

**Minutes of Regular Assembly Meeting
Held April 24, 2012**

Mayor Jeremy Maxand called the regular assembly meeting to order at 7:00 p.m., April 24, 2012, in the Council Chambers. Assembly Members Jack, Privett, McConachie, and McCloskey were present. Assembly Members Stokes and Symons were absent. Borough Manager Timothy Rooney and Borough Clerk Christie Jamieson were also in attendance.

Pledge of Allegiance was led by Assembly Member Bill Privett.

Invocation was given.

Community Presentation – Presentation and Honoring of the Thomas bay Power Authority and the City of Wrangell History, given by Paul Southland.

Presentation on the First Five Years of Life, PowerPoint given by Krissie Smith and Julie Decker.

AMENDMENTS TO THE AGENDA:

Moved by McConachie, seconded by McCloskey, to amend the agenda of April 24, 2012, by adding to New Business, as item #13b, Acceptance of the Retirement Date for Borough Clerk Christie Jamieson, and move the rest of the items in sequence further down on the agenda. Motion approved unanimously by polled vote.

CONFLICT OF INTEREST:

None.

CONSENT AGENDA:

Moved by Jack, seconded by McConachie, to approve Consent Agenda Items marked with an asterick () 6a, 7a, 7b, 7c, 13j. Motion approved unanimously by polled vote.*

APPROVAL OF MINUTES:

*6a Minutes of Board of Adjustment held March 22, 2012; and Assembly regular meeting held March 27, 2012 were approved as presented.

COMMUNICATIONS:

*7a Minutes of regular Port Commission meeting held March 13, 2012

- *7b Department of the Army - Corp Permit Modification – POA-2010-656-M1-Wrangell Medical Center Project Location
- *7c School Board Action from regular meeting held April 16, 2012

BOROUGH MANAGER'S REPORT:

Borough Clerk Jamieson read into the record per Assembly Member McCloskey's request from the Borough Manager's report on Wrangell Medical Center Replacement Project as follows:

There are several items regarding project funding that should be cleared up. The first is concerning the construction loan or interim financing for the project. The status of the interim financing as of Thursday, April 19, 2012, according to Mr. Alan Richman with Innovative Capital, is as follows:

- First Bank will not be participating in any interim financing because of concerns with the recall petition.
- Alaska Pacific Bank backed out because the transaction is "just too complicated for them".
- Wells Fargo, First National Bank of Alaska, Commerce Bank of Washington, and Municipal Capital Markets have each expressed concerns about the recall petition, the uncertainty regarding a potential recall vote and its impact.

According to Mr. Richman, "It would be wrong to believe that this recall doesn't negatively impact their respective underwriting efforts. They clearly are uneasy at the prospect of a new hospital board and specifically are quite concerned over the possibility of new hospital management. While they haven't turned down this deal, they haven't issued a written response either. It is likely that the construction lenders' responses and USDA will be negatively impacted by recall efforts. It is just a question of how badly and when do we get this news." It is important to note, that representatives of USDA have previously communicated in a meeting attended by both Borough and WMC personnel that they would provide the interim financing if it was not obtained from a financial institution.

The second concerns the USDA's commitment to loan the funds for the project. Staff had discussions with Ms. Merlaine Kruse the week of April 9, 2012 in which Ms. Kruse expressed concern regarding the recent recall petitions that were filed for 8 of the 9 WMC Board members. Ms. Kruse explained that a change of a majority of the WMC Board may be considered to be a "change of materials" in the letter of conditions originally issued by USDA (attached for your information and review) causing them to reconsider the award of the loan. I then asked Ms. Kruse if she could communicate that concern in writing, because if that was the case, it would certainly be something that should be communicated to the citizens of Wrangell. Ms. Kruse responded that she would have to check with the national office on what type of concerns and language they could and could not communicate in a letter. As of the time of the writing of this report, I have not received a letter expressing these concerns.

If you have questions and/or concerns about financing of this project, please let me know so that I may put you in touch with Mr. Richman directly. – Tim Rooney, Borough Manager

Borough Manager Rooney said that the next meeting on the Downtown Revitalization Project would be the afternoon of April 26th at 4:30 p.m. at City Hall. He expressed that the draft budget for FY 2013 would be distributed on May 15th.

- Administrative – Budget FY 2012/2013; Lemonade Day – May 5, 2012; WMC Replacement Project; Downtown Revitalization Plan; Bypass Mail; IBEW Negotiations; Coffee with the Mayor

- Capital Projects – City Dock Rehabilitation; Community Center Renovations; Etolin Street & Medical Campus Utilities; East Channel Paddle Craft Trail; Farmer's Market/Community Garden; Marine Service Center; Power Plant SCADA System
- Electric Department – Electric Line Relocation; LED Light Installation
- Public Works – Spring Cleanup and Free Dump Days Schedule
- Harbor Department – Vendor Meeting

BOROUGH CLERK'S FILE:

- Upcoming Dates to Remember
- Alaska Constitution – Ordinance No. 1 – Ratification of Constitution

MAYOR/ASSEMBLY REPORTS AND APPOINTMENTS:

10a Reports by Assembly Member

Assembly Member Jack said at the last hospital board meeting, there were two letters read into the record supporting Dr. Salard; the board planned on having another OMA class, only this time having it in conjunction with the borough assembly as a workshop so everybody could participate.

Mayor Maxand said we said that we would bring that back; direct staff to coordinate with the hospital.

The borough clerk was directed to coordinate the next OMA class between the Borough Assembly and the WMC Board.

Assembly Member Privett said we just went through a drill extending the hours of working on main street; do not see this extra crew and all that; I realize that this is a state job but it is our street; there are a lot of unhappy folks on main street with the progress being made; extra crews are not here; we are just now finally getting that going; as a business owner downtown; I find it disappointing, moving this project in an untimely manner; there are a lot of businesses who have lost revenue this year; there are very upset people; if I had a retail business downtown, it would be very upsetting.

Borough Manager Rooney said the back side of the island is not warm; pour to happen; they did work last weekend; progress is being made at this point; I know it will get better.

Mayor Maxand said people showing up has put the fire under them; we have to keep constantly on top of them; keep on the State and the contractors; we've extended their

hours. The mayor continued to state that the next SEAPA meeting would be on Thursday from 9 to 5pm at the Alaska Sourdough Lodge if you are interested in attending.

10b Proclamation for Municipal Clerks Week (April 29-May 5, 2012)

10c Appointments to the Economic Development Committee and Planning & Zoning Commission – there were no letters received and advertising will continue.

10d Inter-Island Ferry Authority At-Large Board Seat Vacancy
Mayor Maxand said the borough manager is interested in sitting on that board. There were no objections from the remaining assembly members.

10e Discussion and Appropriate Action regarding a Charter and Code Review
Assembly Members Privett, McConachie, and Jack expressed their interest in being on the committee.

Moved by McConachie, seconded by Privett, to appoint a committee of five community members to act as a charter and code review committee, as such time as that task is complete. Motion approved unanimously by polled vote.

PERSONS TO BE HEARD:

Judy Allen, 8 ¾ mile Zimovia Highway; talked about leadership with the City & Borough of Wrangell and the Wrangell Medical Center Board.

Mark Robinson, 8.5 mile Zimovia Highway, said he asked Mr. Rea to contact Merlene Kruse on Saturday, April 21, regarding the potential impact of their funding if the recall election of eight (8) elected board members moves forward and goes through. USDA could possibly fund a long-term loan if no other financial institutions come forth with interim financing.

Mayor Maxand said the borough manager's report and McCloskey's request was read into the record.

Mark Robinson said here is a response from Merlene Kruse, was received on April 23rd, stating hi to all; we have some deep concerns about the hospital due to the petitions of recall of the board members; long term loan package is a performance bond; due to the viability of the hospital over the next four years and the success of the hospital, it is unlikely USDA will provide construction financing; that may clear things up a bit, potential impact of things that you may vote on tonight; I will stick around if you like if you have any; nothing specific; other than deep concerns.

Ernie Christian, 9.2 mile Zimovia, said he read through the borough manager's draft regarding the discussion and action on the USFS Scoping Notice, Item #13d. Christian recommended collaboration instead of the word coordination. Christian said the City passed a resolution a couple years back, listing five goals.

Mayor Maxand said good comments; we can add those in; the USFS is working with the staff.

UNFINISHED BUSINESS:

None.

NEW BUSINESS:

13a PROPOSED RESOLUTION: A RESOLUTION OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, DIRECTING THE BOROUGH CLERK TO SCHEDULE A SPECIAL ELECTION ON JUNE 12, 2012 ON THE QUESTION OF WHETHER TO RECALL JIM NELSON, LURINE MCGEE, SYLVIA ETTEFAGH, MARK ROBINSON, LINDA BJORGE, JAKE HARRIS, DELORES NORMAN AND LEANN RINEHART FROM THE OFFICE OF BOARD MEMBER OF THE WRANGELL MEDICAL CENTER

Borough Attorney Robert Blasco was participating telephonically.

Moved by Privett, seconded by Jack, to adopt resolution.

Mayor Maxand said you should of all received a memo from Mr. Blasco concerning the question that was posed to him about what exactly is our role in this vote; it seems a bit counter intuitive to have a vote by an assembly approving a recall that has been petitioned by the public and it has gone through the process; I wanted to ask and get some clarification from him what exactly the purpose is of us voting on this; I want to know myself; is a formality, or is a vote that has to do with the feelings about the recall, and so there was that memo; I also wanted to have Bob available to answer any questions and Bob if you want to elaborate or reiterate that memo, feel free to do that as well but I wanted to have the assembly members to at least have the opportunity to ask questions and get some clarification on this because it is a serious issue.

Blasco said he does not have anything else; I think that is a clear position on what the resolution is for.

Assembly Member Privett reads the memo from Borough Attorney Blasco dated April 23, 2012, into the record:

We understand there is a question as to what the Assembly is voting on when presented with the Resolution. The Resolution only directs the Borough Clerk to schedule a special election in accordance with State law, the Wrangell Borough Code and with preclearance from the US Department of Justice. The vote of the Assembly on the Resolution is not a comment for or against the petitions.

Assembly Member Privett said that is what he thinks; I would like to point that out to the public as well; I agree with the comments from Mark Robinson and Judy Allen; it is a very serious issue but I think also the people have spoken and they have followed the legal resource that they have; unfortunately this is a bad thing in one sense but a good thing in the other; that is the fact, when people are frustrated with their elected officials, they do have recourse, and this is their recourse; now whether or not people will be recalled and the special election is up to the people to get out and vote; but as far as me not supporting the folks, I would find it difficult for any of us not to support this resolution, personally.

Assembly Member Jack said he had one question about the ordinance itself; the way he understand it, is that we "shall" do this, which is mandatory, which implies because it is a requirement of the assembly to put forth resolutions and ordinances, that is what we are doing, just putting this forth to go forward with an election, and not any approval or disapproval on any part of ours; is that correct.

Blasco said yes, that is why I believe the memo that I sent today says.

Assembly Member Jack said part of his question was, the ordinance says we shall do this; it kind of implies that we have to do it because it is part of our job.

Blasco said I'm not sure where you are referring to the "shall"; the resolution is that the Borough Assembly shall direct the Borough Clerk to schedule the special election; I don't think that's optional if that is what you are asking from the standpoint from federal, state and the Wrangell Code.

Assembly Member Jack said he was actually referring to the ordinance itself under Title 2; I think its 2.04.120 (d); I think that is what it is; it specifics how this is to go forward at this point; it says that the assembly shall; that to me implies that it is mandatory and it's not an object, may we or may we not.

Assembly Member McConachie said you are talking about an ordinance within our Code.

Assembly Member Jack said that is correct; in the ordinance itself, under recall.

Assembly McConachie said he had two questions for the borough attorney. He was reading through having exparte contact between members of this body and members of the recall petition, and that they should be divulged, and because if they aren't divulged, then any action we do here, can be subject to be voided; that is an important issue; what is your take on that please.

Blasco said he didn't hear the first part of the question.

Assembly Member McConachie repeated his question.

Blasco said he does not have any of those stats; that question has never been raised to me; nobody has presented any facts about exparte or relation to Title 29, to give a hypothetical answer.

Mayor Maxand said are you afraid that somebody on this assembly having a conversation with somebody who is a petitioner, a sponsor.

Assembly Member McConachie said yes.

Mayor Maxand said I will, I'm sure that is what you are drilling down to, I had a conversation with Gary Allen and Mike Ottesen, Sr., several days ago; I don't know Gary if you want to characterize what that conversation was about.

Gary Allen, Sr., said my only comment was that I had a conversation with Don McConachie too.

Mayor Maxand said he met with Mr. Allen and Mr. Ottesen, and I asked them if there was any way to consider pulling their recall petition; I asked them if there was a way to come here and make a statement that they vote, no on the recall petition, asking us to vote no on the recall petition, in turn for them, making specific requests to the hospital board so that they could get some closure to their concerns but that we could put to rest to the recall without putting in jeopardy the funding for the hospital project; that was a conversation that I had; I think Mr. & Mrs. Nelson drove by and saw me having a conversation with them.

Assembly Member McCloskey said she also had a conversation with Mr. Allen.

Mayor Maxand said try to find some conclusion.

Jim Nelson said Mrs. Nelson didn't have anything to do with it.

Mayor Maxand said he did have a conversation with them about trying to find some conclusion to this so that we would not have to vote on the recall petition.

Assembly Member McConachie said he talked to Mr. Allen on three occasions, one had to do with the recall; I stated to him that I really did not approve of this happening, and he understood that; I also talked to him about different aspects of the building of the hospital; he asked me to get different bits of information for him, and I called around and got those bits of information from the people who had that information, and got it back to them; there was a couple of things that really bothered me that I was construed on the internet as somebody is couraging and fear mongering towards Mr. Allen; I asked him if he felt that was what I was doing; he said no.

Mr. Allen said yes.

Assembly Member McConachie said I just want to bring those things out; this being as serious as what it is, there are so many different facets of things that are going to happen in here; we are asked to be the leaders of this community and we are asked to do things in a proper manner, even though Mr. Privett states that he thinks we are incorrect in voting against this; I do not necessarily agree with you, sir.

Assembly Member Privett said that's okay, its America.

Assembly Member McConachie said all of this information that we have here coming from the financing empire, and you have to know that all of those financial people talk to each other; they all know exactly what is going on; they all know the where's, and the what for's of what may be happening within this community as far as the recall is concerned; I would like to ask this assembly to delay this resolution until we have an answer from USDA as their conversation and if we have to, we will call a special meeting in order to deal at that point in time; that could be as early as Thursday.

Assembly Member Privett said just as a comment, he would be out of town on Thursday, Friday and Saturday and returning on Sunday.

Moved by McConachie, seconded by McCloskey, to modify motion to delay a decision on this resolution until we have an answer from financing from the USDA on Wednesday.

Mayor Maxand asked about the time schedule for the special election.

Borough Clerk Jamieson said the special election schedule is really, really tight; DOJ has up to 60 days to review, approve or disapprove the special election; I could verify that with

Mr. Blasco but we went over the schedule already; the preclearance letter will go out tomorrow.

Blasco said the clerk fully explained the timeline.

Borough Clerk Jamieson said this is built around having a special election for June 12th, unless that date is changed and bumped to a different date.

Assembly Member McConachie said so if we added two days and went from June 12th to June 14th.

Borough Clerk Jamieson said our elections always fall on a Tuesday; that is being consistent and have been practiced for many years; if it wasn't on June 12th, possible June 19th; any comments Mr. Blasco.

Blasco said no, that is accurate.

Linda Bjorge, asked, does anyone know on this third item, that a person was in on the vote and discussions about the certain doctor; who is the person that is guaranteed that this is a truthful thing on this ballot; the third accusation was that a member of the board participated in executive sessions dealing with Doctor Salard, at the same time that her husband, her significant other, my husband, has a malpractice suit against Doctor Salard, which has nothing to do with any of this other stuff, but when it was filed, after it was filed the first meeting that I went to, I did announce to the board, that when I saw his name, that I had to recuse myself from anything else to do with any of the vote; that is one of the items in there and accusing me of participating in all that; it's not accurate and I want that removed.

Assembly Member Jack said that is not a decision for us; that was in the petition and we cannot change the petition.

Linda Bjorge asked who is the responsible person for guaranteeing that these things that they put in there are the truth.

Mayor Maxand said the question through the Assembly to Blasco, in the process of reviewing the request the application for recall petition, what process do we or you go through to confirm or is there a confirmation process of legitimacy of the complaints on the petition itself.

Blasco said the only lawful that the borough can do, and that is assigned to the borough clerk, and she can consult with me as well, which she did, as to whether the grounds stated are sufficient under the Wrangell Code and the State Statutes and could go forward; those grounds are specifically laid out and the borough clerk doesn't have any pull to decide what is true or not true, only whether the grounds fall within those categories.

Mayor Maxand said the board members being potentially recalled have the opportunity to draft a rebuttal that is included in the ballot.

Blasco said absolutely; it goes on the ballot; it is the same way that the statement is made, anybody who is on the recall can make a statement 200 words or less on the ballot.

Bjorge said that is true however, the statement has been made and it's a liable statement as far as she is concerned because it's not the truth; I don't see why I have to defend herself of a false accusation on the ballot, because somebody decided to put that on there, without a lot of research obviously.

Mayor Maxand said I don't think there is much we can do; I don't think there is.

Assembly Member McConachie said onus at that point, is on the petitioner, the person that did the petition; if you decide that is a civil matter that it's a liable statement, you have recourse through civil authority; as far as we are concerned, all that our city clerk does is go through, make sure all the signatures are valid, that they are registered voters, that they are people within this community, and that all of the legal steps have been taken as far as our ordinances are concerned; as far as the wording, no that is strictly on the sponsors of the petition.

Amendment to the main motion failed with Jack, Privett and Maxand voting nay; McCloskey and McConachie voting yea.

Main motion was announced that it had passed but with further review, the motion actually failed due to not having four affirmative votes for passage. Jack, Privett, and Maxand voted yea; McConachie and McCloskey voted nay.

13b Acceptance of the Retirement Date for Borough Clerk Christie Jamieson
Moved by Privett, seconded by McConachie, to accept the retirement date of July 1, 2012 for Borough Clerk Christie Jamieson with her last day of employment to be June 29, 2012.

Borough Clerk Jamieson said she is actually going by her original anniversary date which was April 7, 1980. She said she has hit her 32 years; as you know a couple of years ago she announced her retirement then; this time she is ready, her family is ready; who knows where the road will take her and what she will do; I know in my heart it is time; it doesn't have anything to do with what has happened and what we are in the middle of; I just want to express that to the public that 32 years is a long time; I started here when I was 21 years old; I worked in the Finance Department for 16 years and the rest as the city clerk and borough clerk; so I am really happy about this; I've been planning on this for a long time; I feel that I am still young enough and young at heart, that I may find something part-time; I know I am going to; I feel very positive about that, or even spending part of the year down near my soon-to-be grandchild, and the rest of the year up here; who knows what will happen; I'm really excited about this.

Jamieson requested to be involved in the hiring process; I know it's totally up to the borough assembly and mayor to make a motion to accept so and so as the new borough clerk; the steps are very similar to hiring a borough manager; you have to define the job, decide on the recruitment, advertisement process, review of the applications, you have to have reference checks, that's a must; interview/assessment; and then make recommendation to the borough assembly; I would really like to be included in that process; we have the Alaska Association of Municipal Clerks website, clerks from all over the state; we have the Alaska Municipal League; we have the Alaska Journal of Commerce, Juneau Empire, and the Wrangell Sentinel; I just think it's really important to open it up; we have some really good clerks in the State of Alaska, and we may have some possibilities here on the island, and have the new clerk on board by June 1st; it is a short window but we can do it; I would like to write up the advertisement this week and get it out there and begin the whole process, with your approval of course.

Assembly Member McConachie said as to the efficiency of Christie, I think we all know how efficient she is and how good of a job she has done for us, I guess in a way she is doing this for herself right now.

Mayor Maxand said I suspect having your daughter in town has made it an easy decision.

Borough Clerk Jamieson said I asked them to come this evening, I thought they would stay through the whole process; I noticed how fast they both zipped out.

Mayor Maxand said I think we will make it work; we'll get together this week and talk about what that process will be like; let's just hammer it out.

Motion approved unanimously by polled vote.

Recessed at 8:23 p.m.

Reconvened at 8:26 p.m.

13c Discussion and Appropriate Action regarding Letter of Support to Wrangell Public Schools for Education Grant

Moved by Privett, seconded by McConachie, to authorize Mayor Maxand to sign the referenced letter. Motion approved unanimously by polled vote.

13d Approval of City Tidelands Annual Reassessments for 2012

Moved by Privett, seconded by Jack, to approve the Tidelands Reassessments for 2012 recommended by Michael C. Renfro of Appraisal Company of Alaska. Motion approved unanimously by polled vote.

13e Discussion and Appropriate Action regarding the Submittal of Comments to the USFS for Scoping Notice for the Wrangell Island Timber Sale

Moved by Privett, Jack, to approve Staff's modified draft letter in response to the Notice of Intent for Scoping the proposed Wrangell Island Project EIS. Motion approved unanimously by polled vote.

13f Approval to Issue Change Order No. 2 and the Approval to Issue Final Payment Request to Southeast Earthmovers for the Marine Service Center, Phase III Project

Moved by McConachie, seconded by McCloskey, to authorize the borough manager to issue Change Order #2, in a credit amount of (\$57,189.25) to Southeast Earthmovers, Inc. for changed conditions and adjusted unit prices for the Marine Service Center, Phase 3 construction contract. The final payment of \$140,408.25 is scheduled to be paid through State of Alaska DCCED grant funds for the Marine Service Center, Phase 3. Motion approved unanimously by polled vote.

13g Consideration of Revising Size of Leased Port Property as requested by Tyler Thompson

Moved by McCloskey, seconded by Privett, to approve Lease Amendment No. #3, revising the space for an additional 550 square feet, as requested by Tyler Thompson. Motion approved unanimously by polled vote.

13h Approval of Change Order No. 2 and the final pay request of Southeast Earthmovers for the Heritage Harbor, Phase 3 Project

Moved by McConachie, seconded by McCloskey, to authorize the borough manager to issue Change Order #2, in a credit amount of (\$9,222.00) to Southeast Earthmovers, Inc., for changed conditions and adjusted unit prices for the Heritage Harbor, Phase 3 construction contract. The final payment of \$79,580.45 is scheduled to be paid through State of Alaska DCCED grant funds for the Heritage Harbor, Phase 3. Motion approved unanimously by polled vote.

13i Approval of the final pay request of Southeast Earthmovers for the Wrangell Landfill Closure Project

Moved by Jack, seconded by McConachie, to authorize the Borough Manager to issue the final pay request to Southeast Earthmovers, Inc. for the Wrangell Landfill Closure construction contract. The final payment of \$271,734.84 is scheduled to be paid through State of Alaska DEC grant funds for this project. Motion approved unanimously by polled vote.

***13j** Final Plat Approval of Tank Subdivision, a subdivision of Tract A, ASLS 84-83 creating Tract A-1 and Tract A-2

(APPROVED UNDER CONSENT AGENDA)

ATTORNEY'S FILE:

April 9, 2012 invoice included in agenda packet.

EXECUTIVE SESSION:

None.

ADJOURNMENT: 8:36 p.m.

ATTEST:

Christie L. Jamieson
Christie L. Jamieson, Borough Clerk

Jeremy Maxand
Jeremy Maxand, Mayor

