



CITY AND BOROUGH OF SITKA

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

Minutes - Final

City and Borough Assembly

*Mayor Steven Eisenbeisz
Deputy Mayor Thor Christianson,
Vice Deputy Mayor Valorie Nelson,
Kevin Knox, Kevin Mosher, Crystal Duncan, Rebecca
Himschoot*

*Municipal Administrator: John Leach
Municipal Attorney: Brian Hanson
Municipal Clerk: Sara Peterson*

Tuesday, January 26, 2021

6:00 PM

Assembly Chambers

REGULAR MEETING

I. CALL TO ORDER

II. FLAG SALUTE

III. ROLL CALL

Nelson joined by phone at 6:40pm.

Present: 7 - Christianson, Knox, Mosher, Nelson, Eisenbeisz, Himschoot, and Duncan

IV. CORRESPONDENCE/AGENDA CHANGES

[21-017](#)

Reminders, Calendars, and General Correspondence

No agenda changes.

V. CEREMONIAL MATTERS

None.

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

Sitka Tribe of Alaska Tribal Chairman Lawrence Widmark told of elected officers, committees, and relayed the Council had approved 2021 Legislative Priorities.

VII. PERSONS TO BE HEARD

Richard Wein told of an article by Linda Behnken and encouraged citizens to read a book.

VIII. CONSENT AGENDA

Richard Wein spoke in support of Resolution 2021-02 and in opposition to Ordinance 2021-01.

A motion was made by Mosher that the Consent Agenda consisting of items A, B, C, & D be APPROVED. The motion PASSED by the following vote.

Yes: 6 - Christianson, Knox, Mosher, Eisenbeisz, Himschoot, and Duncan

Absent: 1 - Nelson

- A** [21-001](#) Approve the minutes of the December 17, December 22, and January 12 assembly meetings
This item was **APPROVED ON THE CONSENT AGENDA.**
- B** [21-014](#) Approve a liquor license renewal application for Hector Barragan dba Pizza Express at 1321 Sawmill Creek Road Suite H & I
This item was **APPROVED ON THE CONSENT AGENDA.**
- C** [RES 21-02](#) Authorizing a \$75,000 grant application to the Department of Homeland Security and Emergency Management (DHS&EM) 1st and final reading
This item was **APPROVED ON THE CONSENT AGENDA. (1st and final reading)**
- D** [ORD 21-01](#) Making supplemental appropriations for fiscal year 2021 (*Potential Sale Expense Former Sitka Community Hospital Site*)
This item was **APPROVED ON THE CONSENT AGENDA. (1st reading)**

IX. BOARD, COMMISSION, COMMITTEE APPOINTMENTS

None.

X. UNFINISHED BUSINESS:

- E** [20-244](#) Approve the issuance of a Request for Proposal for private sector development of a haul out at the Gary Paxton Industrial Park (*final decision postponed at December 22, 2020 assembly meeting and then again on January 12, 2021*)
- A final decision on this item was postponed at the December 22, 2020 assembly meeting and then again on January 12, 2021 after amendments were approved. Mayor Eisenbeisz reminded the pending motion was to direct the Municipal Administrator to issue the Request for Proposal for private sector development of a haul out at the Gary Paxton Industrial Park as amended.
- Christianson explained at the January 12 meeting it was suggested further revisions be made to indicate the preference for a lease option over a sale option. A small group had met and developed language for the Assembly to consider.

A motion was made by Christianson to 1) add to Section C, Task 1: Ownership Criteria “Long term leases or purchase options should include a schedule of development benchmarks. The CBS will negotiate performance benchmark development criteria, including infrastructure construction and operational performance, to ensure the haul out will meet the needs of the community and fleet. Purchase options should expect to enter into a lease and meet performance benchmarks before execution of a sale. Purchase proposals should include assurances and/or terms and conditions, along with support for their legal enforceability, that the facility will remain a marine service facility in perpetuity or, at least, in the long term.” and 2) add to Section H, 3. Rates & Fees Bid “The CBS Assembly prefers long term leases that match the anticipated life of the proposed marine facility(s), but will accept all proposals including ownership options. Scoring will be weighted towards lease rates or purchase prices that provide the best long term benefits to the community.” The amendment PASSED by the following vote.

Yes: 6 - Knox, Eisenbeisz, Himschoot, Mosher, Christianson, and Duncan

Absent: 1 - Nelson

Richard Wein spoke in opposition to the amendment.

Duncan wondered of scoring and weighted options. Municipal Administrator John Leach explained scoring for "Rates & Fees Bid" was currently set at 1 to 20, however, reminded the Assembly could amend that number. Leach said he had been asked if once the evaluation team brought forward a recommendation to the Assembly, what the risk would be if the Assembly chose a proposal who had not scored the highest or rejected the highest scored proposal. Municipal Attorney Brian Hanson explained the Assembly had the right to not approve but to change who they awarded to would be problematic. If that were to happen his recommendation would be to go into executive session to discuss reasons and associated risks.

A motion was made by Knox to change scoring in “Section H Evaluation Criteria and Selection Process Rates & Fees Bid” from 1-30 (previously 1-20). The amendment PASSED by the following vote.

Yes: 6 - Christianson, Himschoot, Duncan, Knox, Mosher, and Eisenbeisz

Absent: 1 - Nelson

From the public, Jeremy Serka and Richard Wein spoke in support of the amendment.

The main motion as amended PASSED by the following vote.

Yes: 6 - Himschoot, Knox, Duncan, Mosher, Eisenbeisz, and Christianson

Absent: 1 - Nelson

F [21-015](#)

Approve Assembly direction given in January 12 executive session regarding the former Sitka Community Hospital closeout (*motion provided in packet*)

Richard Wein stated transparency was important, wondered how much was being written off and a general breakdown.

A motion was made by Himschoot to, in accordance with SGC 4.40.040, write-off certain unpaid accounts with Sitka Community Hospital, hereby deemed to be uncollectible or not in the best interests of the municipality to continue to collect, as identified and considered in Executive Session at the regular meeting of the Assembly on January 12, 2021, and direct the Municipal Administrator and Finance Director to take the necessary action to write-off those unpaid accounts as appropriate under SGC 4.40.040, and, further, direct that the specifics of those accounts remain confidential to the extent and as required by law. The motion PASSED by the following vote.

Yes: 6 - Christianson, Knox, Mosher, Eisenbeisz, Himschoot, and Duncan

Absent: 1 - Nelson

XI. NEW BUSINESS:

G [21-016](#)

Consider appeal of denial of refund of sales tax paid on home construction by Andrew and Becky Friske of 420 Kramer Avenue

Nelson joined at 6:40pm.

Municipal Attorney Brian Hanson provided procedural advice. He reminded the Assembly was sitting as a quasi-judicial body. Under those circumstances, members were obligated to disclose any ex-parte communication with the appellants. Mosher stated he attended the same church as the appellants, however, they had not spoke of the matter. Mayor Eisenbeisz ruled Mosher had no conflict.

Hanson explained Sitka General Code (SGC) allowed people who had constructed a single family/duplex dwelling to, within a two-year period of a building permit, seek a refund of sales tax paid for construction of the dwelling. If the two-year period had expired, no discretion was given to the Finance Department to waive the deadline. Hanson said SGC 4.09.110(E) provided for an appeal to the Assembly. Hanson stated the decision before the Assembly was to determine whether to waive the deadline for equitable reasons.

Andrew and Becky Friske explained they were requesting a variance for the refund of sales tax paid on home construction materials. They stated their home had been hit by the Kramer Avenue landslide in 2015 and therefore their completion date was well over two years. The Friske's told of their work with the City and Borough of Sitka in 2017/18 to create the "Critical Areas Ordinance" which then gave them the opportunity to continue building. They had submitted the required critical ordinances waiver which had been considered a "new" building permit, however, in actuality a second building permit had not been issued.

Finance Director Melissa Haley stated due to SGC the Finance Department was unable to move forward because of the deadline issue.

A motion was made by Knox to grant the appeal as equitable circumstances and reasons exist which warrant a determination that the Friske's application for a sales tax refund is timely. The motion PASSED by the following vote.

Yes: 7 - Christianson, Knox, Mosher, Nelson, Eisenbeisz, Himschoot, and Duncan

XII. PERSONS TO BE HEARD:

Richard Wein thanked the Assembly for their decision on the Friske appeal and spoke to concerns with the haul out RFP.

XIII. REPORTS

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

Mayor - Eisenbeisz reported on a meeting he had with lobbyists Blank Rome and spoke to the Alaska Municipal Conference of Mayors monthly meeting.

Administrator - Leach stated CBS FY22 Legislative Priorities would come before the Assembly February 9.

Attorney - Hanson relayed he was working on an in-depth analysis of issues at the Gary Paxton Industrial Park.

Liaison Representatives - Christianson reported on the Planning Commission and Emergency Operations Center, Knox on the Port and Harbors Commission meeting, Duncan on the Health Needs and Human Services Commission, and Himschoot on the School Board.

Clerk - Peterson told of upcoming meeting dates and reviewed vacancies on the board and commissions.

XIV. EXECUTIVE SESSION

None.

XV. ADJOURNMENT

A motion was made by Christianson to ADJOURN. Hearing no objections, the meeting ADJOURNED at 7:10 p.m.

ATTEST: _____

Sara Peterson, MMC
Municipal Clerk