



# CITY AND BOROUGH OF SITKA

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

## Minutes - Draft City Assembly

**MAYOR** Scott McAdams  
**Jack Ozment, Deputy Mayor - Reber Stein, Vice Deputy Mayor**  
**Cheryl Westover - Mim McConnell**  
**Phyllis Hackett - Larry Crews**

**MUNICIPAL ADMINISTRATOR:** Jim Dinley  
**MUNICIPAL ATTORNEY:** Theresa Hillhouse  
**MUNICIPAL CLERK:** Colleen Ingman, MMC

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Tuesday, March 30, 2010

6:00 PM

Assembly Chambers

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### SPECIAL MEETING

I. CALL TO ORDER

II. FLAG SALUTE

III. ROLL CALL

Present: 6 - McAdams, Ozment, Stein, Westover, Crews, and McConnell

Telephonics: 1 - Hackett

IV. PERSONS TO BE HEARD

*Thad Poulson commented he had reviewed the contract drawings for the Crescent Harbor walkway. He found some of the walkway features bothersome and urged the Assembly to hold a public meeting/public hearing to allow for public comment.*

V. NEW BUSINESS:

**Motion by Stein to convene as the Board of Adjustment.**

**PASSED by a unanimous voice vote.**

**10-053**

Board of Adjustment: Approval of a conditional use permit request filed by Duane and Tracie Lambeth for operation of a lodging establishment on Dove Island.

*Municipal Attorney Theresa Hillhouse provided the Assembly with legal background regarding the matters at hand. A handout was provided to the Assembly outlining the Board of Adjustment, review criteria, Board of Adjustment procedure, and actions needed after the Assembly's decision.*

**Motion by Stein to accept the recommended motions and findings of fact made by the Planning Commission regarding the conditional use permit application filed by Duane and Tracie Lambeth for Dove Island Lodge for the number of guests and on-site employees at Dove Island Lodge and move to accept the recommended motions and**

**findings of fact made by the Planning Commission regarding the conditional use permit application filed by Duane and Tracie Lambeth for Dove Island Lodge for operation of a commercial dock on Dove Island.**

Mayor McAdams read into the record the following conditions approved by the Planning Commission on February 16, 2010 that recommended approval of a lodge and dock on Dove Island. The Mayor also read into the record the three additional motions made by the Planning Commission.

The Planning Commission has approved a previous motion on February 16, 2010 that recommended approval of a lodge of up to 16 guests on Dove Island with conditions. The Planning Commission in this motion herewith details the conditions in support that are directly tied and associated with the recommended conditional use permit.

- Dove Island shall obtain and provide to the Municipality copies of the issuance of DEC water and wastewater permit, Corps of Engineers dock permit, and written statement from the Alaska DNR that permitting is proceeding prior to May 1, 2010. The permit that shall be received prior to May 1, 2010, shall be an approval from DEC for water and wastewater operations on the site.
- Dove Island shall open the appropriate municipal water and utility account for water obtained from municipal harbors or any other municipal source prior to May 1, 2010.
- Dove Island Lodge shall be current on all water and other utility permits for the life of the conditional use permit. The requirement for a water and utility account shall meet the criterion established by the Finance department.
- Transport of non overnight guests by aircraft to and from Dove Island is prohibited.
- Structures on Dove Island shall not be used as a resort, conference center, or for business or corporate meetings without obtaining a conditional use permit.
- Dove Island Lodge shall provide written certification that all sales, property, and all other Municipal taxes are current on January 1 of each calendar year.
- Dove Island Lodge shall provide a summary of lodge operations to the Planning Office no later than December 1 of each calendar year.
- Planning Commission shall review the summary of lodge operation, provided by Dove Island, no later than the first Planning Commission meeting in January of every calendar year. A public hearing shall be held as part of the review.
- Failure to comply with any of the conditions shall result in automatic cancellation of conditional use permits approvals.
- The Planning Commission further requires that the annual review at the discretion of the Assembly be completed by the Planning Commission and the Assembly in subsequent years with a minimal review by the Planning Commission and the Assembly determining at its own discretion whether to further undertake that annual review.
- That an annual review be conducted consistent with the conditions above on an annual basis for at least at the Planning Commission level each year for the first 5 years of the conditional use permit.
- The conditional use permit shall not be granted prior to the issuance of all DEC water and wastewater permits and the issuance of the Corps of Engineer permits. These permits must be in place prior to the approval of the conditional use permit.

Recommend approval to the Assembly of a modification to the commercial dock conditional use permit for Dove Island for seafood processing and float plane operations with the following criteria:

- The amount of fish processed shall not fill more than an average of 2 standard 50 pound fish boxes per day calculated from May 1 – September 15 season.
- All seafood byproducts or waste shall be disposed of at least ½ mile true south of

the tip of Ring Island.

- Aircraft shall be limited to the De Havilland Beaver aircraft or a similar replacement aircraft for the owners. No aircraft access to the establishment's docks, except for the one aircraft or replacement aircraft owned by the Dove Island lodge owners is allowed.
- Aircraft serving the establishment shall not take off or land in Jamestown Bay except for emergencies. While in Jamestown Bay, the aircraft shall not step taxi. No take-offs before 7:00 a.m. The mooring of aircraft shall be done in a manner that does not involve increasing engine power above that required to taxi. A wench must be used to bring the aircraft on/off the dock.
- Aircraft shall not operate before 7:00 a.m. or after 7:00 p.m. except for emergency for safety considerations after 7:00 p.m. In no circumstances shall there be any exception including emergencies prior to 7:00 a.m.
- For the purpose of the conditional use permit, Jamestown Bay shall consist of all navigable waters with a line drawn from the Westernmost part of Ring Island and the Southwestern most part of Cannon Island (57 degrees, 2 minutes, 16.5 seconds N - 135 degrees 17 minutes 39.9 second W and 57 degrees 2 minutes 33 seconds N - 135 degrees 18 minutes 6.54 second W).

Moved to approve the following:

A review of the modification of conditional use permit for commercial dock for Dove Island occur and meet all the requirements of the previously recommended conditional use permit for Dove Island Lodge, such as a mandatory review every year, for next 5 years and the timeframes associated thereof.

Moved to make the following recommendation to the City Assembly:

The Planning Commission further recommends in addition to the recommendations and conditions attached to the Dove Island Lodge that the approval be based on the plans submitted and that there shall be no expansion of buildings with the exception of those mandated by environmental agencies without a formal modification of the conditional use permit.

Moved to make the following recommendation to the City Assembly:

The Planning Commission further recommends as part of the aforementioned for approval of a modification for a commercial dock for Dove Island for seafood processing and float plane use that no expansion of the dock and the approval is based on plans submitted with the application, and any expansion of the commercial dock outside of those permitted shall not occur without the approval of a modification of a conditional use permit.

Mayor McAdams asked Planning Director, Wells Williams, and members of the Planning Commission present, Chair Don Alexander and William Stortz, to come forward and provide a brief summary of the two conditional use permit requests before the Assembly. Williams explained the Planning Department prepared the materials on behalf of the Planning Commission. Williams cited code requirements and issues raised by the public as reasons for the many recommended conditions. The bulk of the recommendations are strictly from the Planning Commission.

Responding to a question from Stein, Williams explained the zoning district for Dove Island had not changed since the matters initially came before the Assembly. Williams added the bisecting lot line had been removed and the two parcels had been combined. The zoning remains the General Island District.

McConnell asked about the public testimony in the Planning Commission minutes referencing Sitka General Code 22.24.010 item F. McConnell wondered how much of that code was referred to in deliberations by the Planning Commission. Williams noted the Planning Department compiled 4 pages and asked the Planning Commission to study them prior to deliberation. The information was reviewed at two meetings.

Westover questioned Chairman Don Alexander on whether or not the Planning Commission had made an actual vote on the "kicker" option – 1900 guests on average. Alexander said the Commission talked about it only.

Stein asked Williams to clarify again how there came to be so many conditions. Williams explained some of the conditions were articulated in the conditional use applications submitted by Dove Island Lodge. Others were crafted by the Planning Department with clarifying language added by the Planning Commission. The idea behind the conditions was to add clarity.

McConnell asked Williams if a no landing zone was in effect for Jamestown Bay. Williams was unaware of any prohibition to landing aircraft in Jamestown Bay.

Mayor McAdams wondered if the City and Borough of Sitka had the capacity to enforce the recommended conditions. Williams replied yes and further noted the conditions are enforceable. Stein wondered if employees living on a boat at the Dove Island dock would be considered on-site employees. Williams reminded the Assembly that requests are based on plans that are submitted. There was no mention of making a residential use out of the dock in the plans submitted so therefore employees living on a boat at the Dove Island dock would be considered a violation of the conditional use permit.

Hackett wondered if the Planning Commission had talked about the float plane noise heard from the National Park and the safety factor of small boats in the area. She noted the difficulty of seeing small boats and kayaks from a Beaver. Williams did not recall specific discussions on either of the items. She also wondered if any fish processing had been talked about. Williams said it was a very limited discussion.

McConnell read excerpts from an email submitted to the Clerk's Office by Susan Litman on March 22, 2010. The email asked the Assembly to consider additional conditions to the lodge and dock conditional use permits. Williams noted the Assembly had the ability to shorten or lengthen any of the Planning Commission's recommended conditions.

Stein wondered how the Sitka General Code distinguished between day and overnight guests. Williams replied there was no differentiation in the Code and if desired the Assembly had the ability to add further clarification in the conditions. Stein also wondered if 'date of operation' had ever been attached to other lodge conditional use permits. Williams responded most of the lodges along the road system are in a commercial zone and already a permitted use. He did not remember specific criteria being attached to a lodge conditional use, possibly Morne Island. Such a condition has been included with bed and breakfast and short-term rental permits in the past.

Williams added the proposed conditions were proposed by staff February 16 when in deliberation at the Planning Commission. These conditions were not negotiated out with the applicant.

In response to Hackett, Hillhouse said public comment would be reopened if the

Assembly remanded certain items back to the Planning Commission.

A recess was taken from 7:08 pm to 7:15 pm

Max Garner representing Traci and Duane Lambeth gave a Power Point presentation. He noted the experience at Dove Island Lodge is very unique. A typical day for guests would be a choice to: stay at Lodge or go into town, go salt water fishing, or participate in fresh water fishing.

Garner stated the Lodge can accommodate 24 guests. This allows them to make maximum use of facilities when the demand is high. His clients would like to see the number of allowed guests increased from 16 to 24 guests with a total cap of 1900 guests during the summer season.

Crews asked Garner what kind of impact there would be with 24 guests rather than 16. Lambeth responded no one should be able to tell if there were 24, 16, 12, or 8 guests at the Lodge. He noted the buildings are not visible from the road system and guests are gone during the day. There are very few nights where they have 24 guests. If a group of 17 comes in, they pay for 24 spots. The CEO of Boeing comes each summer with a party of 6, they pay for 24 spots. They have a number of groups such as this that come in and buy 24 spots.

McConnell questioned Garner/Lambeth on the additional conditions proposed by Susan Litman in her email letter of March 22, 2010. Garner stated that while they were OK with some of the conditions proposed by Susan Litman, he would hate to see unnecessary conditions placed on the Lambeths.

Stein asked Lambeth how many fish boxes were prepared last season. Lambeth did not have that information available. Stein wondered if services were offered to non guests of Dove Island. Lambeth said this is not the case and was not marketed in such a way. Lambeth said if one of their boats isn't working another lodge will take their guests out and vice versa.

McConnell asked about the proposed condition from Litman regarding specific operational dates. The Lambeths would prefer to not have this restricted. They would like to have guests out of season, complying with a nine guest limit off season.

Stein questioned if there would be a scenario where multiple aircraft would use the dock at Dove Island. At no time would there be two planes. There is not a capacity for two planes to tie up. There might be a scenario where the Lambeth's use another aircraft if something mechanical happened to their own.

Westover asked how many times out of the 135 day season there would be 24 guests at the Lodge. Lambeth did not have the figure with him, however noted it was not very often. Westover wondered how they would feel about the caveat of 18 guests so many nights a year.

Regarding the noise from the airplane, Hackett asked Lambeth about limiting the number of take offs and landings in a day. Lambeth said he could try to do that but would not compromise safety.

McConnell having lived in Port Alexander for 13 yrs said that airplane noise was a concern of hers. She asked Lambeth about changing the airplane prop to a quieter prop. Lambeth replied it is very costly and is not as efficient or quieter. McConnell wondered how he would feel about restricting the hours of operation for the plane if the number of guests allowed were increased. Lambeth said most of his flights do

*not leave until 8am and he's already offering to operate between the hours of 7am and 7pm.*

*A recess was taken from 8:40pm to 8:48pm*

*The following people spoke during public testimony:*

*Mike Litman would have preferred the Planning Commission recommended 13 or 14 guests, however, 16 is tolerable if it can be enforced. The Planning Commission has now unfortunately moved the airplane noise to a different neighborhood by establishing a boundary by which the plane has to take off. He is concerned with City's ability to enforce the conditional use permits.*

*Gary Short voiced concern about the plane noise. He would like to see an exact direction defined for airplane take off.*

*Debbie Reeder offered plane noise is a part of living in Southeast Alaska. She herself hears much more air noise around her home than those around Dove Island.*

*Spike Arnold spoke in concern of water quality. He mentioned Dove Island Lodge is a great concept but would like to keep water quality clear.*

*Bonnie Brenner stated the Assembly needs to encourage business not discourage.*

*Frank Rogers commented he had nothing against the Lambeths or their lodge. He does however have a problem with the airplane noise.*

*Doug Borland resident of Harris Island finds the airplane noise a part of Alaska life. He urged the Assembly to encourage business to stay in Sitka.*

*Thor Christianson, resident of Guertin Island, noted if anyone was to be affected by Lambeth's business it would be him and he hasn't been affected. From his house he is unable to tell how many people are at the Lodge. He reported the neighbors in nearby float houses have not been affected and the float plane was not an issue.*

*Sheila Finkenbinder asked the Assembly to help and encourage the Lambeths to stay in business. She would like to see a capacity of 24 guests. It is important to pay attention to the economic factors.*

*Kim Elliott, heavily impacted by the airplane noise on Berry Island, would like everyone to abide by the same rules.*

*Michael Laquire read a letter from the realtors in the MLS listing group.*

*Erik Morisky has worked on Dove Island for 11 years. He contracts skipper services to Dove Island Lodge. He would like to see the Lodge have 24 people. This isn't about zoning, it's about the suffering economy.*

*Joel Chandler, produce buyer in Sitka, stated Dove Island Lodge is a significant purchaser at the Hames Corporation.*

*Helen Cunningham offered, while she does not oppose 24 guests, she does not like the airplane noise.*

*Jessica Christianson, a resident of Guertin Island, said there is no noise impact on her island from Dove Island Lodge. More noise exists from the Coast Guard helicopter*

practices at night. She can't tell when there are 10 people at the Lodge or 20 people. She feels Dove Island Lodge is a very positive presence in Sitka.

Lureen Stedman commented she was not opposed to commerce in the bay. It's a historic use of the bay.

Charlie Hazel, a business owner in Sitka, stated the economy of Sitka is hurting.

Ms. Westover asked Mark Buggins, Environmental Superintendent, to come forward. She asked him about the water quality at/around Dove Island Lodge. Buggins indicated he has not been to the Lodge so it would be hard for him to say but he did review what is listed in their application. Mr. Crews asked if all island dwellers are required to use a sewage treatment system. Buggins noted it is required however monitoring is done through DEC.

In response to Mr. Arnold's concern of water quality, Mrs. McConnell asked Williams if the recommended condition requiring fish waste to be disposed of at least ½ mile true south of the tip of Ring Island was sufficient. Williams stated the Planning Commission's recommendation exceeds what was previously recommended by staff.

McConnell has often wondered if a noise ordinance could be accomplished for the community. Williams indicated the Police and Fire Commission has made three attempts over the last 20 years to develop a noise ordinance without any success. Hillhouse noted Juneau has also been unsuccessful at passing a noise ordinance.

Duane Lambeth came forward to explain the Bio Microbe septic system on Dove Island. They have upgraded beyond what is needed.

In a response to a question by McConnell, Lambeth said with 24 guests there would not be any more or less plane activity than currently exists. Stein wondered if with more people there would be greater interest from guests for more trips. Stein also wondered if the direction for take offs could be altered. Lambeth answered he strategically plans each take off and safety is put first. The waterway is shared with others so there is no guarantee the same location could be used each time for takeoff.

Ozment stated he would like to see these issues closed. The Planning Commission has provided a good product and the Assembly should back them. He recommended going forward with the recommended proposal and conditions.

Crews, a neighbor of Dove Island, noted the plane noise has depreciated significantly. He has never noticed the guests there. He would like the Assembly to be more lenient and allow Dove Island Lodge the ability to have 24 guests.

Westover agreed with Crews. She suggested approving a cap of 1900 bed night guests per summer season.

**Motion by Westover to extend the meeting ½ hour (to 11pm).**

Passed by unanimous consent.

The Assembly offered final comments.

Motion to amend original motion FAILED by a 3-4 roll call vote with Ozment, McAdams, Hackett and Stein opposed.

**Motion by Stein to amend planning commission recommendation striking 6**

contractors living off site during the season

*Motion to amend PASSED on a 6-1 roll call vote with Crews opposed.*

**Main motion as amended PASSED on a 5-2 roll call vote with Westover and Crews opposed.**

**Motion by McConnell to accept the recommended motion and findings of fact made by the Planning Commission regarding the conditional use permit application filed by Duane and Tracie Lambeth for Dove Island Lodge and operation of a commercial dock on Dove Island.**

*Motion PASSED on a 5-2 roll call vote with Crews and Westover opposed.*

**Motion by McConnell to reconvene as the Assembly in regular session**

*Motion PASSED by a unanimous voice vote.*

**10-054**

Board of Adjustment: Approval of a conditional use permit request filed by Duane and Tracie Lambeth for operation of a commercial dock on Dove Island.

*Combined with above item.*

**VI. PERSONS TO BE HEARD:** *None.*

**VII. ADJOURNMENT**

**MOTION by Westover to adjourn the meeting. The meeting ADJOURNED at 11 PM by unanimous consent.**

**ATTEST:**

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**Sara Peterson, Acting Municipal Clerk**