

Informational: Ordinance 2015-56 and meeting minutes

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2015-56

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA (CBS) AUTHORIZING THE TRANSFER/SALE OF A PORTION OF CITY AND BOROUGH OF SITKA'S "OLD CITY SHOPS" PROPERTY LOCATED AT 1306 HALIBUT POINT ROAD FOR AN AFFORDABLE HOUSING PROJECT THAT IS NOT SUBJECT TO COMPETITIVE BID AND IS AVAILABLE TO ALL REGARDLESS OF ETHNICITY TO THE SITKA COMMUNITY DEVELOPMENT CORPORATION (SCDC)

1. **CLASSIFICATION.** This ordinance is not of a permanent nature and is not intended to become a part of the Sitka General Code.

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

3. **PURPOSE.** On October 3, 2006 a majority of qualified voters of the municipality authorized the disposal of the "Old City Shops" property located at 1306, 1410 and 1414 Halibut Point Road for an affordable housing project without being subject to competitive bid, as previously required by Ordinance 2000-1584, and that will be available to all regardless of ethnicity. Sitka Community Development Corporation will gain ownership of Parcel 1306, along with durable affordability controls over the resale of any home built on that land, ensuring that the subsidized homes remain affordable for generations to come. Sitka has made both a social priority of promoting affordable home ownership and a fiscal priority of protecting the public's investment in affordable housing.

This ordinance authorizes and specifies the terms of the land transfer/sale; and 1) makes this parcel of CBS land available for an affordable home project; and, 2) ensures this parcel remains available for affordable housing in the future. The Municipality and the Sitka Community Development Corporation are cooperating in this pilot project. Parcels 1410 and 1414 will be transferred/sold by similar ordinance to SCDC at a future date, pending clear demonstration by SCDC that they are able to use such parcels consistent with the October 3, 2006 vote.

4. **ENACTMENT.** NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka that:

- A. The transfer/sale of the "Old City Shops" property located at 1306, Halibut Point Road to SCDC is hereby authorized.
- B. This transfer/sale will allow for a cooperative project that results in promoting permanently affordable home ownership by placing affordable homes on the market as proposed by the grantee Sitka Community Development Corporation. Therefore sale by noncompetitive bid is found to be appropriate, as was authorized by vote of the citizens in 2006.
- C. The sale price is \$1.00 for Parcel 1306. This price reflects that the Municipality significantly benefits through other means in this transaction.


- D. SCDC acknowledges that prior use of this parcel resulted in chemical contamination of the soil, and a 2008 study, adopted by the State of Alaska, Division of Spill Prevention and Response Contaminated Sites Program found, absent any newly discovered evidence in the future, the property was cleared for redevelopment. SCDC is fully informed of this report and assumes the cost of any further testing, if necessary, and assumes all risk associated with said contamination history of this parcel.
- E. Upon payment of purchase price the administrator is authorized to execute documents necessary to convey Parcel 1306 subject to final platting of the lot to ensure no encroachment on city assets or existing utility easements.
- F. The Buyer is responsible for all recording fees and costs.
- G. It is the intent of both parties that Parcels 1410 and 1414 will be similarly sold/transferred at a future date, pending clear demonstration by SCDC that they will be able to use Parcels 1410 and 1414 in a way consistent with the October 3, 2006 vote.

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 24th day of November, 2015.



Matthew Hunter, Deputy Mayor

ATTEST: 

Sara Peterson, CMC
Municipal Clerk

1st reading 11/10/15

2nd reading 11/24/15

A motion was made by Hunter that this Ordinance be APPROVED on second and final reading. The motion PASSED by the following vote.

Yes: 6 - McConnell, Hunter, Swanson, Miyasato, Eisenbeisz, and Potrzuski

No: 1 - Guevin

L ORD 15-55

Repealing Sitka General Code at Chapter 2.32 entitled "Strategic Planning Commission"

Guevin stated he was excited to see what ideas the Planning and Community Development Department had for the Comprehensive Plan Update.

A motion was made by Swanson that this Ordinance be APPROVED on second and final reading. The motion PASSED by the following vote.

Yes: 7 - McConnell, Hunter, Swanson, Miyasato, Eisenbeisz, Guevin, and Potrzuski

XII. NEW BUSINESS:

M ORD 15-56

Authorizing the transfer/sale of a portion of City and Borough of Sitka's "Old City Shops" property located at 1306 Halibut Point Road for an affordable housing project that is not subject to competitive bid and is available to all regardless of ethnicity to the Sitka Community Development Corporation (SCDC)

Mayor McConnell recused herself stating she was the Executive Director of the Sitka Community Development Corporation (SCDC).

Randy Hughey, President of SCDC, thanked the Assembly for their support and stressed the positive impact a community land trust would have on affordable housing in Sitka.

A motion was made by Swanson to AMEND line 62 to insert the following language after Parcel 1306: subject to final platting of the lot to ensure no encroachment on city assets or existing utility easements. Section E would therefore read, "Upon payment of purchase price the administrator is authorized to execute documents necessary to convey Parcel 1306 subject to final platting of the lot to ensure no encroachment on city assets or existing utility easements." The motion to AMEND PASSED by the following vote.

Yes: 6 - Hunter, Swanson, Miyasato, Eisenbeisz, Guevin, and Potrzuski

Recused: 1 - McConnell

Senior Planner, Michael Scarcelli, explained if the ordinance was approved, the sale would occur first followed by a multi-step platting process for Parcel 1306.

The Assembly discussed whether or not the amendment was a material change.

A vote was taken to determine if the Assembly felt the amendment resulted in a material change. A majority of the Assembly determined the amendment was not a material change.

No: Swanson, Miyasato, Potrzuski, Guevin, Hunter

Yes: Eisenbeisz

Recused: McConnell

Miyasato and Potrzuski thanked the SCDC for bringing this project forward and expressed the need for affordable housing.

Eisenbeisz spoke in support of the project, however, wondered what protections there were if the land was not used for the purposes indicated. Municipal Attorney Robin Koutchak noted the protection was within the SCDC bylaws. Municipal Administrator, Mark Gorman, added that once the land was transferred to SCDC and if for some reason SCDC were to find a mechanism to put the land on the market to the highest bidder, the City would not have the ability to stop that. He reiterated, the protection against that happening resided in the SCDC bylaws.

Hunter stated in past worksessions with the community land trust consultant it was noted there would be a 99 year covenant on the property preventing anyone from selling for 99 years. The property would remain a part of the community land trust. When people sold their homes, the title to the land would remain in the trust enabling them to leverage their 25% gain in equity. The balance would go to the trust to ensure long-term affordability. Hunter spoke in favor of the progression of sales, felt it was a balanced risk and good partnership.

Koutchak added that the risk to the City was also minimized by selling only one parcel at a time, not all three.

Guevin viewed the project as a partnership between the City and SCDC and commented it was a mechanism by which Sitka might be able to create more affordable housing, including rentals.

Hughey noted SCDC was reliant on the financial support of the Rasmuson Foundation. He added the Foundation had offered to assist with completion of a grant application for the underground work associated with the project and felt there was continued support throughout the state for the success of a community land trust.

Hunter stated an email had been received from the veterinary clinic adjacent to the subject property offering their support for the project. He noted upland property owners had expressed concerns about hillside stabilization. Hunter spoke to past assurances that indicated any future plans would have engineered retaining walls to protect the hillside.

A motion was made by Miyasato that this Ordinance be APPROVED on first reading as AMENDED. The motion PASSED by the following vote.

Yes: 6 - Hunter, Swanson, Miyasato, Eisenbeisz, Guevin, and Potrzuski

Recused: 1 - McConnell

N ORD 15-57

Amending Title 7 of the Sitka General Code by creating a new chapter 7.20, entitled "Marijuana Advisory Committee" that would establish the Marijuana Advisory Committee to serve as a Local Regulatory Authority with staff support from the Office of Planning and Community Development starting immediately and ending February 24, 2016 or until a permanent body is designated

Levi Albertson urged the Assembly to support the ordinance and offered it was in the best interest of the municipality to designate the Marijuana Advisory Committee as the Local Regulatory Authority for the interim.

Suzan Hess encouraged the Assembly to carefully consider those individuals who served on the Committee and recommended choosing individuals who had an

XI. UNFINISHED BUSINESS:**C ORD 15-56**

Authorizing the transfer/sale of a portion of City and Borough of Sitka's "Old City Shops" property located at 1306 Halibut Point Road for an affordable housing project that is not subject to competitive bid and is available to all regardless of ethnicity to the Sitka Community Development Corporation (SCDC)

Mayor McConnell recused herself stating she was the Executive Director of the Sitka Community Development Corporation (SCDC).

Speaking as Executive Director of SCDC, McConnell offered to answer any questions the Assembly might have.

Michelle Putz spoke in support of the ordinance. Joe D'Arienzo suggested the City and Borough of Sitka (CBS) have first right of refusal.

McConnell clarified that SCDC would go through a subdivision process and each home would be on its own lot.

A motion was made by Eisenbeisz to POSTPONE this Item until December 8 in order to conduct research on ways to protect public lands. The motion FAILED by the following vote.

Yes: 1 - Eisenbeisz

No: 4 - Hunter, Swanson, Miyasato, and Guevin

Absent: 1 - Potrzuski

Recused: 1 - McConnell

McConnell spoke against postponing second reading of the Ordinance. She stated there were sections of the ground lease and articles of incorporation that addressed what would happen to the land if SCDC were to cease to exist. She added the ground lease was used nationwide, a recommended document used in community land trusts (CLT) around the country and customized to meet the needs of each community. McConnell felt confident these documents protected the buyer, seller, bank, CLT, and CBS.

Michelle Putz spoke in opposition to postponement and felt there were safeguards in place.

Eisenbeisz stated this was a worthy project, however, the CBS was disposing of public land and he wanted to make sure there were safeguards in place. In particular, what if SCDC were unable to come through with funding and nothing was built.

Guevin, while in support of the project, agreed there needed to be additional safeguards in regards to 1) SCDC's ability to complete the project, and, 2) if for some unforeseen reason the Corporation dissolved what would happen to the land. Guevin wished to see the City have the right of first refusal. He stated the Assembly needed to do their due diligence to ensure the land was permanently set aside for affordable housing.

Attorney Robin Koutchak stated reversionary clauses were frowned upon because

they acted as a cloud on the title. Koutchak mentioned another alternative was right of first refusal, however, because of the way SCDC's articles of incorporation were written, the home owner would have right of first refusal. Koutchak added another option would be to add plat notes during the subdivision process.

Miyasato spoke against postponing the Ordinance. While he appreciated the issues raised, he stated there was an opportunity to do something with the property and generate revenue.

Randy Hughey, President of SCDC, stated SCDC was applying for a tier 2 Rasmuson grant. The deadline was the end of February. If they missed the February deadline, their next opportunity to apply for the grant would be November 2016. He urged the Assembly to move forward. In response to a question by Guevin, Hughey noted it was unlikely the SCDC would ever transfer the land to a private entity.

Mark Gorman, Municipal Administrator, stated staff had confidence in the Ordinance and SCDC. Koutchak agreed.

Hunter noted there was risk, however, he had faith in those leading the organization and their dedication to the community.

Eisenbeisz shared his concern of SCDC not having funding for the project, concern over the shared public space, and potential sale for profit. He wished SCDC well and hoped their project would be a model used by other communities.

Miyasato thanked SCDC for their work and noted this was a worthy project.

Guevin wished SCDC success and believed they were committed to maintaining the property for affordable housing and in the public domain.

A motion was made by Miyasato that this Ordinance be APPROVED on second and final reading. The motion PASSED by the following vote.

Yes: 5 - Hunter, Swanson, Miyasato, Eisenbeisz, and Guevin

Absent: 1 - Potrzuski

Recused: 1 - McConnell

D ORD 15-57

Amending Title 7 of the Sitka General Code by creating a new chapter 7.20, entitled "Marijuana Advisory Committee" that would establish the Marijuana Advisory Committee to serve as a Local Regulatory Authority with staff support from the Office of Planning and Community Development starting immediately and ending February 24, 2016 or until a permanent body is designated

Levi Albertson, Chair of the Marijuana Advisory Committee, provided an update to the Assembly and spoke in support of the Ordinance.

A motion was made by Swanson that this Ordinance be APPROVED on second and final reading. The motion PASSED by the following vote.

Yes: 6 - McConnell, Hunter, Swanson, Miyasato, Eisenbeisz, and Guevin

Absent: 1 - Potrzuski

XII. NEW BUSINESS: