



CITY AND BOROUGH OF SITKA

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

Meeting Agenda

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*

*Interim Municipal Administrator: Hugh Bevan
Municipal Attorney: Brian Hanson
Municipal Clerk: Sara Peterson*

Tuesday, October 22, 2019

6:00 PM

Assembly Chambers

REGULAR MEETING

I. CALL TO ORDER

II. FLAG SALUTE

III. ROLL CALL

IV. CORRESPONDENCE/AGENDA CHANGES

[19-235](#) Reminders, Calendars, and General Correspondence

Attachments: [Reminders and Calendars](#)

V. CEREMONIAL MATTERS

[19-231](#) Proclamation - Veteran's Day

Attachments: [Veterans Day Proclamation](#)

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

VII. PERSONS TO BE HEARD

Public participation on any item off the agenda. All public testimony is not to exceed 3 minutes for any individual, unless the mayor imposes other time constraints at the beginning of the agenda item.

VIII. REPORTS

a. Mayor, b. Administrator, c. Attorney, d. Liaison Representatives, e. Clerk, f. Other**IX. CONSENT AGENDA**

All matters under Item IX Consent Agenda are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

- A** [19-230](#) Approve the minutes of the October 8 Assembly meeting

Attachments: [Consent and Minutes](#)

- B** [RES 19-25](#) Supporting the Sitka Trail Works, Inc. grant application to the State of Alaska Recreational Trails Program for repairs to the Sea Lion Cove Trail

Attachments: [Motion Memo and Res 2019-25](#)

X. BOARD, COMMISSION, COMMITTEE APPOINTMENTS

None.

XI. UNFINISHED BUSINESS:

- C** [19-225](#) Approve the Employment Agreement between the City and Borough of Sitka and John Leach as Municipal Administrator

Attachments: [Motion and Employment Agreement Between CBS and John Leach 10.9.19](#)
[Charter-SGC Attachment Employment CBS-Leach](#)

- D** [19-221](#) Discussion / Direction on the possibility of Closed Captioning for Assembly meetings

Attachments: [Discussion Direction Closed Captioning](#)

XII. NEW BUSINESS:**New Business First Reading**

- E** [ORD 19-38](#) Making supplemental appropriations for fiscal year 2020 (Homeland Security Grants)

Attachments: [Motion ORD 2019-38](#)
[Memo and ORD 2019-38](#)

Additional New Business Items

- F [19-233](#) Discussion / Direction / Decision to lift the hiring freeze and dissolve the Assembly Position Subcommittee

Attachments: [Motion Subcommittee](#)

[Minutes April 25](#)

[Minutes May 14](#)

- G [19-232](#) Discussion / Direction / Decision on accepting title to land in the Takatz Lake area

Attachments: [01 Motion and 2019 CBS ADNR Correspondence](#)

[02 Map Takatz Lake area](#)

[03 Sept 2019 email from DNR](#)

[04 ADL 101030 Final Decision](#)

[05 ADL 101030 FD Attachment C Selection map](#)

[06 APA DOC no. 3335\(History of Land Classification Relating to Waterpower :](#)

- H [19-234](#) Approve the reallocation of Electric Fund capital projects

Attachments: [Motion and Memo Marine Street N-1](#)

XIII. PERSONS TO BE HEARD:

Public participation on any item on or off the agenda. Not to exceed 3 minutes for any individual.

XIV. EXECUTIVE SESSION

Not anticipated.

XV. ADJOURNMENT

Note: Detailed information on these agenda items can be found on the City website at <https://sitka.legistar.com/Calendar.aspx> or by contacting the Municipal Clerk's Office at City Hall, 100 Lincoln Street or 747-1811. A hard copy of the Assembly packet is available at the Sitka Public Library. Assembly meetings are aired live on KCAW FM 104.7 and via video streaming from the City's website. To receive Assembly agenda notifications, sign up with GovDelivery on the City website.

*Sara Peterson, MMC, Municipal Clerk
Publish: October 17*



CITY AND BOROUGH OF SITKA

Legislation Details

File #: 19-235 **Version:** 1 **Name:**

Type: Correspondence **Status:** AGENDA READY

File created: 10/16/2019 **In control:** City and Borough Assembly

On agenda: 10/22/2019 **Final action:**

Title: Reminders, Calendars, and General Correspondence

Sponsors:

Indexes:

Code sections:

Attachments: [Reminders and Calendars](#)

Date	Ver.	Action By	Action	Result
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REMINDERS

DATE

EVENT

TIME

Tuesday, October 22

Regular Meeting

6:00 PM

Friday, October 25

New Member Orientation 8:30 AM
Harrigan Centennial Hall Room 7

Tuesday, November 12

Regular Meeting

6:00 PM



Assembly Calendar

2018 Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec 2020

October 2019

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
<u>29</u> <u>Sep</u>	<u>30</u>	<u>1</u> <u>Oct</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>
		MUNICIPAL ELECTION	6:00pm Library Commission 6:00pm School Board 7:00pm Planning Commission	12:00pm SEDA Board Meeting		
<u>6</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>11</u>	<u>12</u>
		12:00pm Parks & Rec 6:00pm <u>Regular Assembly Mtg</u>	6:00pm Historic Preservation 6:00pm Port & Harbors Commission	12:00pm LEPC 1:30pm Health Needs & Human Services Commission	6:00pm School Board	
<u>13</u>	<u>14</u>	<u>15</u>	<u>16</u>	<u>17</u>	<u>18</u>	<u>19</u>
		Christianson	Christianson 7:00pm Planning Commission	Christianson 12:00pm SEDA	Christianson HOLIDAY	
<u>20</u>	<u>21</u>	<u>22</u>	<u>23</u>	<u>24</u>	<u>25</u>	<u>26</u>
		12:00pm Tree/Landscape 6:00pm <u>Regular Assembly Mtg</u>				
<u>27</u>	<u>28</u>	<u>29</u>	<u>30</u>	<u>31</u>	<u>1</u> <u>Nov</u>	<u>2</u>
		Christianson	Christianson	Christianson	Christianson	

Assembly Calendar

2018 Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec 2020

November 2019

Sunday		Monday	Tuesday	Wednesday	Thursday	Friday		Saturday
<u>27</u>	<u>Oct</u>	<u>28</u>	<u>29</u>	<u>30</u>	<u>31</u>	<u>1</u>	<u>Nov</u>	<u>2</u>
			Christianson	Christianson	Christianson	Christianson		
<u>3</u>		<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>		<u>9</u>
		12:00pm Assembly Position Subcommittee 6:00pm School Board		Knox 6:00pm Library Commission 7:00pm Planning Commission	Knox 12:00pm SEDA Board Meeting	Knox		Knox
<u>10</u>		<u>11</u>	<u>12</u>	<u>13</u>	<u>14</u>	<u>15</u>		<u>16</u>
Knox		Knox HOLIDAY	Knox 12:00pm Parks & Rec 6:00pm Regular Assembly Mtg	Knox 6:00pm Historic Preservation 6:00pm Port & Harbors Commission	Knox 12:00pm LEPC 1:30pm Health Needs & Human Services Commission	Knox		Knox
<u>17</u>		<u>18</u>	<u>19</u>	<u>20</u>	<u>21</u>	<u>22</u>		<u>23</u>
Knox Christianson		Knox Christianson Paxton	Knox Christianson Paxton 12:00pm Tree/Landscape	Christianson Paxton Knox 7:00pm Planning Commission	Christianson Paxton Knox	Christianson Paxton Knox		
<u>24</u>		<u>25</u>	<u>26</u>	<u>27</u>	<u>28</u>	<u>29</u>		<u>30</u> <u>Dec</u>
			6:00pm Regular Assembly Mtg	6:00pm Police and Fire Commission	HOLIDAY			



CITY AND BOROUGH OF SITKA

Legislation Details

File #: 19-231 Version: 1 Name:

Type: Item Status: AGENDA READY

File created: 10/15/2019 In control: City and Borough Assembly

On agenda: 10/22/2019 Final action:

Title: Proclamation - Veteran's Day

Sponsors:

Indexes:

Code sections:

Attachments: [Veterans Day Proclamation](#)

Date	Ver.	Action By	Action	Result
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OFFICE OF THE MAYOR
City & Borough of Sitka

Proclamation

Honoring Veteran's Day

WHEREAS, America is the land of freedom, preserved and protected willingly and freely by citizen soldiers; and

WHEREAS, through generations, their courage has allowed our Republic to flourish; and

WHEREAS, a Nation acknowledges its profound debt of gratitude to those who have served and died in war; and


WHEREAS, with respect for and in recognition of the sacrifices and contributions of those who serve in the U.S. military who are deserving of commemoration, honor, and recognition.

NOW, THEREFORE, BE IT RESOLVED, that the Assembly of the City and Borough of Sitka, Alaska, does hereby call upon the citizens of Sitka to observe the 11th day of November, 2019 as


Veteran's Day

AND commend, honor, and recognize the valor and sacrifices of our veterans for defending and protecting our country, our freedom, and our way of life.

Signed and sealed on this 22nd day of October, 2019.


Gary L Paxton, Mayor

ATTEST:


Sara Peterson, MMC
Municipal Clerk





CITY AND BOROUGH OF SITKA

Legislation Details

File #: 19-230 Version: 1 Name:

Type: Item Status: AGENDA READY

File created: 10/15/2019 In control: City and Borough Assembly

On agenda: 10/22/2019 Final action:

Title: Approve the minutes of the October 8 Assembly meeting

Sponsors:

Indexes:

Code sections:

Attachments: [Consent and Minutes](#)

Date	Ver.	Action By	Action	Result
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CONSENT AGENDA

POSSIBLE MOTION

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

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
October 8 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

Interim Municipal Administrator: Michael Harmon
Municipal Attorney: Brian Hanson
Municipal Clerk: Sara Peterson

Tuesday, October 8, 2019

6:00 PM

Assembly Chambers

REGULAR MEETING

I. CALL TO ORDER

II. FLAG SALUTE

III. ROLL CALL

Outgoing Assembly members Bean and Knox were to preside through Unfinished Business. Assembly members Knox (re-elected) and Christianson were sworn in at the beginning of New Business and presided through the remainder of the meeting.

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

Absent: 1 - Bean

IV. CORRESPONDENCE/AGENDA CHANGES

19-229 Reminders, Calendar, and General Correspondence

No agenda changes.

V. CEREMONIAL MATTERS

19-216 Ceremonial: 1) Proclamation - Indigenous Peoples' Day, and, 2) Service Award - Woody Widmark

Mayor Paxton read and presented a proclamation for Indigenous Peoples' Day to Sitka Tribe of Alaska General Manager Lisa Gassman.

Mayor Paxton read and presented an award to Woody Widmark for his years of service on the Parks and Recreation Commission.

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

None.

VII. PERSONS TO BE HEARD

None.

VIII. REPORTS

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

Interim Administrator - Harmon thanked staff for their support while serving as Interim Administrator. He provided updates on the Wastewater Treatment Plant project, Critical Secondary Water project, the recruitment for a Planning Director and Human Resources Director, and told of the new traffic pattern for DeGroff Street.

Attorney - Hanson reported on his work product and noted he would be on vacation October 8 through October 16.

Liaison Representatives - Knox provided an update on the Parks and Recreation Committee meeting, Wein spoke to the Library Commission, and Mosher reported on his attendance at the School Board meeting.

Clerk - Peterson read through the list of vacancies on Boards and Commissions.

IX. CONSENT AGENDA

A 19-215 Approve the minutes of the September 24 and 27 Assembly meetings

A motion was made by Mosher that this Item be APPROVED. The motion PASSED by unanimous consent.

X. BOARD, COMMISSION, COMMITTEE APPOINTMENTS

See item H.

XI. UNFINISHED BUSINESS:

B 19-224 Approve the Purchase and Sale Agreement, and related documents, for the utility dock transaction between the City and Borough of Sitka and Hanson Maritime Company (*possible executive session*)

Municipal Attorney Brian Hanson recommended the Assembly go into executive session to discuss the terms of the agreement. Shannon Haugland of the Daily Sitka Sentinel reminded a copy of the agreement had not been made public. Wein, for transparency, wished to hold the discussion in public. He also stressed the importance of having a negotiated product when coming before the Assembly. Mosher preferred to speak to the item in executive session and provide a summary for the public

afterwards. Eisenbeisz wondered what items could not be disclosed in public. Municipal Attorney Hanson clarified while he was aware that Lee Hanson had concerns, he was not aware of the specifics.

A motion was made by Knox to go into executive session with the Municipal Attorney, and outside legal counsel Clay Keene, to discuss communications regarding a legal matter affecting the municipality, specifically the purchase and sale agreement for the utility dock transaction between the City and Borough of Sitka and Hanson Maritime Company, and invite in, if and when ready, Garry White and Lee Hanson. The motion FAILED by the following vote.

Yes: 3 - Knox, Mosher, and Eisenbeisz

No: 3 - Paxton, Wein, and Nelson

Absent: 1- Bean

Non-voting: 1 - Christianson

Eisenbeisz and Nelson suggested postponing the item until there was a better understanding of the issues and noted it was difficult for the Assembly to give guidance without knowing the concerns. Lee Hanson highlighted his concerns with the moorage easement. Outside legal counsel Clay Keene spoke to the reasons for the easement. Keene stated these discussions would typically be part of negotiations as opposed to occurring at the Assembly level. Eisenbeisz questioned the high number of covenant agreements in the document. Wein stated it was important for Lee Hanson to enter the contract knowing he could perform his business. Nelson commented that while the City's interests should be protected, Lee Hanson needed unrestricted access. Municipal Attorney Brian Hanson stated it was his charge to protect the City's interest with regard to the uses on the waterside. He noted selling a piece of property that had CBS tidelands that restricted the potential use on adjacent property; if there were no covenants and restrictions, then there was the possibility those activities may not be able to be properly performed. He added that the drawings in the agreement came with the project and were renderings of possibilities for the future. Lee Hanson clarified the drawing with the cruise ship came from staff. Michael Harmon, Interim Administrator, corrected Lee Hanson and stated all the drawings were commissioned by the Gary Paxton Industrial Park (GPIP) Board of Directors and reminded there had been changes in membership over the years. The GPIP Board had an option to build a marine haulout focused facility or a deepwater port and the Board at the time chose a deepwater port. As members changed on the Board so had the focus which had created confusion. Consensus was for the item to come back after both parties had an opportunity to further negotiate.

C 19-225

Approve the Employment Agreement between the City and Borough of Sitka and John Leach as Municipal Administrator

Nelson noted the lack of information in the packet. Wein didn't feel there was a need for executive session. Municipal Attorney Hanson recommended the employment agreement be discussed in executive session.

A motion was made by Mosher to go into executive session to discuss legal matters affecting the municipality with respect to the employment agreement between the City and Borough of Sitka and John Leach as Municipal Administrator. The motion PASSED by the following vote.

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

No: 2 - Wein and Nelson

Absent: 1 - Bean

Non-voting: 1 - Christianson

The Assembly was in executive session from 7:10 p.m. to 7:45 p.m.

A motion was made by Knox to reconvene in regular session. The motion PASSED by unanimous consent.

A motion was made by Mosher to direct the Municipal Attorney to prepare revisions for the final contract to be approved at the October 22 Assembly meeting. The motion PASSED by the following vote.

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

Absent: 1 - Bean

Non-voting: 1 - Christianson

D 19-217 Approve the Municipal Clerk's Certificate of Election

Municipal Clerk Sara Peterson reviewed the certificate of election noting 2307 ballots were issued, 44 were not counted (not registered, registered elsewhere, not returned, spoiled), for a total number of ballots counted to be 2263. Kevin Knox and Thor Christianson were elected to three-year terms on the Assembly, Paul Rioux to a three-year term on the School Board, and proposition no. 1, prohibiting a retail seller from providing or distributing disposable plastic shopping bags, enacting a fee for alternative bags and establishing a fine schedule for violations, failed.

A motion was made by Nelson to formally accept the Certification of Election for the October 1, 2019 Regular Municipal Election according to the results set forth in the attached election certification prepared by the Municipal Clerk and request that the official tally be included in the minutes as part of the permanent record. The motion PASSED by the following vote.

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

Absent: 1 - Bean

Non-voting: 1 - Christianson

E 19-218 Recognize outgoing Assembly Members - followed by a short recess

Mayor Paxton recognized Aaron Bean for his service.

XII. NEW BUSINESS:

F 19-219 Oath of Office - Newly Elected Officials

Kevin Knox and Thor Christianson were sworn in as Assembly members for three-year terms.

G 19-228

Approve the Assembly Position Subcommittee recommendation from the September 30 meeting regarding the position of Assessor

A motion was made by Mosher to approve the recommendation* of the Assembly Position Subcommittee as outlined in the draft meeting minutes of September 30, 2019 and forward to the Interim Municipal Administrator.

***Recommend to accept Wendy Lawrence's suggestion to continue as Assessor and do so remotely as needed to complete her tax valuations but also afford her the opportunity to contract with the City when this task is done should she so desire. The subcommittee was in support of advertising the position of Assessor, however, they recommended the position not be filled until Wendy Lawrence had solidified her long-term plan.**

The motion PASSED by the following vote.

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

Absent: 1 - Bean

H 19-220

Appoint five members to the SEARHC Sitka Community Health Council: 1) Keith Brady, 2) Mary Ann Hall, 3) David Lam, 4) David Miller, 5) Jay Sweeney, and, 6) Richard Wein

Municipal Clerk Sara Peterson reviewed the SEARHC Sitka Community Health Council Charter.

Knox stated he wished to learn more of Ms. Hall's desire to serve. Wein spoke in support of appointing Dr. Lam.

A motion was made by Mosher to nominate Mary Ann Hall to serve a two-year term on the SEARHC Sitka Community Health Council under the category of former Sitka Community Hospital Board member. The motion PASSED by the following vote.

Yes: 5 - Paxton, Wein, Nelson, Christianson, and Mosher

No: 2 - Knox and Eisenbeisz

Absent: 1 - Bean

A motion was made by Mosher to nominate David Lam to serve a three-year term on the SEARHC Sitka Community Health Council under the category of former Sitka Community Hospital Board member. The motion PASSED by the following vote.

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

Absent: 1 - Bean

A motion was made by Mosher to nominate Jay Sweeney to serve a one-year term on the SEARHC Sitka Community Health Council under the category of At-Large. The motion PASSED by the following vote.

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

Absent: 1 - Bean

Maggie Gallin expressed concern over Richard Wein's past history of working at SEARHC and if any disclosures were needed regarding his departure from SEARHC. Wein stated he and SEARHC had signed a non disclosure agreement, however, was happy to speak to it if relieved of any legal liability. He stated he was supportive of the community, had medical expertise, and would be an asset to the Council.

A motion was made by Mosher to nominate Richard Wein to serve a two-year term on the SEARHC Sitka Community Health Council under the category of At-Large. The motion PASSED by the following vote.

Yes: 5 - Paxton, Wein, Nelson, Eisenbeisz, Christianson, and Mosher

No: 1 - Knox

Recused: 1 - Wein

Absent: 1 - Bean

A motion was made by Christianson to nominate David Miller to serve a one-year term on the SEARHC Sitka Community Health Council under the category of At-Large. The motion PASSED by the following vote.

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

Absent: 1 - Bean

- I 19-221** Discussion / Direction on the possibility of Closed Captioning for Assembly meetings
- Mosher stated he had been approached by a citizen who was hearing impaired and had wondered if it was possible for closed captioning to be provided at Assembly meetings. IT Director, Grant Turner, explained the options with varying degrees of cost and effectiveness. To begin with he recommended the text to speech app. Eisenbeisz wondered if closed captioning was available on the local tv channel - Dan Etulain stated it was not. Wein wondered what the ADA requirements were that the City was required to observe for closed captioning. Municipal Attorney Brian Hanson stated he would be prepared with that answer for the October 22 meeting.
- J 19-227** Approve Jeff Wheeler as the Interim Electric Utility Director
- Nelson disclosed Jeff Wheeler was her brother. Wein thanked Wheeler for taking on the responsibility.
- A motion was made by Knox that this Item be APPROVED. The motion PASSED by the following vote.**
- Yes:** 7 - Christianson, Eisenbeisz, Knox, Wein, Paxton, Mosher, and Nelson
- Absent:** 1 - Bean
- K 19-222** Discussion / Direction / Decision on Hugh Bevan as a long-term Interim Administrator

Christianson, Nelson, and Wein spoke in support of Bevan. Knox invited Bevan to share his ideas of what the next six months would look like. Bevan stated he hoped to create a well organized soft landing for Leach. He spoke to some of his goals: hire approved positions, progress on Assembly action plans, improve employee morale, create a framework for the FY21 budget, continue work on the Cross Trail project, GPIP projects, the new Police Department building, and develop an internal task force to identify the top 10 city projects. Eisenbeisz wondered if Bevan would be willing to stay on for a month after Leach arrived to help with transition. Bevan said he would be willing, however, would leave that decision to Leach.

Speaking from the public, Shirley Robards spoke in support of Bevan.

A motion was made by Mosher to appoint Bevan as Interim Municipal Administrator, start with one week of annual leave, and salary equal to rate of last permanent Administrator. The motion PASSED by the following vote.

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

Absent: 1 - Bean

L 19-223

Assignments: Deputy Mayor, Vice-Deputy Mayor and Assembly Liaisons

Steven Eisenbeisz, Kevin Mosher, and Kevin Knox were nominated for Deputy Mayor. Knox wished to see Eisenbeisz continue as Deputy and declined the nomination. A roll call vote was taken. Voting for Eisenbeisz: Knox, Christianson, Paxton, and Eisenbeisz. Voting for Mosher: Nelson, Wein, and Mosher. Eisenbeisz prevailed with 4 votes.

Kevin Mosher, Kevin Knox, and Valorie Nelson were nominated for Vice-Deputy Mayor. A roll call vote was taken. Voting for Mosher: Wein, Nelson, Mosher, and Paxton. Voting for Knox: Christianson, Knox, and Eisenbeisz. Mosher prevailed with 4 votes.

The following liaison appointments were made:

Gary Paxton Industrial Park Board - Christianson / Eisenbeisz
Health Needs and Human Services Commission - Wein / Knox
Historic Preservation Commission - Mosher
Investment Committee - Christianson
Library Commission - Christianson
Local Emergency Planning Commission - Nelson
Parks & Recreation Committee - Knox
Planning Commission - Mosher / Knox
Police & Fire Commission - Nelson / Christianson
Port & Harbors Commission - Knox
Tree & Landscape Committee - Wein
SEDA - Paxton / Mosher
Sitka Tribe of Alaska - Christianson / Eisenbeisz
School Board - Mosher / Nelson

XIII. PERSONS TO BE HEARD:

Nancy Yaw Davis thanked staff for providing a paper copy of the Assembly packet at the Sitka Public Library. She spoke to the challenges of a digitized world. Davis thanked the Assembly for their service and the difference they make.

XIV. EXECUTIVE SESSION

M 19-226 Financial Matter: Baranof Island Brewing Company debt collection

A motion was made by Christianson to go into executive session with Chief Finance and Administrative Officer Jay Sweeney to discuss matters related to Baranof Island Brewing Company debt collection, the immediate knowledge of which would adversely affect the finances of the City and Borough of Sitka. The motion PASSED by the following vote.

Yes: 6 - Mosher, Nelson, Knox, Christianson, Eisenbeisz, and Paxton

No: 1 - Wein

Absent: 1- Bean

The Assembly was in executive session from 9:10 p.m. to 9:28 p.m.

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

XV. ADJOURNMENT

A motion was made by Mosher to ADJOURN. Hearing no objections, the meeting ADJOURNED at 9:28 p.m.

ATTEST: _____
Sara Peterson, MMC
Municipal Clerk



CITY AND BOROUGH OF SITKA

Legislation Details

File #: RES 19-25 Version: 1 Name:

Type: Resolution Status: AGENDA READY

File created: 10/15/2019 In control: City and Borough Assembly

On agenda: 10/22/2019 Final action:

Title: Supporting the Sitka Trail Works, Inc. grant application to the State of Alaska Recreational Trails Program for repairs to the Sea Lion Cove Trail

Sponsors:

Indexes:

Code sections:

Attachments: [Motion Memo and Res 2019-25](#)

Date	Ver.	Action By	Action	Result
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Should this item be pulled from the Consent Agenda the following motion is suggested:

POSSIBLE MOTION

I MOVE TO approve Resolution 2019-25 on
first and final reading.

MEMORANDUM

To: Mayor Paxton and Assembly Members
Hugh Bevan, Interim Municipal Administrator

From: Lynne Brandon, Executive Director, Sitka Trail Works

Date: October 8, 2019

Subject: Resolution of Support for Recreational Trails Grant Application

Background:

The Recreational Trails Program (RTP) offers grants up to \$75,000 for trail repair projects and is administered by Alaska State Parks. Sitka Trail Works (STW) annually applies for RTP grants to assist with repairs to City, State and other Sitka area trails. A resolution of support for the project from the local governing body is a requirement of the application package.

In 2016 and 2017 STW acquired RTP grants to affect major repairs to Alaska State Parks' Mosquito Cove trail. RTP grant funds were used in 2015 to repair the City section of Herring Cove Trail. These three projects were a result of a partnership effort between STW and US Forest Service Sitka District trail crew. In the past STW also received RTP funds for upgrades to the City's Cross Trail.

The Parks and Recreation Committee unanimously passed a letter of support for the project at their October 8, 2019 meeting.

Analysis:

This year's RTP grant is for repairs to the Sea Lion Cove trail. The last major work was completed on this trail in 2001 and the trail is currently in poor condition. Since the State Parks' doesn't currently have the capacity to complete Sea Lion Cove trail repairs, Sitka Trail Works has prioritized this trail for the RTP grant this year.

Fiscal Note:

There is no City funding requirement or obligation for CBS funds, staff time or match in association with this grant application.

Recommendation:

Approve Resolution 2019 –25 in support of Sitka Trail Works RTP grant application.

CITY AND BOROUGH OF SITKA

RESOLUTION 2019-25

A RESOLUTION OF THE CITY AND BOROUGH OF SITKA SUPPORTING THE SITKA TRAIL WORKS, INC. GRANT APPLICATION TO THE STATE OF ALASKA RECREATIONAL TRAILS PROGRAM FOR REPAIRS TO THE SEA LION COVE TRAIL

WHEREAS, Sea Lion Cove trail is of high value trail for Sitka residents for recreation, physical fitness and for activities for small cruise ship visitors; and

WHEREAS, this project was developed according to the 2003 Sitka Trail Plan to which the City and Borough of Sitka and Alaska State Parks and Sitka Trail Works are plan partners; and

WHEREAS, Alaska State Parks has no major trail maintenance planned; and

WHEREAS, damage and erosion of the trail from heavy use has occurred since the last major repair project in 2001; and

WHEREAS, Alaska State Parks and Juneau Trail Mix are partnering with Sitka Trail Works to complete the repair work; and

WHEREAS, the goal is for trail repairs to make a more sustainable trail into the future that will last another 20 years; and

WHEREAS, these repairs will restore the trail to safe condition for public use; and

WHEREAS, the project match requirement will be met by Sitka Trail Works and Alaska State Parks.

NOW, THEREFORE, BE IT RESOLVED, that the Assembly of the City and Borough of Sitka, Alaska, by this resolution, affirms and supports the grant application from Sitka Trail Works to the State of Alaska Recreational Trails Program for \$75,000 maximum in grant funding for repairs to the Sea Lion Cove Trail.

PASSED, APPROVED, AND ADOPTED by the Assembly of the City and Borough of Sitka, Alaska on this 22nd day of October 2019.

Gary L. Paxton, Mayor

ATTEST:

Sara Peterson, MMC
Municipal Clerk

1st and final reading 10/22/19

Sponsor: Interim Administrator



CITY AND BOROUGH OF SITKA

Legislation Details

File #: 19-225 Version: 1 Name:

Type: Item Status: AGENDA READY

File created: 10/2/2019 In control: City and Borough Assembly

On agenda: 10/22/2019 Final action:

Title: Approve the Employment Agreement between the City and Borough of Sitka and John Leach as Municipal Administrator

Sponsors:

Indexes:

Code sections:

Attachments: [Motion and Employment Agreement Between CBS and John Leach_ 10.9.19](#)
[Charter-SGC Attachment Employment CBS-Leach](#)

Date	Ver.	Action By	Action	Result
10/8/2019	1	City and Borough Assembly		

POSSIBLE MOTION

I MOVE TO approve the Employment Agreement between the City and Borough of Sitka and John Leach as Municipal Administrator.

**Employment Agreement
Between
City and Borough of Sitka
And
John Leach**

This Employment Agreement (“Agreement”), made and entered into this ____ day of _____, 2019, by and between the City and Borough of Sitka, Alaska, a home rule municipality (“the Municipality” or “Employer”) and John Leach (“Employee”).

Recitals

1. The Municipality desires to employ the services of Employee as Municipal Administrator serving at the pleasure of the Municipal Assembly; and
2. It is the desire of the Municipal Assembly to provide certain benefits and conditions of employment for the Employee; and
3. Employee desires to accept employment as the Municipal Administrator of the Municipality.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

**Section 1
Employee Employment and Duties**

The Municipality employs Employee as Municipal Administrator to perform the function and duties specified in the Home Rule Charter of the City and Borough of Sitka (“Charter”) and the Sitka General Code (“SGC”), and to perform other legal duties and functions as the Municipal Assembly shall from time-to-time assign.

**Section 2
Indefinite Term, Removal and Resignation**

A. **Indefinite Term.** In accordance with the Charter section 4.01, Employee is appointed Municipal Administrator for an indefinite term. Employee hereby acknowledges receipt of a copy and review of Charter Section 4.01, which is attached and hereby incorporated by reference.

B. **Removal; Suspension.** Employee understands that the Charter establishes that the Municipal Administrator shall serve at the pleasure of the Municipal Assembly. The Employee agrees that he is an at-will employee which means that he is serving at the pleasure of the Municipal Assembly. Employee further understands and agrees that he may be removed or suspended without cause. Employee further understands and agrees that any such removal or suspension must be in accordance with the procedures found in Charter Section 4.02. Employee

hereby acknowledges receipt of a copy and review of Charter Section 4.02, which is attached and hereby incorporated by reference.

C. **Resignation.** Employee may terminate this Agreement for any reason, or no stated reason, upon giving ninety (90) calendar days written notice to the Mayor. In the event the Employee terminates this Agreement under this paragraph, the Municipality shall pay the Employee his salary and accrued but unused vacation leave, to the date of the resignation (which means when Employee no longer works for Employer), less the amount of any unpaid balance owed to the Municipality by the Employee at the time of resignation.

Section 3 Salary

During the term of this Agreement, the Municipality agrees to pay Employee for services rendered an annual base salary of ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS AND NO CENTS (\$125,000.00), less applicable withholdings.

Section 4 Performance Review

The Municipality agrees to review Employee's performance quarterly, at regular or special meetings of the Municipal Assembly as set by the Mayor, for the first year of employment and, thereafter, as provided by the SGC or other applicable policy. Upon review, at the sole discretion of the Municipal Assembly, the Municipal Assembly may increase the Employee's salary and benefits.

Section 5 Hours of Work

As the Municipal Administrator, Employee is exempt from the provisions of the Fair Labor Standards Act ("FLSA") and shall not be paid overtime or be given compensatory time off for hours worked in excess of forty (40) per workweek. Employee shall not be bound to a workweek of any set number of hours. However, Employee is expected to work as many hours as the duties and responsibilities of his position requires.

Section 6 Vacation and Benefits

A. **Vacation Accrual.** Effective April 1, 2020, or first day of work, Employee shall have eighty (80) hours of vacation leave that may be used immediately upon hire. Employee shall accrue vacation leave thereafter at a rate of 8.67 hours per month. The terms and conditions of the leave are subject to the provisions of the City and Borough of Sitka Personnel Policies Handbook ("Handbook").

B. **Other Benefits and Insurance.** Employer shall provide Employee with sick leave, life insurance, health insurance, retirement, and other benefits provided to other exempt employees as described in the Handbook. Employer shall provide Employee with Public

Employment Agreement between CBS and John Leach

Officials Liability Insurance currently maintained by the Municipality.

C. **Membership dues** in professional organizations International City and County Management Association, and the Alaska Municipal League are also provided. Travel may be required for conferences and other duties at the expense of the Municipality.

Section 7 Indemnification

Employer agrees to defend and indemnify Employee in accordance with SGC Chapter 2.10, Defense And Indemnification Of Officers And Employees. Employee hereby acknowledges receipt of a copy and review of SGC Chapter 2.10, which is attached and hereby incorporated by reference.

Section 8 Other Terms and Conditions of Employment

The Municipal Assembly may fix any other terms and conditions of employment, as it may determine from time-to-time, relating to the performance of Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement or any applicable federal, state or local laws. Such terms and conditions of employment, if approved by the Municipal Assembly, shall only be effective if in writing signed by the Mayor and the Employee.

Section 9 Conflicts of Interest

Employee understands and agrees that he is subject to Charter Section 17.01 and SGC Section 1.04.080 as to conflicts of interest. Employee hereby acknowledges receipt of a copy and review of Charter Section 4.02 and SGC 1.04.080, which are attached and hereby incorporated by reference. In addition, Employee shall be sensitive to both actual and perceived conflicts of interest as the Municipal Administrator and the Employee's personal conduct including activities of members of the Employee's immediate family that are within his control which could similarly result in an actual or perceived conflict of interest. When in doubt, the Employee should consult with the Mayor in advance of any potential conflict before proceeding on the matter.

Section 10 General Provisions

A. **Assignments and Subcontracts.** The Employee may assign any of the work to be performed under this Agreement to third parties, so long as he oversees such assignments and informs the Assembly of such assignments.

B. **Applicable Law.** This Agreement shall be deemed to have been entered into and shall be construed and governed, except with respect to conflict of laws, in accordance with the laws of the State of Alaska.

C. **Waivers.** Failure of either party to insist, in any one or more instances, upon the performance of any of the terms, covenants, or conditions of this Agreement or to exercise any right hereunder, shall not be construed as a waiver or relinquishment of the future exercise of such right, but the obligation of the other party with respect to such future performance shall continue in full force and effect.

D. **Severability.** The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision or provisions were omitted.

E. **Amendments.** This Agreement may not be amended, modified, released, discharged, supplemented, interpreted, or changed in any manner except by written instrument signed by duly authorized representatives of both parties.

F. **Headings.** The headings utilized herein are provided as aids in referencing provisions of this Agreement, but shall not be utilized in interpretation, or construction of terms and conditions of it.

G. **Entire Agreement.** This Agreement contains the entire and only understanding or agreement between the parties in relation to the employment of the Employee as the Municipal Administrator. Any verbal or written representations, provision, undertakings or conditions hereof not contained in the wording of this Agreement shall be of no effect and shall not be binding on either party.

IN WITNESS THEREOF, the City and Borough of Sitka, on a vote of its Assembly on Tuesday, October 22, 2019, has approved this Agreement and directed it to be signed and executed on its behalf by its Mayor and duly attested by its Municipal Clerk, and the Employee has signed this Agreement on the dates written below.

[SIGNATURES AND ACKNOWLEDGEMENTS ON NEXT PAGE]



HOME RULE CHARTER of the CITY AND BOROUGH OF SITKA

* * *

ARTICLE IV ADMINISTRATOR – EXECUTIVE

Section 4.01 Appointment, Qualifications, Compensation

The assembly shall appoint a municipal administrator for an indefinite term and fix his compensation. The administrator shall serve at the pleasure of the assembly and be appointed solely on the basis of his executive and administrative qualifications. He/she need not be a resident of the municipality or state at the time of his/her appointment

Section 4.02 Removal; Suspension

The assembly may remove the administrator from office in accordance with the following procedures:

(a) **Preliminary Resolution.** The assembly shall adopt by affirmative vote of a majority of its members a preliminary resolution which must state the reasons for removal; and may suspend the administrator for a period of not to exceed 30 days. A copy of the resolution shall be delivered promptly to the administrator.

(b) **Public Hearing.** Within five days after a copy of the resolution is delivered, the administrator may file with the assembly a written request for a public hearing. The hearing shall be held at an assembly meeting not earlier than 10 days or later than 20 days after the request is filed. The administrator may file with the assembly a written reply not later than five days before the hearing.

(c) **Final Resolution.** If the administrator has not filed a request for public hearing, the assembly may adopt a final resolution of removal, which may be made effective immediately, by an affirmative vote of a majority of its members, at any time after five days from the date when a copy of the preliminary resolution was delivered to the Administrator. If a public hearing is requested, final resolution may be adopted any time thereafter.

(d) **Continuation of Salary.** The administrator shall continue to receive his/her salary until the effective date of a final resolution of removal. The action of the assembly shall not be subject to review by any court or agency.

* * *

Section 17.01 Personal Financial Interest

(a) **Prohibition.** No elected official may vote on any question on which he or she has a substantial financial interest. Any municipal officer, employee, or assembly member who has a substantial financial interest in any contract with the municipality or in the sale of any land, material, supplies or services to the municipality or to a contractor supplying the municipality shall make known that interest and shall refrain from participating in his capacity as a municipal officer, employee, or assembly member in the making of such sale or in the making or performance of such contract.

(b) **Punishment.** Any municipal officer, employee or assembly member who conceals such financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office and shall forfeit his/her office or employment. Violation of this section with the knowledge expressed or implied of the person contracting with or making a sale to the municipality shall render the contract or sale to the municipality voidable by the administrator or the assembly.

(c) **Additional Rules.** The assembly by ordinance may prescribe additional rules and penalties to prevent conflicts of interest.

* * *

SITKA GENERAL CODE

* * *

1.04.080 Conflict of interest.

A. No member of the assembly, elected or appointed official, municipal employee or official may participate in official action in which the assembly person, elected official, employee or official has a substantial financial interest.

B. If a member of the assembly or other municipal board or commission has a substantial interest in an official action, that member shall declare the substantial financial interest and ask to be excused from the vote on the matter.

C. Upon a request made under subsection B of this section, the following procedure shall be followed:

1. The presiding officer shall rule on the request by a member to be excused from the vote.

2. The assembly, board or commission may override the decision of the presiding officer on the request to be excused by a majority vote.

D. As used in this section, "substantial financial interest" means an expectation of receiving a non-trivial pecuniary or material benefit. A substantial financial interest of a person includes any substantial financial interest of that person's immediate family. A person has a substantial financial interest in an organization in which that person has an ownership interest, or is a director, officer, or employee. A person has a substantial financial interest in a decision if a substantial financial interest of that person will vary with the outcome of the decision. A substantial financial interest does not include the following: a personal or financial interest which is not of the magnitude that would exert an influence on an average, reasonable person; a personal or financial interest of a type which is generally possessed by the public or a large class of persons to which that official or employee belongs; or an action or influence which would have an insignificant or conjectural effect on the matter in question.

E. As used in this section, "immediate family" of a person means anyone related to that person by blood, marriage, or adoption or who lives in that person's household.

* * *

Chapter 2.10

DEFENSE AND INDEMNIFICATION OF OFFICERS AND EMPLOYEES

Sections:

<u>2.10.010</u>	Definitions.
<u>2.10.020</u>	Defense and indemnification.
<u>2.10.030</u>	Exclusions – Determination to defend and indemnify.
<u>2.10.040</u>	Conditions of defense and indemnification.
<u>2.10.050</u>	Disqualification.
<u>2.10.060</u>	Conflict with provisions of insurance policies.
<u>2.10.070</u>	Pending claims.
<u>2.10.080</u>	Union contracts.
<u>2.10.090</u>	Volunteer workers.

2.10.010 Definitions.

For the purpose of this chapter, the following words shall have the following meanings unless the context indicates otherwise:

- A. "Claim" means a claim or lawsuit.
- B. "Employee" means any person who is or has been employed in the service of the city and borough.
- C. "Official" means any person who is serving or has served as an elected official of the city and borough and any person who is serving or has served as an appointed member of any board, commission, agency, or committee of the city and borough.
- D. "Official duties" includes conduct, acts, and omissions done by an official or employee in the course and scope of their service to the city and borough.

2.10.020 Defense and indemnification.

Subject to the conditions and requirements of this chapter, the city and borough shall provide to an official or employee legal defense and indemnification, including protection from any expenses connected with the defense, settlement, or payment of monetary damages, related to any claim filed against the official or employee, arising out of the good faith performance, purported performance, or failure of performance of official duties. This defense and indemnification shall be a condition of employment with the city and borough and shall be provided by the municipal attorney or the municipal attorney's designee or through such insurance policy or self-insurance or similar program as the city and borough may establish.

2.10.030 Exclusions – Determination to defend and indemnify.

A. The obligation of the city and borough to provide defense and indemnification shall not apply to any act taken in bad faith or any act outside the scope of service or employment, or to any claim brought by or on behalf of the city and borough. The following are examples of acts which will normally be deemed to have been taken in bad faith:

- 1. An act committed with the willful intention of causing injury or harm, or which was reckless or malicious in nature.
- 2. An act committed in willful violation of law.
- 3. An act committed while under the influence of alcohol or a controlled substance.

B. The municipal attorney shall determine whether an official or employee was performing official duties in good faith, and whether an official or employee committed any act in bad faith. The municipal administrator shall make this determination regarding a claim against the municipal attorney.

C. If, at the time the claim is initiated, the known facts are insufficient to allow for the determination under subsection B of this section, the city and borough may elect initially to provide defense only, reserving any final determination until such time as sufficient facts are available.

D. The official or employee may appeal to the assembly an adverse determination under subsection B of this section.

2.10.040 Conditions of defense and indemnification.

The continued obligation of the city and borough to provide defense and indemnification shall be subject to the following conditions:

A. The official or employee shall cooperate fully with the city and borough and its counsel in handling or resisting the claim, including:

1. Providing the municipal attorney, as soon as practicable after receiving notice of a claim: written notice of the claim, specifying the names of the officials or employees involved, the date, time, place and circumstances surrounding the incident or conduct giving rise to the claim, the names and addresses of all persons allegedly injured, the names and addresses of owners of allegedly damaged property, and the names and addresses of all witnesses;
2. Cooperating with the city and borough and its counsel in making settlements of any lawsuits, and in enforcing any claim for subrogation against any persons or organizations that may be liable to the city and borough because of any damages or losses arising from the incident or conduct; and
3. Attending interviews, depositions, hearings, and trials as requested, and assisting in securing and giving evidence and obtaining the attendance of witnesses.

B. The city and borough reserves the sole right to control the defense of the claim and to compromise, settle, or defend the matter.

2.10.050 Disqualification.

If any official or employee fails or refuses to meet the requirements of this chapter or elects to provide his or her own representation on any claim, this chapter shall be inapplicable and of no force and effect with respect to that claim.

2.10.060 Conflict with provisions of insurance policies.

Nothing contained in this chapter shall be construed to modify or amend any provision of an insurance policy or any coverage through a self-insurance or joint insurance program. If there is a conflict between this chapter and the provisions of any such policies or coverage, the provisions of any such policies or coverage shall control.

2.10.070 Pending claims.

This chapter shall apply to any pending claim against an official or employee and to any claim hereafter filed irrespective of the date of the events or circumstances giving rise to the claim.

2.10.080 Union contracts.

If a collective bargaining unit contract covers any of the terms and conditions of this chapter, all employees under the contract shall be governed by the provisions of the contract. If there is a conflict between the provisions of such contract and this chapter, the provisions of the contract shall control.

2.10.090 Volunteer workers.

The city and borough shall provide defense and indemnification to volunteer workers performing services on its behalf; provided, that such defense and indemnification:

- A. Shall be provided only to volunteer workers authorized in writing by the head of a municipal department to perform a particular scope of services to the city and borough;
- B. Shall cover only conduct, acts, and omissions undertaken in the course and scope of such authorized services; and
- C. Shall be subject to all other conditions and requirements of this chapter in the same manner as they apply to officials and employees.



CITY AND BOROUGH OF SITKA

Legislation Details

File #: 19-221 Version: 1 Name:

Type: Item Status: AGENDA READY

File created: 10/1/2019 In control: City and Borough Assembly

On agenda: 10/22/2019 Final action:

Title: Discussion / Direction on the possibility of Closed Captioning for Assembly meetings

Sponsors:

Indexes:

Code sections:

Attachments: [Discussion Direction Closed Captioning](#)

Date	Ver.	Action By	Action	Result
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Sponsors: Kevin Mosher and Dr. Wein

Discussion / Direction

on the possibility of Closed Captioning for Assembly meetings.



City and Borough of Sitka

Information Technology Department

100 Lincoln Street • Sitka, Alaska 99835

MEMORANDUM

To: Mayor Paxton and Assembly Members
Michael Harmon, Interim Municipal Administrator

From: Grant Turner, Information Technology Director

Date: October 2, 2019

SUBJECT: OPTIONS FOR CLOSED CAPTIONING ASSEMBLY MEETINGS

Background

Public requested that closed captioning be provided for the public. The IT department has researched available options.

Analysis

There are three options available for providing closed captioning for live assembly meetings. Each of the options would require some sort of display for the captions; this would be either a large display somewhere in the room or a handheld device checked out for the meeting by the members of the public.

The options are as follows:

- Granicus live captioning
 - The video encoding service that the city already uses has an additional service available where they provide live captioning of the video as it is streamed to the web through their service.
 - This option would require that the member of the public would have a handheld device for viewing the stream with the captioning.
 - The accuracy of the captions from this service would be high.
 - The video stream tends to have about a thirty second delay vs. real time.
- Closed captioning encoder
 - This option would require the purchase of a new video encoder to be installed in parallel with the Granicus service. This new encoder would take the audio input from the microphones and convert it to text.
 - The accuracy of the captions from this service would be high, including automatic designation of line breaks due to new speakers and various other high-end features.
 - This option would require the purchase of a new captioning server, a

- closed captioning encoder and large format display for the room.
 - The captions from this service would be very close to real time.
- Text to speech apps
 - There are apps available for mobile devices that convert speech to text. These apps could be connected to large display to present this text during the meeting.
 - The accuracy of the captions from this service would be the lowest of the three options.
 - The text would be presented nearly in real-time.

Fiscal Note

Each of the three options have prices commensurate with the quantity and quality o of services provided.

- Granicus live captioning
 - This service is charged hourly on an annual basis. For instance, you would pay \$7,500 up front for up to 50 hours for the year or \$20,250 for up to 150 hours.
 - Based on average meeting lengths, the city would need roughly 150 hours, or \$20,250.

Terms	Rate	Overage
Hourly	\$ 150.00	-
>50 Hrs	\$ 143.50	\$ 145.00
50 Hrs > 100 Hrs	\$ 140.00	\$ 143.50
100 Hrs > 150 Hrs	\$ 137.50	\$ 140.00
150 Hrs > 200 Hrs	\$ 135.00	\$ 137.50
200 Hrs >	\$ 130.00	\$ 135.00

-
- Closed Captioning Encoder
 - This would require the purchase of a captioning server and a video encoder to display the text on new large display in the room.
 - There are two pricing models for this, a monthly lease of \$1,250 or outright purchase at \$30,000. A large display would cost around \$1,000.

Product Description	Monthly Lease w/ 1-Year License	Full Purchase – 1 Server	Full Purchase – 2 Servers	Full Purchase – 3 or more Servers
Live CC Appliance	\$1,250	\$30,000/ea.	\$25,000/ea.	\$20,000/ea.
Workbench Lite	Included	Included	Included	Included
Maintenance & Support	Included	20% annual after 1 st year	20% annual after 1 st year	20% annual after 1 st year
Cost	\$15,000	\$30,000	\$50,000	TBD

- Text to Speech Apps
 - This is the least expensive option, requiring only a device and a large display for the presentation of the captions.
 - Mobile device \$500, large display \$1,000



CITY AND BOROUGH OF SITKA

Legislation Details

File #: ORD 19-38 Version: 1 Name:
Type: Ordinance Status: AGENDA READY
File created: 10/15/2019 In control: City and Borough Assembly
On agenda: 10/22/2019 Final action:
Title: Making supplemental appropriations for fiscal year 2020 (Homeland Security Grants)
Sponsors:
Indexes:
Code sections:
Attachments: [Motion ORD 2019-38](#)
[Memo and ORD 2019-38](#)

Date	Ver.	Action By	Action	Result
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POSSIBLE MOTION

I MOVE TO approve Ordinance 2019-38 on
first reading.



City & Borough of Sitka

Police Department

304 Lake Street, Sitka, AK 99835

907-747-3245



Memorandum

October 16, 2019

To: Interim Municipal Administrator
From: Robert Baty, Police Chief
Subject: **Accepting monies from the State Homeland Security and Emergency Management Grant Program**

In January of 2019, the Sitka Police Department applied for the 2019 State Homeland Security and Emergency Management Grant. In September we received an award of \$63,000 for Video Security and Network Infrastructure Upgrades. A budget adjustment in the amount of \$63,000 will need to be made to the Police Departments budget.

Then in August 2019 the Sitka Police Department submitted a Reallocation Request of Funds to the State Homeland Security Grant Program in the amount of \$33,000 for the purchase of more servers to support the Video Management System. The funds were awarded and we are requesting a budget adjustment to the 2018 State Homeland Security and Emergency Management project in the amount of \$33,000 for the purchase of new servers.

Fiscal Note:

While these grant funds have been awarded, in order to expend these grant funds, a supplemental appropriation is required. This appropriation will increase appropriations for fixed assets in the General Fund.

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2019-38
AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA MAKING SUPPLEMENTAL
APPROPRIATIONS FOR FISCAL YEAR 2020
(Homeland Security Grants)

BE IT ENACTED by the Assembly of the City and Borough of Sitka, Alaska as follows:

1. **CLASSIFICATION.** This ordinance is not of a permanent nature and is not intended to be a part of the Sitka General Code of the City and Borough of Sitka, Alaska.

2. **SEVERABILITY.** If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and application thereof to any person and circumstances shall not be affected thereby.

3. **PURPOSE.** The purpose of this ordinance is to make a supplemental operating appropriations for FY2020.

4. **ENACTMENT.** In accordance with Section 11.10(a) of the Charter of the City and Borough of Sitka, Alaska, the Assembly hereby makes the following supplemental appropriation for the budget period beginning July 1, 2019 and ending June 30, 2020.

<u>FISCAL YEAR 2020 EXPENDITURE BUDGETS</u>
GENERAL FUND
Fixed Assets – Police Department: Recognize revenue and increase appropriations in the amount of \$33,000 for a grant from the State of Alaska Division of Homeland Security and Emergency Management to add to the Police Radio Consoles project #90853.
Fixed Assets – Police Department: Recognize revenue and increase appropriations in the amount of \$63,000 for a grant from the State of Alaska Division of Homeland Security and Emergency Management for the Police Department video security and network infrastructure upgrades.

EXPLANATION

This supplemental appropriation is required due to the receipt of two Homeland Security Grants. A short explanation of each budget revision is included in the associated memo.

5. **EFFECTIVE DATE.** This ordinance shall become effective on the day after the date of its passage.

PASSED, APPROVED, AND ADOPTED by the Assembly of the City and Borough of Sitka, Alaska this 12th Day of November, 2019.

ATTEST:

Gary L. Paxton, Mayor

Sara Peterson, MMC
Municipal Clerk

1st reading 10/22/19

2nd reading 11/12/19

Sponsor: Interim Administrator



CITY AND BOROUGH OF SITKA

Legislation Details

File #: 19-233 Version: 1 Name:
Type: Item Status: AGENDA READY
File created: 10/15/2019 In control: City and Borough Assembly
On agenda: 10/22/2019 Final action:
Title: Discussion / Direction / Decision to lift the hiring freeze and dissolve the Assembly Position Subcommittee

Sponsors:

Indexes:

Code sections:

Attachments: [Motion Subcommittee](#)
[Minutes April 25](#)
[Minutes May 14](#)

Date	Ver.	Action By	Action	Result
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Sponsors: Knox and Christianson

Step 1

Discussion / Direction / Decision

To lift the hiring freeze and dissolve the
Assembly Position Subcommittee

Step 2

Possible Motion – if desired

I MOVE to lift the hiring freeze and dissolve the
Assembly Position Subcommittee.



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 Valorie Nelson,
Aaron Bean, Kevin Knox, Dr. Richard Wein, Kevin Mosher

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

Thursday, April 25, 2019

6:00 PM

Assembly Chambers

SPECIAL MEETING

I. CALL TO ORDER

II. FLAG SALUTE

III. ROLL CALL

Present: 4 - Bean, Wein, Paxton, and Mosher

Absent: 2 - Eisenbeisz, and Knox

Telephonic: 1 - Nelson

IV. PERSONS TO BE HEARD

Speaking in support of full school funding were Beth Short Rhoades, Eric Jordan, Bridget Hitchcock, Susan Brandt Ferguson, Connie Kreiss, Kristen Homer, Kate Johnson, Jeanine Brooks, Carolyn Macintyre, Guada Nilo, Issam Samman, Stephen Courtright, Angela Hill, Linda Behnken, Math Trafton, Joe Montagna, Dr. Cindy Westergaard, Harvey Brandt, Katherine Prussian, Jack Peterson, Lexi Hackett, Steve Fish, Martha Pearson, Simon Gorbaty, Jeff Pearson, Matt Groen, Marnie Chapman, Bennie Grace Nabua, Howard Wayne, Emily Demmert, and Kelly Buxton. A suggested revenue idea was to increase the mill rate by 2 mills with the revenue dedicated to school funding.

V. NEW BUSINESS:

A [19-090](#)

Discussion / Direction / Decision of the FY2020 Draft Municipal Budget as it relates to the General Fund, Enterprise Funds, and other Funds (*Assembly action may be taken*)

Municipal Administrator Keith Brady reviewed the budget process and noted the discussion for tonight would focus on the General Fund and Enterprise Funds. Brady noted the the School District budget was due April 30 and after receipt the City would

have 30 days to respond as to its level of funding. He stated the May 2 budget meeting would focus on Internal Service Funds, Special Revenue Funds, plus any final changes to the Enterprise or General Funds and added the Assembly would also make a decision on school funding. He relayed the final budget would be given to the Assembly on May 6 with first and second readings of budget ordinances scheduled for May 14 and May 28.

Regarding the General Fund, Brady reviewed the surplus amount, relayed there was a savings of \$599,000 from a decrease in health insurance costs, stated school support was at 92% of published maximum allowable, told there was \$720,000 in subsidies to other funds due to Governor Dunleavy's budget, reported no significant changes to services, and capital projects were at a level that contributed to increased deferred maintenance. Assembly members asked questions relating to the surplus, school funding, public infrastructure sinking fund, PERS termination, and escrow amounts for the Hospital. Brady spoke to items in the state budget impacting the municipality's budget and answered questions: elimination of school bond debt reimbursement, raw fish tax, funding to schools and elimination of community assistance. Wein wondered of ending deficit numbers on the the FY2020 changes. Bean asked for clarification on revenue from the Electric Department and school funding. Mary Wegner, School Superintendent, explained the funding formula and told of student enrollment numbers. Brady reviewed a comparison slide of the General Fund FY2019 to FY2020 and spoke to key decision points across all utility enterprise funds: maintain or change proposed rate increases, elimination or postponement of budgeted capital projects, look at possible delay of any rate increases for utilities, and review projects driving the rate increases.

Brady spoke to the Electric Fund and noted a 0% increase for FY2020, however, a 2% increase (\$4.77/month) for FY2021. Controller Melissa Haley noted projections going forward were for a 2% increase each year. Nelson spoke to the need for decreasing costs as opposed to asking citizens to pay more. Bean wondered of how much was earned from rate payers. Utility Director Bryan Bertacchi stated there was \$18 million coming in, minus the debt cost, leaving an \$8 million operating budget. Bean urged the Assembly to have a discussion about forming a community utility co-op.

Brady reviewed the Water Fund, Wastewater Fund, Solid Waste Fund, Harbor Fund, Airport Terminal Fund, Marine Service Center Fund, and GPIF Fund. Wein noted the overall cost of utility increases was \$144 for FY2021.

Bean made a motion to implement a hiring freeze. He noted the intent was for there to be a reduction of full-time employees through attrition. Nelson while amenable to the motion, didn't want to preclude the hire of a Planning Director.

A motion was made by Bean to implement a hiring freeze across all city departments effective immediately. Going forward a subcommittee of the Assembly will review all open staff positions as they become open and come back with recommendations to the whole Assembly whether or not that position should be filled or not. The motion PASSED by the following vote.

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

No: 1 - Paxton

Absent: 2 - Eisenbeisz, and Knox

Wein stated the Library was a hub for the community with an incredible number of visits and worthwhile programs offered.

A motion was made by Wein to increase the FY2020 budget by \$15,000 to allow for the Library to be open on Sundays. The motion PASSED by the following vote.

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

Absent: 2 - Eisenbeisz, and Knox

Bean asked the status of the Utility Subsidization Fund and the reappropriation of those funds to another use, e.g. school funding. Controller Melissa Haley stated \$200,000 went into the fund for FY2019. Haley said the program began in January and the applicants were committed through the calendar year (\$45,000) and the next round would begin in 2020. Assembly members suggested discussion occur at the May 2 budget meeting.

Wein spoke to overtime costs of the Police Department in previous years of \$300,000. In FY2020 anticipated overtime costs were \$250,000. He wished to make a motion to limit overtime costs to \$50,000 and if it were to exceed that amount to consult the Assembly with an appropriation. Paxton and Nelson spoke in opposition of the idea and wished to give interim Police Chief Baty some time to get acclimated in his new position as interim Police Chief.

A motion was made by Wein to request the Police Department to inform the Assembly, through the Administrator, when there is more than \$50,000 of overtime. The motion FAILED by the following vote.

Yes: 3 - Bean, Wein, and Mosher

No: 2 - Paxton, and Nelson

Absent: 2 - Eisenbeisz, and Knox

Bean encouraged the Assembly to consider the idea of an incinerator at the Gary Paxton Industrial Park as a way to decrease costs. The Assembly requested Administrator Brady explore the issue and report back to the Assembly. Brady noted the cost for shipping was \$2 million and \$1 million to collect.

VI. PERSONS TO BE HEARD:

Carolyn Macintyre spoke to comments made by the Assembly in their evening deliberation: property tax exemptions, capital projects, and library funding.

VII. EXECUTIVE SESSION

None.

VIII. ADJOURNMENT

The meeting **ADJOURNED** at 9:45pm.

ATTEST: _____

Sara Peterson, MMC
Municipal Clerk

Wein noted interesting history of storing items on properties and the cost. Garry White, Gary Paxton Industrial Park (GPIP) Executive Director stated the GPIP Board figures the amount at a rate which was the appraised value with a 9% annual return. Wein felt the determination of value needed to be adjusted and the prices should be reconsidered. Knox clarified that the funds would come from the Electric Utility Fund and that the material on the property was overburden from the Blue Lake Dam project. Municipal Administrator Keith Brady replied that the funds could come out of the bond proceeds. He stated that the material that remained was not desired and thought to sell it for \$1.00 per cubic yard or offer it for free on a first come, first serve basis. Knox thought about assistance in removal in order to sell since it was part of the road block. Eisenbeisz had concerns of the funds from Electric Utility Fund and the potential of a rate increase. He questioned if bond proceeds was a better source for the funds.

A motion was made to approve an interagency Memorandum of Agreement between the Gary Paxton Industrial Park (GPIP) and the City and Borough of Sitka Electrical Department regarding lease space at GPIP (Block 4, Lots 16b and 20). The motion PASSED by the following vote.

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

No: 3 - Eisenbeisz, Wein, and Nelson

K 19-106

Approve a lease agreement between North Pacific Seafoods, Inc. and the City and Borough of Sitka for space at the Sitka Marine Service Center located at 611 Katlian Street

Tim Ryan, Controller/Manager for Sitka Sound Seafoods thanked the Administrator in the request to lease the facility. Wein wondered if it was necessary for the lease to go through the RFP process. Municipal Attorney Brian Hanson noted the short term lease which could be terminated in 30 days. He stated an RFP process was not required since it was a month to month lease. Eisenbeisz encouraged staff that if this were to become a longer ongoing situation that it go out for a RFP. Mayor Paxton noted the action plan with regards to the Marine Service Center. Bean wondered why there was not a long term lease, felt it should be, and wondered at what point would it be considered as long term. Mosher saw the benefits of the month to month. Municipal Administrator Keith Brady stated that because of the uncertainty of the facility, he felt a month to month lease was appropriate and hoped for more direction in 6 months as to the potential of selling it. Nelson noted leases that benefited the public but did not benefit the city.

A motion was made by Knox to approve a lease agreement between North Pacific Seafoods, Inc. and the City and Borough of Sitka for space at the Sitka Marine Service Center located at 611 Katlian Street and authorize the Municipal Administrator to execute this document. The motion PASSED by the following vote.

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

L [19-105](#)

Appoint an Assembly subcommittee to review all staff positions as they become vacant and report back to the Assembly

Mayor Paxton offered the appointment of Deputy Mayor Eisenbeisz and asked for other members to volunteer. Wein and Nelson volunteered. Eisenbeisz stated he would chair if there was agreement. Mosher clarified that the subcommittee would report back to the assembly of with recommendations. He was in support of the three volunteers.

Knox was not in support of the subcommittee or the hiring freeze. He felt that the assembly should not be directing the Administrator on what positions were important and felt it was an over step. Mayor Paxton agreed, however noted the will of the assembly. Municipal Administrator Keith Brady stated that the subcommittee meetings would need to be a public meeting and advertised. Mosher included that the purpose of the subcommittee was for justification from a budgetary perspective. Mayor Paxton noted that the General Fund had the same number of personnel since 2002. Bean questioned the subcommittee public notice and meeting. He agreed with Mosher in wondering if the resources within the municipality were being used to the full extent that they should be. Assembly members wished to see the code where it stated the subcommittee required a public notice and meeting. Staff would research the issue.

Valorie signed off at 7:27 p.m.

A motion was made by Mosher to appoint Steven Eisenbeisz as Chair of the subcommittee* with Dr. Wein and Valorie Nelson as members of the committee. The motion PASSED by the following vote. *(To review all staff positions as they become vacant and report back to the assembly.)

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

No: 1 - Knox

Non-voting: 1 - Nelson

M [19-107](#)

Authorize the Municipal Administrator to hire temporary personnel

Wein noted the opening of the Building Attendant position at Harrigan Centennial Hall and thought to include it. Municipal Administrator Keith Brady clarified the temporary personnel. Bean was not in support due to the subcommittee that was formed. Mayor Paxton was in support. Knox commented that the Summer Grounds Crew positions were discussed at the Parks and Recreation Committee meeting, relayed the need of crew, and spoke to additional duties of the positions. He told of the repercussions of leaving the positions unfilled. Nelson told of concerns of rising costs. She wondered what positions were not needed and what the city could do to be sustainable. Brady confirmed that the positions were included in both the FY2019 and FY2020 budget. Mosher was in support, felt these positions were needed, however would like to see efficiencies.

Valorie rejoined the meeting via teleconference at 7:42 p.m.

A motion was made by Knox to authorize the Municipal Administrator to hire temporary personnel of: 2 Summer Grounds Crew, 1 Utility Customer Service, 1 Harrigan Centennial Hall Summer Seasonal, 1 Clerk Office Assistant, and include the replacement of a Harrigan Centennial Hall Building Attendant.

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

No: 1 - Knox

Non-voting: 1 - Nelson

N [19-104](#)

Discussion / Direction / Decision on City and Borough of Sitka participation at the June 6 Alaska Municipal League work group meeting in Anchorage to discuss negotiation of sales tax definitions, and governance of a statewide, single level online sales tax authority



CITY AND BOROUGH OF SITKA

Legislation Details

File #: 19-232 Version: 1 Name:
Type: Item Status: AGENDA READY
File created: 10/15/2019 In control: City and Borough Assembly
On agenda: 10/22/2019 Final action:
Title: Discussion / Direction / Decision on accepting title to land in the Takatz Lake area
Sponsors:
Indexes:
Code sections:
Attachments: [01 Motion and 2019 CBS ADNR Correspondence](#)
[02 Map Takatz Lake area](#)
[03 Sept 2019 email from DNR](#)
[04 ADL 101030 Final Decision](#)
[05 ADL 101030 FD Attachment C Selection map](#)
[06 APA DOC no. 3335\(History of Land Classification Relating to Waterpower and Storage Sites\)](#)

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

Possible Motion

I MOVE to accept title to lands in the Takatz Lake area as referenced in the attached letter to the Alaska Department of Natural Resources and authorize the Interim Municipal Administrator to sign the letter.



City and Borough of Sitka

100 Lincoln Street
Sitka, Alaska 99835

Coast Guard City, USA

October 23, 2019

VIA EMAIL ONLY

Nina M. Brudie
Municipal Entitlements
ADNR | DMLW | RADS
550 W 7th Avenue Suite 1050
Anchorage, Alaska 99501

Re: City and Borough of Sitka (CBS) Response to Alaska Department of Natural Resources (ADNR)
Request for Information Regarding Municipal Entitlement Subject to the Federal Power Act

Ms. Brudie,

In your email dated September 11, 2019, you stated that the State of Alaska is currently considering whether to accept title to land in the Takatz Lake area, which is subject to Section 24 of the Federal Power Act. Takatz Lake area described as follows:

T. 54 S., R. 66 E., CRM
Sec. 35, lots 1 to 6, inclusive, S2NE4, SE4NW4, SW4;
Sec. 36, lots 1 to 6, inclusive, S2NW4, NW4SW4.

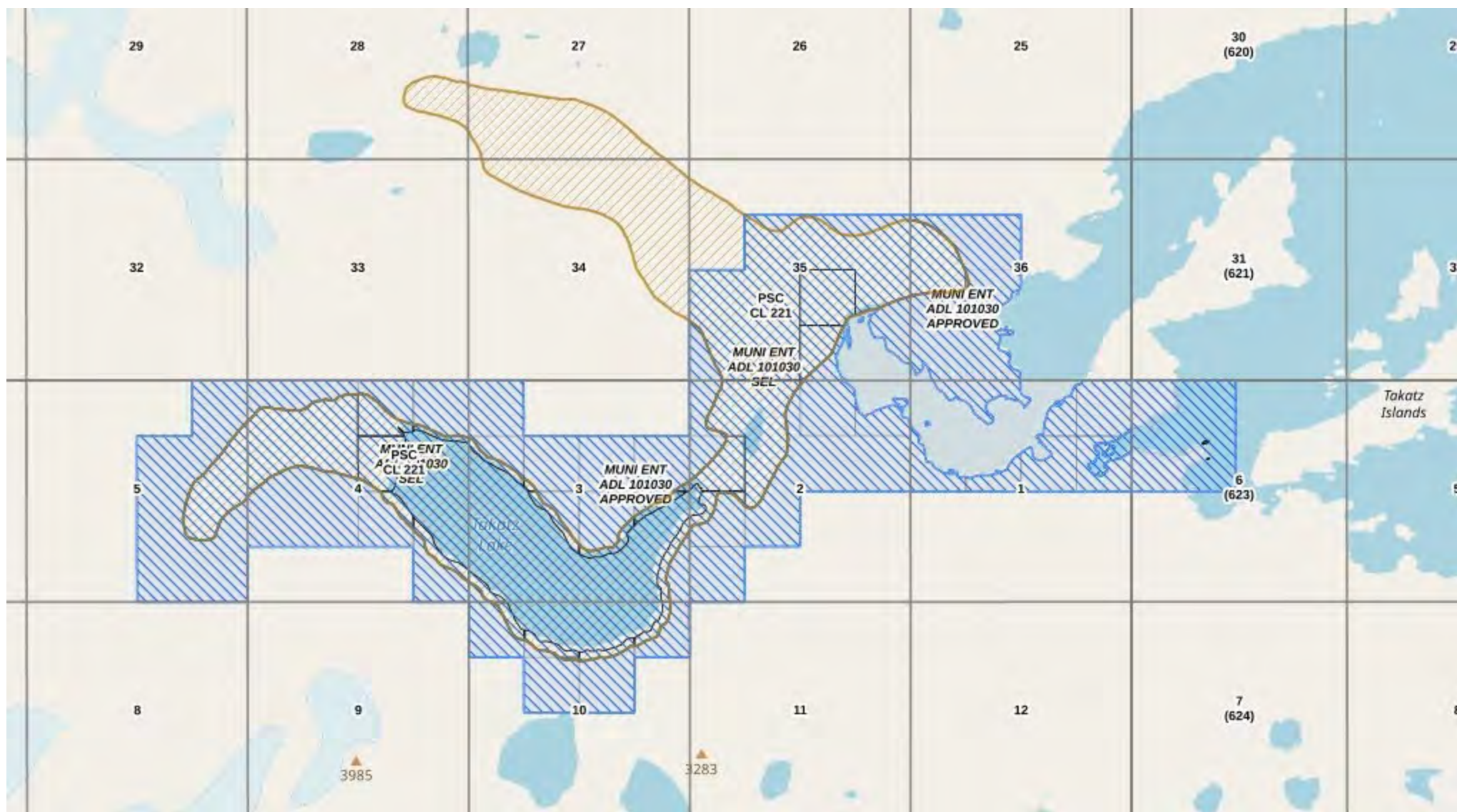
T. 55 S., R. 66 E., CRM
Sec. 1, lots 1 to 16, inclusive;
Sec. 2, lots 1 to 5, inclusive, S2NE4, E2NW4, NW4NW4, NE4SW4, SW4SW4;
Sec. 3, lots 1 to 8, inclusive, SW4NE4, NW4NW4;
Sec. 4, lots 1 to 5, inclusive, NW4, N2SW4;
Sec. 5, S2NE4, NE4NE4, SE4;
Sec. 10, lots 1 to 4, inclusive, SE4NW4.

You noted that ADNR approved this land for conveyance to CBS in 1981, however it has never been fully conveyed to CBS. You also noted that the land will remain subject to Section 24 of the Federal Power Act, which stipulates that the U.S. or its assignees, without compensation to the owner, can enter upon, occupy, and use any part or all of said lands, in the judgement of the FERC Commission. However, the U.S. would compensate the owner for any damages to crops, buildings, or other improvements.

Given these conditions, CBS accepts title of these lands as part of its municipal entitlement and to complete the conveyance process. Please let us know if CBS can assist in facilitating this process further.

Sincerely,

Hugh Bevan
Interim Municipal Administrator



Sara Peterson

From: Coral Crenna
Sent: Tuesday, October 15, 2019 8:12 AM
To: Sara Peterson
Subject: RE: Sitka land subject to Sec. 24 Fed. Power Act (Takatz Lake)

From: Brudie, Nina M (DNR) <nina.brudie@alaska.gov>
Sent: Wednesday, September 11, 2019 2:50 PM
To: Dave Miller <dave.miller@cityofsitka.org>
Cc: Renee Wheat <renee.wheat@cityofsitka.org>
Subject: Sitka land subject to Sec. 24 Fed. Power Act

Mr. Miller:

The state is currently considering whether to accept title to land in the Takatz Lake area, described below, which is subject to Sec. 24 of the Federal Power Act for a hydroelectric project.

T. 54 S., R. 66 E., CRM
Sec. 35, lots 1 to 6, inclusive, S2NE4, SE4NW4, SW4;
Sec. 36, lots 1 to 6, inclusive, S2NW4, NW4SW4.

T. 55 S., R. 66 E., CRM
Sec. 1, lots 1 to 16, inclusive;
Sec. 2, lots 1 to 5, inclusive, S2NE4, E2NW4, NW4NW4, NE4SW4, SW4SW4;
Sec. 3, lots 1 to 8, inclusive, SW4NE4, NW4NW4;
Sec. 4, lots 1 to 5, inclusive, NW4, N2SW4;
Sec. 5, S2NE4, NE4NE4, SE4;
Sec. 10, lots 1 to 4, inclusive, SE4NW4.

DNR approved this land for conveyance to City of Sitka in 1981 when the land was only state selected, so it has never been fully conveyed to Sitka. On 11/7/2011, the federal withdrawal for the hydroelectric project was lifted, but the land remains subject to Section 24 of the Federal Power Act, which stipulates that the U.S. or its assignees, without compensation to the owner, can enter upon, occupy, and use any part or all of said lands, in the judgement of the FERC Commission. However, the U.S. would compensate the owner for any damages to crops, buildings, or other improvements. I am writing to inquire whether Sitka is still interested in this land, given these conditions. Please provide a letter addressed to me at your convenience, indicating whether the City and Borough of Sitka still wishes to receive these lands as part of its municipal entitlement for our records. Also, if you happen to have a copy of the FERC license for the Takatz Lake hydro facility you could forward, I would appreciate it; we couldn't locate a copy on the FERC web site. If not, do you know the FERC license number?

Thank you for your help, if you have any questions feel free to contact me.

Regards,

NINA M. BRUDIE

Municipal Entitlements
ADNR | DMLW | RADS
550 W 7th Ave Ste 1050
Anchorage, AK 99501
907.269.8526

DEPARTMENT OF NATURAL RESOURCES

*
*
*

FINAL DECISION

City and Borough of Sitka
P.O. Box 79
Sitka, Alaska 99835

SELECTION APPROVED
STATE SELECTED LANDS

The Municipal Land Entitlement Act of 1978 (AS 29.18.201-213), which went into effect on July 1, 1978, provides for the conveyance of land to those municipalities granted a state land entitlement. The purpose of this decision is to approve the conveyance of certain land to the above-named municipality, subject to the State's acquisition of Tentative Approval or Patent.

* * * * *

Municipal land selections were filed with the Division of Forest, Land & Water Management on February 28, 1980, ADL #101030 and July 11, 1980, ADL 101592. Lands contained in these selections were found to be primarily of local concern and to be suitable for municipal ownership. State interest areas were identified, public access needs were considered and public easements are reserved in this decision for such purposes.

* * * * *

In compliance with statutory requirements, the following described lands are approved for conveyance to the above-named municipality, subject to:

- * All valid existing rights, if any, but not limited to those herein listed;
- * all section line rights-of-way granted or reserved to the Territory or State of Alaska pursuant to 43 U.S.C. Section 932 (R.S. 2477) and AS 19.10.010;
- * reservation to the United States of America such valid rights-of-way and easements for ditches, canals, railroads, highways, communication lines and other uses defined in 38 State. 308, 48 U.S.C. Sec. 305, 26 Stat. 391, 43 U.S.C. Sec. 943, 41 Stat. 1075 as amended (16 U.S.C. 818) and such other reservations as may appear in the patents by which the State acquired the selected lands;
- * reservation of perpetual public easements, as required by AS 38.05.127 and regulations implementing that statute, to and along navigable and public waters, as those terms are defined in AS 38.05.365(22) and (23), which are determined to be reasonably necessary to insure free public access.

- * The State of Alaska reserves unto itself all tide, submerged, and shorelands and land underlying public or navigable waters, as defined in AS 38.05.365, to which it has received tentative approval, patent or title by operation of law, and the effect of said reservation is reflected, insofar as possible in the acreage approved for conveyance.
- * The State of Alaska hereby expressly saves, excepts and reserves out of the conveyance hereby made, unto itself and its lessees, successors, and assigns forever, all oil, gases, coal, ores, minerals (including fissionable minerals), geothermal resources, and fossil fuels of every name, kind or description, which may be in or upon the lands herein conveyed, or any part thereof, together with the right to prospect for, mine, and remove the same. Prior to the exercise of any rights reserved pursuant to this mineral reservation, the State or its lessees, successors, or assigns shall provide full payment to the owner of the land upon which the rights are sought to be exercised, or shall post a surety bond sufficient as to form, amount and security to secure said owner for all damages sustained by reason of entry upon the land and exercise of rights reserved pursuant to this mineral reservation.

* * * * *

DECLARATION OF PUBLIC AND/OR NAVIGABLE WATERS

As per AS 38.05.127 and 11 AAC 53.310 the following waters are determined to be public and/or navigable.

1. Takatz Bay
2. Takatz Creek
3. Two unnamed streams within Sec. 35, T.54S., R.66E.
4. Unnamed lake within Sec. 36, T.54S., R.66E.
5. Chatham Strait
6. Takatz Lake
7. Unnamed lake within Sec. 2, T.55S., R.66E.
8. Unnamed tributary of Takatz Lake within Sec. 4, T.55S., R.66E.
9. Two unnamed tributaries of Takatz Lake within Sec. 5, T.55S., R.66E.
10. Unnamed lake within Sec. 10, T.55S., R.66E.
11. Unnamed tributary of Takatz Lake within Sec. 10, T.55S., R.66E.
12. Kliuchevoi Bay
13. Hot Springs Bay

* * * * *

ACCESS TO AND ALONG NAVIGABLE OR PUBLIC WATERS

Pursuant to AS 38.05.127(2) reservation for public access will be retained 50 feet upland and 50 feet seaward of the mean high water along any water affected by tidal action, and a reservation for public access will be retained 50 feet upland of the ordinary high water mark along all navigable or public waters unless otherwise specified.

Management authority over such access easements will be transferred to the municipal grantee unless otherwise specified in this conveyance document, but no such easements may be vacated, abandoned or otherwise extinguished or rendered incapable of reasonable use by the public for the purposes for which it was reserved without the approval of the grantor, and unless an alternative means for reasonable public access is provided.

* * * * *

MANAGEMENT AUTHORITY

Lands within this conveyance are State Selected and will be conveyed upon approval to the State from the Federal Government. At such time of conveyance pursuant to AS 29.18.207(d) the municipality will be authorized to execute conditional leases and make conditional sales on all lands within this decision.

* * * * *

STATE SELECTED LANDS APPROVED
DECISION

T.54S., R.66E., C.R.M.

Sec. 35 $S\frac{1}{2}$, $S\frac{1}{2}NE\frac{1}{4}$, $SE\frac{1}{4}NW\frac{1}{4}$ 370 acres ±

Subject to:

A 50 foot reservation for access to and along public or navigable water along Takatz Bay and along both sides of Takatz Creek and its two unnamed tributaries within Sec. 35.

Sec. 36 $SW\frac{1}{4}$, $S\frac{1}{2}NW\frac{1}{4}$ 202 acres ±

Subject to:

A 50 foot reservation for access to and along public or navigable water along Takatz Bay and along the shores of an unnamed lake within Sec. 36.

T.55S., R.66E., C.R.M.

Sec. 1 $N\frac{1}{2}$ 173 acres ±

Subject to:

A 50 foot reservation for access to and along public or navigable water along Takatz Bay and along the shore of Chatham Strait due west of Takatz Island.

Sec. 2 $N\frac{1}{2}$, $N\frac{1}{2}SW\frac{1}{4}$, $SW\frac{1}{4}SW\frac{1}{4}$ 406 acres \pm

Subject to:

A 50 foot reservation for access to and along public or navigable water along Takatz Bay, Takatz Lake, both sides of Takatz Creek, and along an unnamed lake.

Sec. 3 $S\frac{1}{2}$, $S\frac{1}{2}N\frac{1}{2}$, $NW\frac{1}{4}NW\frac{1}{4}$ 270 acres \pm

Subject to:

A 50 foot reservation for access to and along public or navigable water along Takatz Lake and along both sides of its unnamed tributary.

Sec. 4 $N\frac{1}{2}$, $N\frac{1}{2}S\frac{1}{2}$, $SE\frac{1}{4}SE\frac{1}{4}$ 437 acres \pm

Subject to:

A 50 foot reservation for access to and along public or navigable water along Takatz Lake and along both sides of its unnamed tributaries.

Sec. 5 $SE\frac{1}{4}$, $S\frac{1}{2}NE\frac{1}{4}$, $NE\frac{1}{4}NE\frac{1}{4}$ 280 acres \pm

Subject to:

A 50 foot reservation for access to and along public or navigable water along both sides of the unnamed tributaries of Takatz Lake.

Sec 10 $N\frac{1}{2}N\frac{1}{2}$, $SW\frac{1}{4}NE\frac{1}{4}$, $SE\frac{1}{4}NW\frac{1}{4}$ 170 acres \pm

Subject to:

A 50 foot reservation for access to and along public or navigable water along Takatz Lake, along an unnamed lake, and along both sides of an unnamed tributary to Takatz Lake.

T.55S., R.67E., C.R.M.

Sec. 6 $W\frac{1}{2}NW\frac{1}{4}$ 67 acres \pm

Subject to:

A 50 foot reservation for access to and along public or navigable water along the shore of Chatham Strait due west of Takatz Island.

ATTACHMENT A

Exclusions

- 1.
- 3.

U.S.S. 1401
U.S.S. 3505

ATTACHMENT C

Selection Maps

Selection Maps

Public and Navigable Waters marked in red.

C H A T H A M

(SITKA-A-2)

- PENDING SELECTIONS
- APPROVED SELECTIONS
- PATENTED SELECTIONS
- DENIED SELECTIONS
- PUBLIC OR NAVIGABLE WATERS

A I T





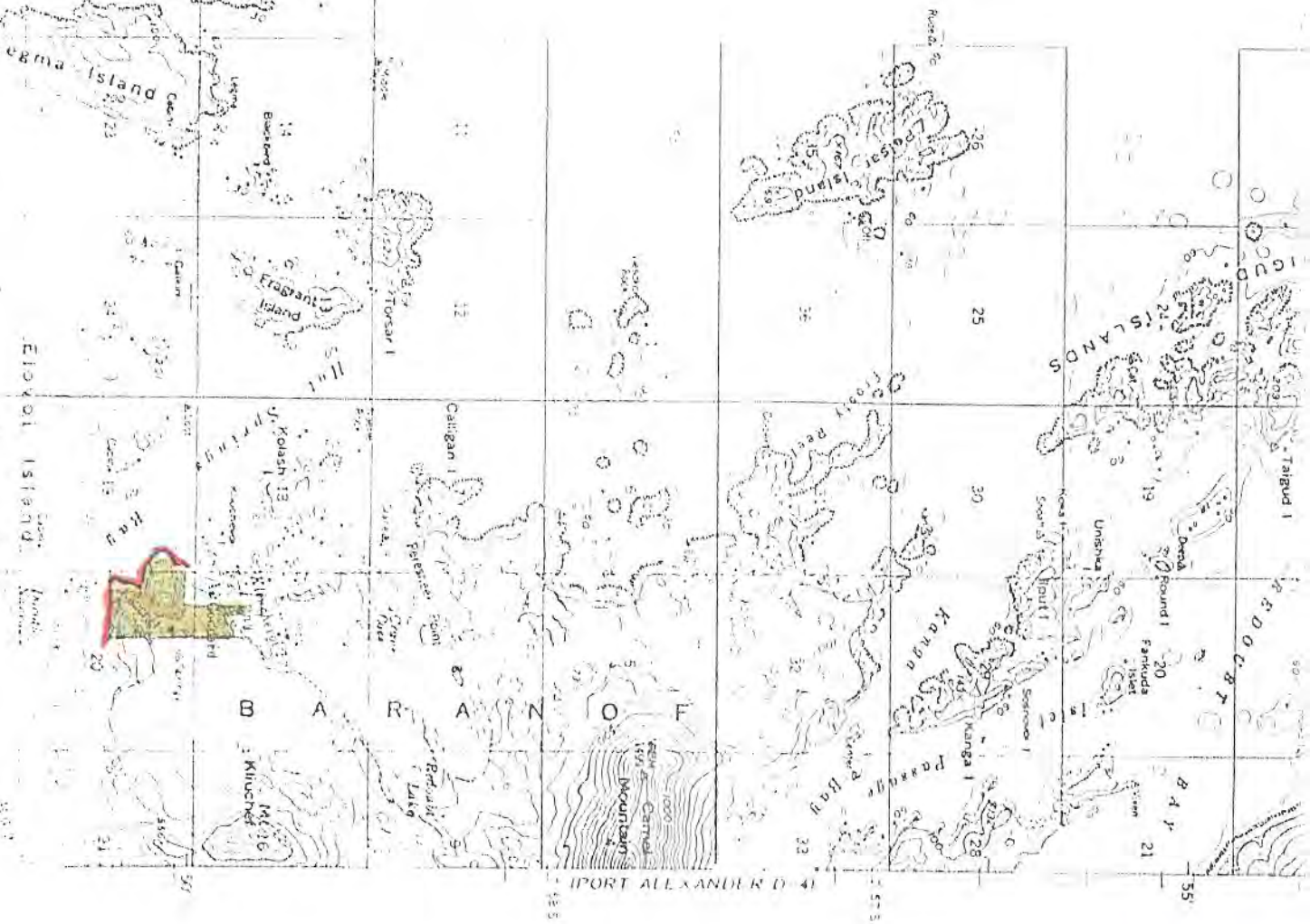
PENDING SELECTIONS

APPROVED SELECTIONS

PATENTED SELECTIONS

DENIED SELECTIONS

PUBLIC OR NAVIGABLE WATERS



CIRC. 400

GEOLOGICAL SURVEY CIRCULAR 400



HISTORY OF LAND CLASSIFICATION
RELATING TO WATERPOWER
AND STORAGE SITES

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no. 400

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LIBRARY & INFORMATION SERVICES
3150 C STREET, SUITE 100
ANCHORAGE, ALASKA 99503

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HISTORY OF LAND CLASSIFICATION RELATING TO WATERPOWER AND STORAGE SITES

By F. F. Lawrence, C. E. Nordeen, and H. L. Pumphrey

REVISED 1963

GEOLOGICAL SURVEY CIRCULAR 400

Washington, D. C., 1957

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LIBRARY & INFORMATION SERVICES
3150 C STREET, SUITE 100
ANCHORAGE, ALASKA 99503

United States Department of the Interior

STEWART L. UDALL, SECRETARY



Geological Survey

THOMAS B. NOLAN, DIRECTOR



Free on application to the U.S. Geological Survey, Washington 25, D. C.

HISTORY OF LAND CLASSIFICATION RELATING TO WATERPOWER AND STORAGE SITES

By F. F. Lawrence, C. E. Nordeen, and H. L. Pumphrey

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ABSTRACT

Segregation of lands having value for development of water resources was first undertaken following the act of October 2, 1888 which provided for the withdrawal of reservoir sites and lands adjacent, or near, which would be susceptible of irrigation. This activity was curtailed by the act of August 30, 1890 which repealed the act of October 2, 1888 to the extent that only actual sites of reservoirs were retained in a withdrawn status. The act of March 3, 1891 was designed to reduce lands in withdrawal to the minimum required for storage purposes, and insofar as practical to exclude lands occupied by settlers on the date of the withdrawal of the reservoir site.

Segregation of lands into reserves as a means of protecting their water resources values was again undertaken in 1909 with the reservation of nearly 1½ million acres in temporary power site withdrawals. These withdrawals were confirmed under the authority of an act of June 25, 1910, and were made permanent power site reserves by executive orders of July 2, 1910. Lands valuable for waterpower were withdrawn as power site reserves under this act until 1920. Another act of June 25, 1910 provides the authority for withdrawal of Indian lands for power site purposes.

Valuable power sites in Arizona and New Mexico were so designated by the Geological Survey for the Secretary of the Interior as required by Congress in the Statehood Enabling Act of June 20, 1910. Similar "designations" were made for the revested and reconveyed lands of the Oregon and California Railroad Company and the Coos Bay Wagon Road as required by the acts of June 9, 1916 and February 26, 1919.

Section 24 of the Federal Water Power Act of 1920, as amended by the Federal Power Act of 1935, provides a means whereby lands withdrawn because of their potential waterpower value can be made available for other uses, with the power rights retained by the Government, until such time as they are re-

quired for waterpower development. Since passage of this act, public domain lands, with few exceptions, have been classified for power purposes by orders of Power Site Classification under the Organic Act of the Geological Survey which gives them the protection of the full force and effect of Section 24 of the Federal Power Act. These orders are initiated by the Director of the Geological Survey and approved by the Secretary of the Interior.

Lands which are within a reservoir site which can potentially contribute to waterpower development may be classified as a power site. Where potential power value is clearly subordinate to flood control, irrigation, or other storage values and development would not be justified for waterpower alone, the lands may be withdrawn in a Reservoir Site Reserve under the act of June 25, 1910.

Withdrawals and classifications of public land for waterpower purposes are revoked by the Secretary of the Interior, on the recommendation of the Geological Survey, through the medium of Public Land Orders.

INTRODUCTION

The authorities providing the basis for withdrawal or classification of the public domain of the United States for waterpower and reservoir sites were designed to meet the requirements of certain stages in the growth of the electric power industry and the expanding needs for water conservation. As a result of this narrow approach to the problem of protecting this portion of our natural resources, various acts were passed by Congress which were designed to reserve such lands, each of which was a product of the specific need at the time at which it was enacted.

This report summarizes the laws and directives which have been used in the past, and are now being used, to effect the withdrawal or classification of public lands for waterpower and reservoir purposes.

The purpose of this report is to present these in such a manner that the history of land classification for water resources values will be clear to those who have a responsibility for administration of the public lands.

DISCUSSION

The act of March 3, 1879 which created the Geological Survey charged the Director with the task of classifying the public lands. The first classifications of lands for water resources values were made after passage of the act of October 2, 1888 which reads in part as follows:

"Storage reservoirs in arid regions.

"Investigation.

"For the purpose of investigating the extent to which the arid region of the United States can be redeemed by irrigation, and the segregation of the irrigable lands in such arid region, and for the selection of sites for reservoirs and other hydraulic works necessary for the storage and utilization of water for irrigation and the prevention of floods and overflows, *** And all the lands which may hereafter be designated or selected by such United States surveys for sites for reservoirs, ditches, or canals for irrigation purposes and all the lands made susceptible of irrigation by such reservoirs, ditches, or canals are from this time henceforth hereby reserved from sale as the property of the United States, and shall not be subject after the passage of this act, to entry, settlement, or occupation until further provided by law".

A number of withdrawals were made under this act shortly after its passage, but considerable resistance soon arose because large areas adjacent to the reservoir sites were withdrawn for irrigation projects and were no longer available for settlement. These were often the best farmlands and there was no legal method of permitting their use for farming or other purposes pending construction of the prospective project. As a result of dissatisfaction with these withdrawals, Congress in the Sundry Civil Appropriation Act of August 30, 1890 made the following provision in the Section on Topographic Survey:

"Topographic Surveys.

"For topographic surveys in various portions of the United States, three hundred and twenty-five thousand dollars, one-half of which sum shall be expended west of the one hundredth meridian; and so much of the act of October second, eighteen hundred and eighty-eight, entitled 'An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and eighty-nine, and for other purposes,' as provides for the withdrawal of the public lands from entry, occupation and settlement, is hereby repealed, and all entries made or claims initiated in good faith and valid but for said act, shall be recognized and may be perfected in the same manner as if said law had not been enacted, except that reservoir sites heretofore located or selected shall remain segregated and reserved from entry or settlement, as provided by said act, until otherwise provided by law, and reservoir sites hereafter located or selected on public lands shall in like

manner be reserved from the date of the location or selection thereof."

The withdrawals under the act of October 2, 1888 were further limited by an act approved March 3, 1891 entitled "An act to repeal the timber culture laws and for other purposes." One section of this act reads in part as follows:

"Limit on reservoir sites.

"Sec. 17. That reservoir sites located or selected and to be located and selected under the provisions of 'An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and eighty-nine, and for other purposes,' and amendments thereto, shall be restricted to and shall contain only so much land as is actually necessary for the construction and maintenance of reservoirs, excluding so far as practicable lands occupied by actual settlers at the date of the location of said reservoirs."

Lands withdrawn under the act of October 2, 1888 which remained in withdrawal after the adjustments resulting from the acts of August 30, 1890 and March 3, 1891 and subsequent executive orders are still withdrawn.

By 1909 it became apparent that many of the best hydroelectric power sites were being transferred from the public domain to private individuals and corporations through the use of land script, homesteads, and by other means. In a letter dated April 23, 1909, the Secretary of the Interior instructed the Director of the Geological Survey to investigate waterpower sites on the public domain and to recommend their temporary withdrawal pending legislative action by the Congress. This letter is quoted as follows:

"You will please immediately detail such employee or employees of your service as are available to make an investigation of water-power sites on the public domain, outside of national forests, which are not included within withdrawals for reclamation purposes, with the view of securing at the next session of Congress legislation to control and regulate their dispositions.

"You will please have your report with regard to such lands available as early as possible in order that any necessary withdrawals may be made to protect such power sites pending the securing of such proposed legislation as may be recommended by the President.

"All withdrawals made for the purpose herein mentioned will be of a temporary nature to allow the securing of such legislation as will permit of the disposition of the lands in question.

"The Reclamation Service will cooperate with you in order to secure the necessary data."

By July 1, 1910, nearly 1.5 million acres had been included in Temporary Power Site Withdrawals and on July 2, 1910, these withdrawals were confirmed and continued as Power Site Reserves by Executive Orders under an act of June 25, 1910. Actually there

are two acts of June 25, 1910, which are pertinent to power site segregations. One provides:

"That the President may at any time, in his discretion, temporarily withdraw from settlement, location, sale, or entry any of the public lands of the United States, including the District of Alaska, and reserve the same for waterpower sites, irrigation, classification of the lands or other purposes to be specified in the orders of withdrawals, and such withdrawals or reservations shall remain in force until revoked by him or by an act of Congress."

The other provides:

"Sec. 13. That the Secretary of the Interior be, and he is hereby, authorized in his discretion, to reserve from location, entry, sale, allotment, or other appropriation any lands within any Indian reservation, valuable for power or reservoir sites, or which may be necessary for use in connection with any irrigation project heretofore or hereafter to be authorized by Congress."

Section 2 of the first act provided that the withdrawn lands should "be open to exploration, discovery, occupation, and purchase under the mining laws of the United States so far as the same apply to minerals other than coal, oil, gas, and phosphates." This provision permitted inferior locations, such as building stone quarries of little value, on valuable power site lands. The act of August 24, 1912, changed this provision to permit exploration and purchase under the mining laws for metalliferous minerals only.

The act of June 20, 1910, which enabled the people of Arizona and New Mexico to prepare constitutions for admission to the Union, provided that lands valuable for water power should be designated by the Secretary of the Interior within five years after approval of the act. The Secretary, acting on the advice of the Geological Survey, designated considerable areas along the streams of those states as being valuable for power sites. These withdrawals were termed "Water Power Designations."

The acts of June 9, 1916, February 26, 1919, and August 28, 1937, provided for the classification of the reverted lands of the Oregon and California Railroad Company and the reconveyed lands of the Coos Bay Wagon Road grant in Oregon and the withdrawal of any of the lands valuable for waterpower purposes. These withdrawals were also known as Water Power Designations. Lands included in Water Power Designations are regarded as having the same status as lands in Power Site Reserves.

On April 24, 1942, the President, by Executive Order No. 9146 delegated to the Secretary of the Interior authority to make or revoke Power Site Reserves other than those on Indian lands. The Secretary already had this authority in regard to Indian lands by virtue of an act of Congress of June 25, 1910. Executive Order No. 9146 was superseded by Executive Order No. 9337 dated April 24, 1943, which authorized the Secretary of the Interior to withdraw or reserve lands of the public domain or other lands owned or controlled

by the United States to the same extent that such lands might be withdrawn or reserved by the President and also to modify or revoke withdrawals or reservations of such lands, provided that the Secretary should have prior approval of the Director of the Bureau of the Budget and the Attorney General and the head of any department or agency outside of the Department of the Interior having jurisdiction over the lands. Executive Order No. 9337, in turn, was superseded by Executive Order No. 10355 dated May 26, 1952. In this order the requirement that approval of the Director of the Bureau of the Budget and Attorney General be obtained before a withdrawal was made was omitted; however, it provided for the reference of disputes to the Director of the Bureau of the Budget and, if necessary, to the President.

The Federal Power Act was originally enacted as the Federal Water Power Act and approved June 10, 1920. On March 3, 1921, it was amended to exclude any authority to license water power projects in national parks or national monuments. The Federal Power Commission, originally composed of the Secretaries of Interior, War (Army), and Agriculture, was reorganized as an independent Commission under the act approved June 23, 1930. The original Federal Water Power Act was made Part I of the Federal Power Act by Title II of the Public Utility Act of 1935 approved August 26, 1935.

Section 24 of the Federal Power Act specifies the procedures for acquisition or use of lands classified as valuable for power sites before or after passage of the act. This gave the Federal Power Commission control of the disposition of all lands which might at any time be classified as valuable for water power purposes. This authority made it possible for the Secretary of the Interior, through the Geological Survey, to effectively protect power site lands by merely classifying them as such under the authority provided by the act of March 3, 1879. Prior to passage of the Federal Power Act, lands could be classified as power sites by the Geological Survey, but this had no protective effect unless they were also withdrawn by the President or by the Secretary of the Interior under one of the special withdrawal acts such as that of October 2, 1888, or of June 25, 1910.

Power Site Classifications were first made by the Director of the Geological Survey and, when approved by the Secretary of the Interior, had full force and effect under the Federal Power Act. Departmental Order No. 2333 of June 10, 1947, authorized the Director of the Geological Survey "without prior secretarial approval, to classify public domain lands as power sites and to modify or revoke such classifications." A Secretarial order of December 22, 1958, revoked Departmental Order No. 2333 and Power Site Classifications are currently initiated by the Director, Geological Survey for approval by the Secretary of the Interior.

Section 24 of the Federal Power Act provides for another type of waterpower withdrawal. This provides that:

"Any lands of the United States included in any proposed project under the provisions of this Part (Part I) shall from the date of filing an application for permit or license therefor be reserved from entry, location, or other disposal under the laws of the United States until otherwise directed by the Commission or by Congress."

The lands withdrawn as a result of the filing of an application for permit or license remain withdrawn, even though the permit or license is revoked or allowed to lapse, until such time as the withdrawal is officially vacated by the Federal Power Commission.

Section 24 of the Federal Power Act made all Power Site Reserves, Water Power Designations, and subsequent Power Site Classifications secure against alienation under any law. The act of August 11, 1955 modified the laws governing power site withdrawals to permit acquisition for mining purposes of lands in such withdrawals subject to the provision that:

"The United States, its Permittees and Licensees shall not be responsible or held liable or incur any liability for the damage, destruction, or loss of any mining claim, mill site, facility installed or erected, income, or other property or investments resulting from the actual use of such lands or portions thereof for power development at any time where such power development is made by or under the Authority of the United States, except where such damage, destruction, or loss results from the negligence of the United States, its Permittees or Licensees."

Lands within Indian Reservations classified as valuable for power by the Geological Survey, if approved by the Commissioner of Indian Affairs, are reserved by the Secretary of the Interior under the pertinent act of June 25, 1910, described earlier. If Indian land and other public domain land lies in the same power site area two separate orders of withdrawal are required.

Prior to April 24, 1942, Power Site Reserves were revoked by Executive Order. On that date, the President delegated this authority to the Secretary of the Interior in Executive Order No. 9146. Subsequent revisions of this delegated authority have been made as described earlier, but the basic delegation of the President's authority to the Secretary is still in force. Water Power Designations and Power Site Reserves on Indian lands are revoked by Departmental Order. Revocations of Power Site Reserves or Water Power Designations usually result from recommendations by the Geological Survey with concurrence by the Federal Power Commission.

Land in a Power Site Classification which is found to have no power value is eliminated from a classification by a Power Site Cancellation signed by the Secretary of the Interior.

The order, signed by the Secretary, revoking a Power Site Reserve, a Water Power Designation, or a Power Site Classification, provides for the restoration of the lands to disposition under the public land laws. Such orders are published in the Federal Register.

Nearly 2.6 million acres of land had been segregated into Power Site Reserves by June 1920. Much of this land was valuable for other purposes, such as agriculture, but there was no legal way for the Government to dispose of the land and still retain the power rights. Power Site Reserves could be modified but such modification, while satisfactory for a right-of-way, did not answer the demand for use of all the land until such time as it would be required for power development. The Federal Water Power Act of June 10, 1920, remedied this to a great extent through the provisions of Section 24. This section, as amended in 1935, provides in part:

"Whenever the Commission shall determine that the value of any lands of the United States so applied for, or heretofore or hereafter reserved or classified as power sites, will not be injured or destroyed for the purposes of power development by location, entry, or selection under the public land laws, the Secretary of the Interior, upon notice of such determination, shall declare such lands open to location, entry, or selection, for such purpose or purposes and under such restrictions as the Commission may determine, subject to and with a reservation of the right of the United States or its permittees or licensees to enter upon, occupy, and use any part or all of said lands necessary, in the judgement of the Commission, for the purposes of this Part, which right shall be expressly reserved in every patent issued for such lands; and no claim or right to compensation shall accrue from the occupation or use of any of said lands for said purposes. The United States or any licensee for any such lands hereunder may enter thereupon for the purposes of this Part, upon payment of any damages to crops, buildings, or other improvements caused thereby to the owner thereof, or upon giving a good and sufficient bond to the United States for the use and benefit of the owner to secure the payment of such damages as may be determined and fixed in an action brought upon the bond in a court of competent jurisdiction, said bond to be in the form prescribed by the Commission."

Restorations under Section 24 of the Federal Power Act are made by the Secretary of the Interior by means of Public Land Orders prepared for him in the Bureau of Land Management. These Opening or Restoration Orders are prepared following no-injury determinations by the Federal Power Commission acting on the advice and recommendations of the Geological Survey and other interested agencies through the familiar "DA" (Application for Determination) orders of the Federal Power Commission.

The need for the Federal Power Commission to make determinations concerning applications for entry, location, and patent for mining purposes was eliminated by the passage of the act of August 11, 1955, (The Mining Claims Restoration Act).

Sites which are primarily valuable as reservoir sites are withdrawn in Power Site Classifications if they have value for development of waterpower either at the sites or through regulation affecting downstream power sites, developed or undeveloped. However, if power development is not feasible, lands in reservoir sites can be withdrawn as Reservoir Site Reserves under the broad authority given the President by the

act of June 25, 1910. As with Power Site Reserves, the authority to make and revoke Reservoir Site Reserves was delegates to the Secretary of the Interior by Executive Order No. 9146 and subsequent delegation orders. Lands in Reservoir Site Reserves are subject to entry under the mining laws as they apply to metalliferous minerals but are not subject to disposal under Section 24 of the Federal Power Act.

The area withdrawn for waterpower purposes, as of June 30, 1960, totaled 9,600,000 acres of which 2,400,000 had been restored to entry. The following table gives the net withdrawn area, at 5-year intervals, since 1910:

Year ending June 30	Net area withdrawn for waterpower (thousands of acres)
1910	1,454
1915	2,228
1920	2,588
1925	5,247
1930	6,588
1935	6,465
1940	6,685
1945	6,774
1950	6,848
1955	7,104
1960	7,206

The pronounced increase in the withdrawn area between 1920 and 1925 was due to the withdrawals made as a result of filing of applications with the Federal Power Commission for permits or licenses for power projects, in addition to the withdrawals initiated by the Geological Survey.

ANNOTATED CHRONOLOGICAL LIST OF WATERPOWER AND RESERVOIR CLASSIFICATION LAWS AND EXECUTIVE ORDERS, AND DEPARTMENTAL ORDERS

Act of March 3, 1879 (20 Stat. 394; 43 USC 31)

Act creating the Geological Survey and the one under which Power Site Classifications are made.

Act of October 2, 1888 (25 Stat. 527)

Provided for the withdrawal of irrigable lands and the sites for reservoirs and other hydraulic works necessary for the storage and utilization of water for irrigation and the prevention of floods and overflows.

Act of August 30, 1890 (26 Stat. 391)

Repealed the act of October 2, 1888, except as it applied to actual sites.

Act of March 3, 1891 (26 Stat. 1101; 43 USC 663)

Excluded from reserve all lands except those actually necessary for construction and maintenance of reservoirs.

Act of June 20, 1910
(36 Stat. 557, 564) (for New Mexico)
(36 Stat. 557, 575) (for Arizona)

This is the New Mexico and Arizona Enabling Act under which Waterpower Designations were made withdrawing all public land having power value in New Mexico and Arizona.

Act of June 25, 1910 (36 Stat. 847, Chap. 421; 43 U.S.C. 141-143)
Amended by the Act of August 24, 1912, (37 Stat. 497) and by the Act of June 10, 1920, as amended (41 Stat. 1075; 40 Stat. 846; 16 USC 818)

Provides for temporary withdrawals of waterpower sites and other public purposes. Power Site Reserves and Reservoir Site Reserves can be made under this act.

Act of June 25, 1910 (36 Stat. 855, 858, 859; Chap. 431; 25 USC 331-336)

Power Site Reserves on Indian lands are made under Sections 13 and 14 of this act.

Act of August 24, 1912 (37 Stat. 497; 43 USC 142)

Amends act of June 25, 1910 to permit exploration, discovery, occupation and purchase under mining laws. Oil and gas rights and homestead entries in force at time of withdrawal remain in effect.

Act of June 9, 1916 (39 Stat. 218)

Provides for the classification and withdrawal of revested Oregon and California Railroad Company lands in Oregon valuable for waterpower purposes.

Act of February 26, 1919 (40 Stat. 1179)

Provides for the classification and withdrawal of reconveyed Coos Bay Wagon Road grant lands in Oregon valuable for waterpower purposes in the manner provided by the act of June 9, 1916.

Act of June 10, 1920 (41 Stat. 1063, 16 USC 791-823; March 3, 1921, 41 Stat. 1353; June 23, 1930, 46 Stat. 797; August 26, 1935, 49 Stat. 838, 16 USC 791a-825r as amended)

The Federal Waterpower Act changed to the Federal Power Act by amendment of August 26, 1935.

Under this act lands included in proposed projects are withdrawn from all forms of entry effective as of the date of the filing of the application for the project and lands reserved or classified as valuable for waterpower purposes are also withdrawn from all forms of entry. Cancellations or revocations of Federal Power Commission permits or licenses do not cancel the withdrawal. If the Federal Power Commission finds that land withdrawn by a filing for a Federal Power Project does not have power value, it will issue an order vacating the withdrawal. This vacating order does not affect Reserves or Classifi-

cations made by the Geological Survey. Separate action, restoration or cancellation, depending on the type of withdrawal, is required.

Section 24 of this act provides for the disposal of land withdrawn for power purposes under this or other acts with the Government retaining the power rights.

Act of August 28, 1937 (50 Stat. 874)

Provides for the disposition of revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands in Oregon under the acts of June 9, 1916 (39 Stat. 218) and February 26, 1919 (40 Stat. 1179), respectively. About 60,000 acres of land in Oregon were classified as valuable for waterpower and withdrawn in Waterpower Designations.

Executive Order No. 9146, April 24, 1942 (7 F.R. 3067)

Delegated authority to withdraw land to the Secretary of the Interior. Superseded by Executive Order No. 9337.

Departmental Order No. 1694, May 15, 1942

Revoked by Departmental Order No. 2511.

Executive Order No. 9337, April 24, 1943 (8 F.R. 5516)

Delegated authority to withdraw or reserve lands and to modify or revoke withdrawals to the Secretary of the Interior with the approval of the Director of the Bureau of the Budget and the Attorney General and the head of any department or agency under whose jurisdiction the land was held. Superseded by Executive Order No. 10355 (17 F.R. 4831; 43 U.S.C.A. Supp. 141).

Departmental Order 2331, June 5, 1947

Required that Land Orders signed by the Secretary must be cleared by all interested Bureaus by letter to the Secretary, through the Director, Bureau of Land Management.

Departmental Order No. 2333, June 10, 1947 (12 F.R. 4025)

Authorized the Director of the Geological Survey to classify public domain lands as power sites and to modify or revoke such classifications.

Executive Order No. 10355, May 26, 1952 (17 F.R. 4831; 43 U.S.C.A. Supp. 141)

Delegated authority to withdraw or restore lands of the public domain to the Secretary of the Interior. Does not require approval of the Director of the Bureau of the Budget or the Attorney General, but does require approval of the head of any department or agency under whose administrative jurisdiction the affected lands might lie. Provides for referring disputes to the Director of the Bureau of the Budget.

Departmental Order No. 2511, March 3, 1949

Departmental Order No. 2583, August 16, 1950 (15 F.R. 5643)

Departmental Order No. 2708, November 7, 1952

These three Departmental Orders prescribe the mechanics of preparing Public Land Orders in the Bureau of Land Management.

Act of August 11, 1955 (69 Stat. 681)

Mining Claims Rights Restoration Act of 1955. Eliminates need for Federal Power Commission to make a determination concerning applications for entry, location, and patent for mining purposes.

Departmental Order of December 22, 1958

Revoked Departmental Order No. 2333 which delegated to the Director, Geological Survey the authority to classify public domain lands as power sites and to modify or revoke such classifications. This authority reverted to the Secretary of the Interior.



CITY AND BOROUGH OF SITKA

Legislation Details

File #: 19-234 Version: 1 Name:
Type: Item Status: AGENDA READY
File created: 10/15/2019 In control: City and Borough Assembly
On agenda: 10/22/2019 Final action:
Title: Approve the reallocation of Electric Fund capital projects
Sponsors:
Indexes:
Code sections:
Attachments: [Motion and Memo Marine Street N-1](#)

Date	Ver.	Action By	Action	Result
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Possible Motion

I MOVE to reallocate funding to increase the Marine Street N-1 capital project by \$1.7 million per the Interim Administrator's recommendation.



City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

MEMORANDUM

To: Mayor Paxton and Assembly Members
From: Hugh Bevan, Interim Municipal Administrator *HB*
Date: October 14, 2019
Subject: Electric Department Marine Street Substation Project

Background

Over eighty percent of electric customers are served from the forty year old Marine Street substation.

Failure of this facility would result in a complete power loss for those customers for an extended period, likely months.

In 2016 the Assembly approved an overall capital project plan for the Department which included a \$4.3M estimate for the Marine Street project.

It was funded by unspent bond funds and did not require new sources of funding.

The project will provide for a redundant substation immediately adjacent to the old facility which allows the Department to do much needed maintenance on the older systems.

Analysis

Several issues arose as the project construction progressed including:

- Subsurface rock was discovered that required geotechnical drilling to quantify the extent.
- Excavation at the edge of Erler Street revealed that the street was supported by logs and rocks that when removed required a retaining wall to support the street.
- The estimated electric loads for proposed new facilities on Japonski Island required upsizing of some of the new electric equipment.
- Inflation in the prices of electrical equipment is much higher than the overall national rate and costs have gone up since 2016.

Fiscal Note

The cost overruns described above result in a shortage of \$1.71M to complete the project.

These funds will come from a restructuring of the overall Electric Fund capital improvement program.

The restructuring of future projects does not touch the funds presently ear marked for the major Green Lake work that is in our future.

Closing Comments

It is apparent to me that the present Electric Fund cash flow does not support the magnitude of the future needs of the enterprise fund.

Significant cuts in the operating budget and/or rate increases will be necessary to direct more funds into the capital program while continuing to meet the Fund's debt repayment obligations.

The Assembly may want to consider hiring a consultant to review the entire financial structure of the Electric Fund and make independent recommendations that bring fresh eyes to Sitka's situation.

Additionally, I will meet with Electric Department staff and discuss project management strategies that include coming to the Assembly as soon as unexpected events occur.

Recommendation

1. Reallocate budgeted funds within the Electric Fund Capital Improvement Plan to increase the Marine Street Substation project budget from \$4.3M to \$6.1M and complete the work.
2. During the FY21 budget process carefully review and prioritize the Electric Department capital improvement program.

Project Balance 10/04/19				
Project #	Project Description	Total Approp minus Expenses and Encumbrances	Reappropriation for N-1	Project Balance After Reappropriation for N-1
63010	Green Lake FERC Compliance: Inspect and Upgrades	\$ 62,711.79		
80003	Feeder Improvements	\$ (28,604.00)		
90261	Island Improvements	\$ 44,983.50		
90410	SCADA System Enhancements	\$ 143,459.00		
90562	Green Lake Power Plant Improvements	\$ 109,012.00		
90610	Blue Lake FERC License Mitigation	\$ 231,749.00	\$ 181,749.00	\$ 50,000.00
90672	Medevejie Hatchery Transformer Replacement	\$ 103,507.29	\$ 103,507.29	\$ -
90717	Jarvis Street Improvements	\$ 17,192.34		
90718	Marine Street Substation Replacements	\$ 202.00		
90777	Meter Replacement Upgrading Meters	\$ 112,010.93		
90804	Blue Lake Powerhouse Conversion	\$ 300,000.00	\$ 290,000.00	\$ 10,000.00
90821	Capital for Fuel Conversions (Interruptibles) (Revenue in Red)	\$ 941,786.79		
90823	Marine St N-1 Design to New HPR North Sub	\$ 103,949.00		
	Marine St N-1 Additional Appropriation	\$ -		
90829	Harbor Meters	\$ 158,672.80		
90839	Green Lake Power Plant 35yr Overhaul - Phase 1 of 3	\$ 985,266.00		
90840	Green Lake Power Plant pre overhaul inspection	\$ 5,744.00		
90841	Jarvis Fuel System Repairs and Storage Tanks	\$ 1,115,542.00	\$ 965,542.00	\$ 150,000.00
90860	Cell Service Enhancement Project(Revenue in Red)	\$ (12,977.00)		
90868	69 kV Thimbleberry Trans Line Bypass	\$ 35,000.00		
90869	Blue Lake Auto start Back-up Diesel	\$ 70,000.00	\$ 60,000.00	\$ 10,000.00
90884	Blue Lake Project Completion	\$ 240,636.00	\$ 110,866.71	\$ 129,769.29

Sum of capital reappropriations for N-1 \$ 1,711,665.00