



CITY AND BOROUGH OF SITKA

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

Minutes - Final

City and Borough Assembly

Mayor Matthew Hunter
Deputy Mayor Bob Potrzuski
Vice-Deputy Mayor Steven Eisenbeisz
Tristan Guevin, Kevin Knox
Aaron Bean, and Aaron Swanson

Municipal Administrator: Mark Gorman
Municipal Attorney: Brian Hanson
Municipal Clerk: Sara Peterson

Tuesday, March 14, 2017

6:00 PM

Assembly Chambers

REGULAR MEETING

I. CALL TO ORDER

II. FLAG SALUTE

III. ROLL CALL

Present: 5 - Swanson, Guevin, Hunter, Knox, and Bean

Absent: 2 - Eisenbeisz, and Potrzuski

IV. CORRESPONDENCE/AGENDA CHANGES

Mayor Hunter announced the agenda had been readvertised due to the addition of item D - update and discussion/direction on the Municipal Administrator selection process.

[17-032](#)

Reminders, Calendars and 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 (time limits apply)

None.

VII. PERSONS TO BE HEARD

None.

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

Mayor - Hunter announced he, along with the Administrator and Community Affairs Director, had met with representatives of Senator Murkowski's office. A topic of conversation was ways in which the Senator's office might be able to assist Sitka in finding funding sources for various projects.

Administrator - Gorman reported on the visit with Senator Murkowski's office, updated the Assembly on the FY18 budget planning process, and announced bilingual signage had been placed on the Harrigan Centennial Hall rooms.

Attorney - Hanson reported, in the near future, he would be distributing a six month activity report to the Assembly on the work of the Legal Department.

Liaisons - Assembly member Knox reported on the Parks and Recreation Committee meeting and Mayor Hunter provided an update on the recent Port and Harbors Commission meeting.

Clerk - Peterson reminded the Assembly of upcoming meetings.

IX. CONSENT AGENDA

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

Yes: 5 - Swanson, Guevin, Hunter, Knox, and Bean

Absent: 2 - Eisenbeisz, and Potrzuski

- A** [17-033](#) Approve the minutes of the February 28, March 2 and March 7 Assembly meetings

This item was APPROVED ON THE CONSENT AGENDA.

- B** [RES 17-05](#) Supporting legislation to facilitate implementation of an Alaska Ground Emergency Medical Transport supplemental reimbursement program in Alaska

This item was APPROVED ON THE CONSENT AGENDA.

X. BOARD, COMMISSION, COMMITTEE APPOINTMENTS

- C** [17-034](#) Appoint Beth Smith to a three-year term on the Parks and Recreation Committee

A motion was made by Guevin 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

XI. UNFINISHED BUSINESS:

D [17-041](#) Update and Discussion/Direction on the Municipal Administrator selection process

Mark Danielson, Human Resources Director, reviewed the options: 1) proceed with current candidates, 2) advertise again, or, 3) utilize the services of a recruiting agency.

Consensus of the Assembly was to proceed with the list of current candidates.

E [ORD 17-05S](#) Amending Sitka General Code Chapter 15.01 entitled "Electric Utility Policies" by amending Section 15.01.020 entitled "Electrical Rates"

Note - this ordinance replaced Ordinance 2017-05 that was heard on first reading February 28, 2017.

Harriet Beall spoke in opposition to raising electric rates.

Bean encouraged the Assembly to explore the possibility of becoming regulated by the Regulatory Commission of Alaska and, in addition, suggested the Commission review rates and policies. Hunter thanked Bean for bringing this idea forward, however, noted the timing was off in order to meet July 1 budget requirements. He reminded that to become regulated it would take a vote of the people. Hunter said, while painful, he was satisfied with the rate proposals; hoping this was the final step to getting the rates where they needed to be to cover debt service. Guevin agreed and stated it was the responsible decision. Guevin clarified, however, that he was uncomfortable moving one or both of these ordinances forward without a needs based subsidy in place for citizens who may be financially challenged by the rate increase. Knox shared the same sentiment yet reminded delaying passage of the rate ordinance(s) would only exacerbate the financial problem of the Electric Fund. Gorman stated for every two weeks of delay, it would cost the City approximately \$75,000 in meeting the current debt service.

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

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

No: 1 - Bean

Absent: 2 - Eisenbeisz, and Potrzuski

F [ORD 17-06S](#) Amending Sitka General Code Chapter 15.01 entitled "Electric Utility Policies" by amending Section 15.01.020 entitled "Electrical Rates" to allow for a seasonal increase in electrical rates

Note - this ordinance replaced Ordinance 2017-06 that was heard on first reading February 28, 2017.

Swanson and Knox expressed support of the ordinance, noting seasonal rates would flatten out monthly costs and eliminate major swings in utility bills.

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

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

No: 1 - Bean

Absent: 2 - Eisenbeisz, and Potrzuski

XII. NEW BUSINESS:

New Business First Reading

- G** [ORD 17-08](#) Amending Sitka General Code Chapter 4.09 "Sales Tax" at 4.09.350 "Procedures on Delinquencies"
- Mayor Hunter stated the Ordinance would offer relief, under certain circumstances, for businesses tardy in remitting sales tax returns.
- A motion was made by Swanson that this Ordinance be APPROVED on FIRST READING. The motion PASSED by the following vote.**
- Yes:** 5 - Swanson, Guevin, Hunter, Knox, and Bean
- Absent:** 2 - Eisenbeisz, and Potrzuski
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- H** [ORD 17-07](#) Adjusting the FY17 Budget (grants, Greater Sitka Chamber of Commerce, Inc.)
- Guevin recommended a process be implemented outlining how the remaining 8% of the Visitor Activities Enhancement Fund, that wasn't allocated for the Chamber of Commerce - visitor services, be used. Guevin suggested the money could be used for visitor enhancement. Gorman noted there was approximately \$160,000 in the Fund and anticipated growth of \$35-50,000 per year.
- A motion was made by Knox that this Ordinance be APPROVED on FIRST READING. The motion PASSED by the following vote.**
- Yes:** 5 - Swanson, Guevin, Hunter, Knox, and Bean
- Absent:** 2 - Eisenbeisz, and Potrzuski

Additional New Business Items

- I** [17-036](#) Approve a final plat for a major subdivision filed by Shee Atika for Lot 16 of Ethel Staton Subdivision
- Mayor Hunter disclosed his parents owned property across the street from this subdivision and therefore was recusing himself as there could be a potential conflict of interest. Knox, liaison to the Planning Commission, indicated this subdivision had been before the Commission several times and Shee Atika Inc. staff had worked extensively with Planning Department staff to address questions and concerns.
- A motion was made by Swanson that this Item be APPROVED. The motion PASSED by the following vote.**
- Yes:** 4 - Swanson, Guevin, Knox, and Bean

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.

XIV. EXECUTIVE SESSION

See Item L

XV. ADJOURNMENT

A motion was made by Swanson to ADJOURN. Hearing no objections, the meeting ADJOURNED at 8:55pm.

ATTEST: _____
Sara Peterson, CMC
Municipal Clerk