



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*

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

Monday, April 22, 2019

6:00 PM

Assembly Chambers

SPECIAL MEETING

I. CALL TO ORDER

II. FLAG SALUTE

III. ROLL CALL

Present: 6 - Eisenbeisz, Knox, Bean, Wein, Paxton, and Mosher

Telephonic: 1 - Nelson

IV. PERSONS TO BE HEARD

None.

V. NEW BUSINESS:

- A **19-088** Consideration of an appeal filed by the Gary Paxton Industrial Park Board of Directors of the "Notice of Condemnation and Order to Vacate" dated January 21, 2019, with respect to the "Utility Wharf" located in the Gary Paxton Industrial Park (possible executive session - if needed)

Municipal Attorney Brian Hanson spoke to the process for the appeal and reminded the Assembly was acting as a quasi judicial body. He recommended the Assembly make a motion as such.

A motion was made by Bean to go into a quasi judicial action as a board of appeal. The motion PASSED by the following vote.

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

Appellant

Scott Wagner, Chair of the Gary Paxton Industrial Park Board of Directors reviewed the notice of condemnation, stated reasons for condemnation, and told of the grounds for appeal: 1) A structural assessment had not been completed to determine the extent of any of the stated concerns. A cursory investigation by the CBS and a brief inspection by Reid Middleton in 1999 did not consist of a complete conditional assessment of the structure. Condemnation notice appeared to have been issued based off of speculation, 2) Condemnation notice was issued without a full understanding of future intended use. The dock was used in 2017 as staging for the GPIIP Dock by Turnagain Marine under contract by CBS, 3) It appeared that the Uniform Code of the Abatement of Dangerous Building (UCADB) was more appropriate for upland structures rather than marine structures, 4) The CBS had set precedent by allowing use and sales of similar structures located at the GPIIP that were not condemned, 5) Similar dock structures located in SE Alaska with structural assessments had not been condemned, 6) The CBS currently had other municipal owned structures that conditional assessments had been performed that outlined deterioration, decay, or inadequacy of the structure that were still being used and had not been condemned.

Assembly members asked questions of Wagner with respect to the timeline provided, if there had been other buildings condemned at the Park, load bearing weights, and prior instances of dock use. Wagner reviewed the timeline. Lee Hanson, of Hanson Maritime, said he had approached the GPIIP Director in mid-October 2018 to inquire about purchasing the Utility Dock. Hanson spoke to the GPIIP Board in late October and expressed a desire to purchase the dock. The Board requested Hanson submit a proposal. On December 3, 2018, Hanson presented a proposal to the Board during which City staff discussed whether or not GPIIP property sales needed a competitive bid process and delayed decision. In mid-December the Board was informed future property sales would need to go through the competitive bid process. The Board approved to release a RFP for private sector development of the Utility Dock. On January 21, 2019, an addendum was issued which provided Notice of Condemnation and Order to Vacate Utility Wharf. The only response received to the RFP was from Hanson Maritime. On January 29 the Board met to evaluate the results of the RFP, selected Hanson Maritime and approved a motion to appeal the notice of condemnation of the Utility Dock. Hanson stated he was not arguing that the dock was in good shape and stated in fact, it was quite the opposite, and noted it was common to have docks refurbished. Hanson believed required adherence to the International Building Code to be incorrect but rather an enforcement tool.

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Municipal Attorney Brian Hanson suggested there was misunderstanding as to what the condemnation and order to vacate meant. Hanson stated the Building Official had performed an assessment and found safety and property concerns. He stated the City wanted everyone to vacate until the structure had been evaluated by a structural engineer. Hanson urged the Assembly to uphold the condemnation, go forward with the sale, and have terms in the sale agreement that an assessment be performed by a qualified structural engineer. From that assessment, Hanson Maritime would be required to make repairs, if any, in order to make the structure safe and able to be occupied. Hanson stated there were reports from 1977, 1999, and 2000 showing serious problems with the structure and that it should not be used. Hanson spoke to the grounds for appeal mentioned by the appellant. Pat Swedeen, Building Official, came forward and spoke to the process he had followed, code applicability and argument for the appeal: the structure fell under the jurisdiction of the CBS Building Department and the ordered vacation of the utility wharf was appropriate per the CBS's adopted codes. Assembly members asked questions of Swedeen including whether

assessments had been performed on other structures in the Park and if there had been other condemnations. Wein wondered of the legality of selling something as is where is. Municipal Attorney Hanson noted it was legal however did not preclude from liability. Hanson reiterated the actions taken by the Building Official were not to be deemed as trying to stop the sale but instead trying to make repairs and ensure safety. Hanson reminded again there were no code provisions on how to repair the utility wharf that were being imposed, instead it was about the Building Official determining there was an unsafe condition that needed to be assessed by a qualified structural engineer and then repairs made. Hanson asked Lee Hanson if it was his intention to seek an assessment by a qualified structural engineer to determine what was necessary to have a safe dock. Lee Hanson responded yes, and in response to further questioning confirmed with an assessment he would understand what repairs were needed. Swedeen stated the structure fell under the Building Code, repairs would require a building permit and be under the Building Department's purview.

Assembly Deliberation

Bean wondered if the appeal were granted, and notice to vacate removed, if there was a timeline in which another notice to vacate could be issued. Municipal Attorney Hanson stated once the condemnation was removed it would go away and he wasn't aware of a timeline stipulating constraints on further notices. Hanson stated it was his understanding, once the money was appropriated, the GPIB Board would hire outside counsel and work with him to implement provisions - e.g. qualified structural engineer, repairs, conflicts with tidelands. Knox reiterated whether or not the condemnation was removed didn't change the contracting process and wondered why the condemnation be removed. Lee Hanson stated he was not interested in the property with the condemnation on it. Knox stated he did not want to see economic development hindered, however, the Building Official was there for a reason. Wein wished to see the project move forward.

A motion was made by Bean to grant the appeal to Hansen Marine (Hanson Maritime) and remove the condemnation order, and direct the municipal attorney to include a stipulation in the sale document which will include Hansen Marine (Hanson Maritime) have a certified engineers report, of its choosing, with recommended repairs if any; and report back to the city on a quarterly basis until needed work, if any, is completed. The motion PASSED by the following vote.

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

VI. PERSONS TO BE HEARD:

Scott Saline spoke to the Silver Bay Seafoods contract and precedent set for Lee Hanson. Eric Van Cise spoke in support of Lee Hanson and his proposed project.

Paxton encouraged attendance at the State of Sitka's Economy hosted by SEDA on April 24.

VII. ADJOURNMENT

A motion was made by Knox to ADJOURN. Hearing no objections, the meeting ADJOURNED at 8:30pm.

ATTEST: _____
Sara Peterson, MMC

Municipal Clerk