Act funding. Nelson was not in support and stated that roads needed funding. Mosher spoke in support of the 50/50 split. Christianson felt that the funding was needed for schools and that counselors were needed. Paxton was in support although noted the need for funding roads in the future.

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 - Christianson, Eisenbeisz, Knox, Paxton, and Mosher

No: 2 - Wein, and Nelson

G [ORD 20-33](#) Amending Title 4 "Revenue and Finance" of the Sitka General Code by revising Chapter 4.09 "Sales Tax" relating to exemption certificate

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

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

XI. NEW BUSINESS:

New Business First Reading

H [ORD 20-34](#) Making supplemental appropriations for fiscal year 2021 (*Airport Terminal Improvement Project*)

Public Works Director Michael Harmon noted the intent to remodel the airport in a partnership with TSA to upgrade their secured area. He stated this grant enabled improvement and would speed up the processing of luggage.

Wein noted the 5% match for city.

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

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

I [ORD 20-35](#) Making supplemental appropriations for fiscal year 2021 (*COVID-19 Re-appropriation*)

Municipal Administrator John Leach explained to carry funding forward in next fiscal year for FEMA, reimbursement needed to be appropriated. He explained that it could be used for emergency isolation, personal protection equipment, meals, overtime wages - anything directly related to the emergency that would then be submitted for reimbursement.

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

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

Additional New Business Items

- J** [20-127](#) Discussion / Direction of a request to purchase a portion of Tract A11 of Whitcomb Heights Subdivision encompassing approximately 41,000 square feet near the corner of Cushing Street and Kramer Avenue
- Planning Director Amy Ainslie gave an overview of the request to purchase 41,000 square feet of a parcel in the Whitcomb Heights subdivision. She spoke to the process of competitive bid that would need to take place and relayed that the Planning Commission felt it was appropriate to sell. Chief Finance and Administrative Officer Jay Sweeney noted if sold the proceeds would go to the Permanent Fund but that the costs from selling the property could be used from the Benchlands Capital Project Fund. Public Works Director Michael Harmon spoke to the multiple landslide reports, and the two in final form. He told of infrastructure.
- Wein felt it should be a request for proposals (RFP) process and wondered of the cost to the city. Christianson was in support of selling, but wondered if it would be better to sell the entire parcel and not a portion. Eisenbeisz thought to sell the entire parcel and noted the buyer could reimburse the costs of surveying and subdividing. Paxton was in agreement with the RFP process and having the owner pay to install utilities. Nelson felt to proceed with caution because of the history in the vicinity. She was in agreement to sell the entire lot and an RFP.
- K** [20-129](#) Discussion / Direction on the disposition of unpaid personal property taxes
- Municipal Administrator John Leach reminded he had informed the Assembly of the unpaid amounts in 2019 and that any balance less than \$200 could be written off by the Finance Director while the Administrator had authority to write off anything over \$200 and under \$1,000 if deemed uncollectible. He noted two of the listed account owners were working toward promissory notes. He asked for Assembly direction for the remaining debts. Municipal Attorney Brian Hanson relayed that the Sitka General Code sets policy and that a case by case assessment needed to be done. He noted he worked on collection items weekly.
- Nelson disclosed she was a member of one of the entities. She stated she would like more transparency as to who the parties are of outstanding balances owed to the city. Christianson wondered of including these amounts into next year's bills and roll it forward. Wein felt uncollected debts were a problem that needed to be solved city wide. Mosher agreed a precedent should be set and the debts collected.
- L** [20-128](#) Appeal of the denial of a public records request filed by Nick Feronti for Northern Justice Project, LLC (*possible executive session*)

Municipal Attorney Brian Hanson spoke to practice and procedure for this quasi-judicial hearing and he explained the appeal of a denial of a public records request. He noted that a decision needed to be made and that the burden of proof was on the city. He stated the Mayor's role during the procedure and confirmed that the next step if the Assembly denied would be superior court.

Hearing

Appellant/Staff presentation of evidence and argument: Nick Feronti of the Northern Justice Project spoke to the denial as wrongfully denied. He told of transparency and the theory for public access to government as a fundamental right and gave context of new criminal charges. He spoke to the process and urged the Assembly to look at the denial letter. Hanson told of the process for public records requests and of practice and procedures. He noted that the vast majority of records were disclosed however there were a few occasions of denials. He explained the law enforcement interference exception in the Sitka General Code and the distinguishing pending versus active cases.

Appellant/Staff response or clarifying statements: Feronti called on witness, Ryan Silva. Silva answered questions of his employment history, misconduct of the Sitka Police Department, a lawsuit, an investigation, and privacy. Feronti stated irrelevancies and speculation. He suggested erring on the side of releasing the documents. Hanson strongly urged the Assembly to deny the appeal. He reiterated that the documents involved an investigation that was started by the Sitka Police Department then continued by the Alaska State Troopers. He told of the importance of witnesses needing privacy and that confidentiality was needed during active cases.

Deliberation by Assembly: Mosher spoke in support to deny the appeal and stated that Hanson's argument was clear and logical. Christianson concurred and stated the request was asking for records for an ongoing investigation that the Troopers were conducting.

Wein stated the question was, what was allowed by law and as to whether the denial was justified by law. He spoke to reasonable doubt and wondered if the decision to disclose reasonably interfered with the prosecution. He didn't feel there was enough information and that records should be disclosed. Nelson spoke in support of disclosure. Eisenbeisz spoke in support to deny the request and noted the difference in a pending criminal investigation and a pending criminal case. He believed that if it were a pending criminal case, it should be released, however, he viewed an investigation differently.

A motion was made by Knox to deny the appeal. The motion PASSED by the following vote.

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

No: 2 - Wein, and Nelson

XII. PERSONS TO BE HEARD:

Mary Ferguson spoke of disappointment of the denial of the appeal for the records request release. She spoke to the lack of transparency. Rachel Moreno spoke in support of school funding and counselors in the School District. George Paul spoke to political differences and spoke in support to leave the Baranov statue and the canoe in front of Harrigan Centennial Hall. He urged to support government to government relationships and asked to open the Library. Tom Gamble recommended mediation for

quasi-judicial items. He would like encourage the Assembly to invoke change and told of a previous equity summit he hosted and was planning another August 8. Ryan Silva spoke in disappointment in the denial of the records request and felt there wasn't enough information.

XIII. REPORTS

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

Assembly Liaisons - Christianson reported on the Gary Paxton Industrial Park Board of Directors meeting. Wein reported on the Tree and Landscape Committee.

Clerk - Henshaw told of the vacancies to fill for the regular municipal election to be held October 6.

Other - Eisenbeisz reported on the City Seal Redesign process. Wein attended and reported on the Advisory Board meeting for University of Alaska Southeast.

XIV. EXECUTIVE SESSION

M [20-130](#)

Financial matter: Alaska Pure Sea Salt - Forbearance Agreement

A motion was made by Christianson to go into Executive Session with Chief Finance and Administrative Officer Jay Sweeney under the statutory categories of discussing subjects that ten to prejudice the reputation and character of any person and to discuss matters, the immediate knowledge of which, would adversely affect the finances of the City and Borough of Sitka and invite in, if and when ready, Jim Michener of Alaska Pure Sea Salt. The motion PASSED by the following voice vote.

Yes: 7 - Christianson, Knox, Wein, Paxton, Nelson, and Mosher

No: 7 - Eisenbeisz

The Assembly was in executive session from 9:30 p.m. to 9:50 p.m. Jim Michener was in executive session from 9:40 to 9:50 p.m.

A motion was made by Nelson to reconvene as the Assembly in regular session. The motion PASSED by unanimous consent.

A motion was made by Nelson to direct the Administrator and staff to draw up the forbearance agreement as discussed in executive session with Alaska Pure Sea Salt. The motion PASSED by the following vote.

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

XV. ADJOURNMENT

A motion was made by Christianson to ADJOURN. Hearing no objections, the meeting ADJOURNED at 9:52 p.m.

ATTEST: _____

Melissa Henshaw, CMC
Acting Municipal Clerk