

**Minutes of Regular Assembly Meeting
Held on September 24, 2013**

Mayor David L. Jack called the Regular Assembly meeting to order at 7:00 p.m., September 24, 2013, in the Borough Assembly Chambers. Assembly Members Stough, McCloskey, Wiederspohn, Stokes, Decker, and Christian were present. Interim Borough Manager Jeff Jabusch and Borough Clerk Kim Lane were also in attendance.

Pledge of Allegiance was led by Assembly Member Wilma Stokes.

Invocation was given by Kay Larson with the Baha'i Faith.

CEREMONIAL MATTERS – *Community Presentations, Proclamations, Certificates of Service, Guest Introductions*

Certificate of Service was presented for Holly Hammer, Parks & Recreation Board.

AMENDMENTS TO THE AGENDA

There were no Amendments to the Agenda.

CONFLICT OF INTEREST

Assembly Member Christian stated that he might have a perceived conflict of interest to item 13b.

Mayor Jack said that if during the discussion, Assembly Member Christian saw that he had a conflict of interest, he could state that at the time.

CONSENT AGENDA

Moved by Christian, seconded by McCloskey, to approve Consent Agenda Items marked with an () asterisk; 6a, 7a & 7b. Motion approved unanimously by polled vote.*

APPROVAL OF MINUTES

*6a Minutes of the Regular Assembly meeting held September 10, 2013 were approved as presented.

COMMUNICATIONS

*7a Minutes of the Thomas Bay Power Authority Commission Special Teleconference meeting held May 3, 2013; Minutes of the Thomas Bay Power Authority Commission Special Teleconference meeting held May 15, 2013

*7b Travel Summary for the month of September 2013

BOROUGH MANAGER'S REPORT

Interim Borough Manager Jabusch's report was provided.

In addition to the report, Jabusch reported on:

- Secure Rural Schools Program; proposed one year extension; not a sure thing;
- Travel dates

BOROUGH CLERK'S FILE

Borough Clerk Lane's report was provided.

In addition to the report, Lane reported on:

- Absentee Voting dates
- Election Day, October 1, 2013

MAYOR/ASSEMBLY REPORTS AND APPOINTMENTS

10a Reports by Assembly Members

Assembly Member Christian distributed a memo to the Borough Assembly that he had received from Ketchikan Public Utilities.

Mayor Jack reported on his and Assembly Member Decker's trip to Southeast Conference.

- Growth of population
- Maritime Economy

10b Appointment to fill the vacancy on the Planning & Zoning Commission

Mayor Jack stated that there were no letters of interest received for the vacancy.

10c Appointment to fill the vacancy on the Parks & Recreation Board

Mayor Jack stated that there were no letters of interest received for the vacancy; we would continue to advertise.

PERSONS TO BE HEARD

The four members of the public who signed up to be heard stated that they wanted to speak under Agenda Item 13b.

UNFINISHED BUSINESS

12a Approval of the Revised 2013 Wrangell Medical Center Personnel Policies (postponed from the August 27, 2013 Regular Assembly Meeting)

Moved by Stough, seconded by Christian, to approve the Revised 2013 Wrangell Medical Center Personnel Policies as amended per Assembly Request, and as required per Wrangell Municipal Code 3.32.030 (D)

Assembly Member McCloskey stated that after meeting and discussion what needed to be changed, none of the requested changes were made.

Motion approved with Stokes, Christian, McCloskey, Stough, Decker, and Jack voting yea; Wiederspohn voted nay.

12b Approval of the revised Wrangell Medical Center Bylaws, as amended (postponed from the September 10, 2013 Regular Assembly Meeting)

Moved by McCloskey, seconded by Christian, to approve revised Wrangell Medical Center Bylaws as amended to add: "The CEO position is referred to as the Hospital Administrator in Wrangell Municipal Code Section 3.32.040". Motion approved unanimously by polled vote.

NEW BUSINESS

13a Approval to hold a Special Assembly Meeting on Monday, October 7, 2013, at 5:30 p.m. to Certify the Election Results from the Regular Election

Moved by Christian, seconded by Stough, to approve a Special Assembly Meeting to be held on Monday, October 7, 2013, at 5:30 p.m. to certify the Election Results from the Regular Election to be held on October 1, 2013. Motion approved unanimously by polled vote.

13b Approval to send a letter to SEAPA regarding payment for O&M Costs

Moved by Stough, seconded by Stokes, to direct our SEAPA Board Representative to ask the SEAPA Board to pay for the O&M cost of the secretary wage and accounting fees under FERC Code 539. If the SEAPA Board does not approve these legitimate O&M expenses, the Borough Manager is directed to deduct these O&M expenses from the monthly power purchases from SEAPA as according to the current O&M Agreement.

Dorothy Hunt-Sweat, Mile 8 ¾ Zimovia Hwy. - stated the following:

- Petersburg has given up control to SEAPA
- SEAPA doesn't have control unless we give it to them
- Send the message that we will maintain control of our natural resources in our community

Michael Nicholls, 11a Panhandle Trailer Court- read from the information that he distributed to the Borough Assembly:

In the Short Term - NNB Shortcomings:

- Here we are discussing the shortcomings of TBPA "non-net billable" administrative costs
- PSG remains adamant in not funding their portion and SEAPA remains steadfast in not paying what for all intent and purpose is a legitimate Operations and Maintenance Expense
- Excuses put to me by SEAPA staff are 1. We never had to pay this before- well, they paid a spin doctor a considerable amount they never had to pay before- why I'll bet they even paid their administrative costs; 2. KTN will have to pay some- rightly so KTN received over \$1M worth of power each year for the past 2 years alone from Tyee- why should Wrangell pay for their portion of Tyee expenses; 3. SEAPA is steadfast in following an outdated FDPPA policy of the communities directly funding the administration costs of their individual projects
- Policies need to be periodically reviewed and updated to remain viable
- There were 4 projects with their respective communities paying the administrative costs of the individual projects- THIS CHANGED with the inception of the Swan/Tyee intertie
- There is now in the Southeast 2 projects with 3 communities
- The 3 communities need to share in the administration costs of both projects and the simplest way is through the monthly billing process
- In the beginning Thomas Bay was formed to represent Wrangell and Petersburg- this has now evolved or devolved depending on one's perspective to simply be the Operations & Maintenance contractor for the Tyee Project
- SEAPA staff recognizes this as evidenced by Trey Actison's comment at the September 10 Workshop meeting regarding TBPA only being an O&M contractor to SEAPA
- Now if SEAPA had any other contractor operating the project, there would be no discussion of the administrative costs- THEY WOULD BE PAID
- A letter to SEAPA will only prolong the problem as I fully expect SEAPA to again refuse to fund what their staff categorizes as Not billable to SEAPA
- Why should WRG be saddled with the problem of solving this dilemma; All expenses by TBPA are required to be coded per Federal Energy Regulatory Commission rules (FERC) as such; FERC code 539 specifically validates clerical work as a legitimate expense- the city should just withhold the administration costs from the monthly power payment as PSG should also be doing; Throw the ball into SEAPA's COURT

In the Long Term-SEAPA restructuring:

- Wrangell should never relinquish its control of the natural resources of water and land within the Borough boundaries

- Thomas Bay Power Commission and Thomas Bay Power Authority need to be separated
- The Commission needs to return to its original function -finding new and innovative power sources for Southeast Alaska
- And since Petersburg has renounced its joint obligation with Wrangell-TBPA should be absorbed by the WRG-TBPA should continue to provide Operations and Maintenance at the Tyee Facility and TBPA employees should be answerable to the WRG possibly as a separate department answerable to the City Manager

Robin Taylor, 5.5 Mile Shoemaker Loop Road- stated the following:

- Voted along with Petersburg to amend our Charter to create a commission
- Commission and the TBPA are two different entities
- TBPA does the on hand work at Tyee
- Commission oversees the functions of Thomas Bay
- Primary function was to look at projects for the future
- Legislative funding created Swan / Tyee project
- Joint action in the Legislature was to accomplish divestiture of the Four Dam Pool
- Our plant cannot filter enough water to take care of our cannery in the Summer
- Need to protect ourselves
- Suggests that Wrangell take over Thomas Bay
- Suggests that the Thomas Bay Commission need to come up with a plan for new projects

Paul Anderson, P.O. Box 1454, Petersburg, AK- voiced the following:

- In reading the memo from Trey Acteson dated Aug. 19, 2013, he said that they were going to convert ARECA insurance money over and give some to Ketchikan, Petersburg, and Wrangell
- Areca insurance money used to come out of non-net billable
- SEAPA was saying that in 2006 Petersburg passed Resolution 106 & 206 to seek 3.2 million from the State; was diverted later from Mr. Carlson, Mr. Lewis, and Mr. Smith; ended up going to Southeast Conference
- Requests that Wrangell deny SEAPA and maintain ownership of TBPA
- Took SEAPA rebate money (in Petersburg, when I was the Finance Director), and used it as the Tyee surcharge; money went into the Enterprise Fund (unlike Wrangell)
- SEAPA paying five employees 1.3 million, (correct me if I am wrong), not including benefits; then wants to hire two more, bringing their salary costs to 1.7 million
- Power Superintendents being on Thomas Bay Power is a conflict; then they become Four Dam Pool members – conflict, won't tell you anything because it's privileged information; then they become an employee of SEAPA
- Ketchikan will control everything that happens up here

Interim Borough Manager Jabusch stated that the SEAPA rebate goes into the Electric Fund for Wrangell and was part of our rate study plan; does go back to the rate payers; not to the General Fund.

Assembly Member McCloskey perceived that Assembly Member Christian did have a conflict of interest to this item since the motion directly stated: "SEAPA Board to pay the O&M cost of the secretary wage".

Mayor Jack stated that with that motion, he believed that it was a conflict of interest.

Assembly Member Christian stated that it was up to him on whether to declare a conflict; when passing the budget, everyone has here, a perceived conflict of interest. He further stated that he did perceive that he had a conflict and would abstain from voting.

Mayor Jack stated that he believed that this item was a direct conflict; since when passing the budget, you are not considering one particular person, you are considering an entire workforce and everyone is treated equally; this item is different.

Assembly Member Stough stated the following:

- Wrangell does not have clear direction
- Push was to form an Energy Committee to start looking at divestiture of 2014
- Energy Committee to look at if divestiture was feasible and if not, change the things that need to be changed
- Goal on the Energy Committee was to seek legal and/or professional advice

Clay Hammer, 690 Evergreen- voiced the following:

- Initially Petersburg petitioned SEAPA to pay the non-net billable; SEAPA turned them down
- Back in the day, the non-net billable expenses were funded; was abused, so the policy changed; now non-net billable expenses cannot be reimbursed
- If we try and get SEAPA to pay Thomas Bay's non-net billable, what about KPU?; will impact our rate structure; we would expect that all to come out of the 6.8 that we are paying; don't know if there is a good way to sustain that
- No extra budget for an extras like expenses for legal advice
- SEAPA currently evaluating different projects throughout the community; spending money for engineering
- A lot of missing information; cannot build a project without information
- Metlakatla only has about 500 kw to spare; until another hydro project is brought online in Metlakatla, it isn't worth it

Manager Jabusch asked Mr. Hammer about at a SEAPA Board meeting, Ketchikan asking that Wrangell and Petersburg pay their diesel fees.

Mr. Hammer answered that this was something that was brought up during casual conversation but was not addressed during a board meeting. He said that there was no way that the SEAPA Board would ever pass something like that.

Mr. Hammer further stated the following:

- Diesel backup plant is good for a rating of 8 ½ megawatts
- Peaks of 9 mw during extremely cold weather; it would be prudent to bring on additional diesel generation
- Have been selling the heat rate for a very cheap price; just enough to cover the cost of the transformers; barely enough to cover the costs of the infrastructure; and everything that it costs to install and support it
- Haven't been building any money to put toward additional diesel generation should we run out of what we have available
- In the last five years there have been some technology that would allow us to use our electric power in a more efficient way; still in the process of studying that

Assembly Member Stough asked what organization is going forward with the study.

Hammer answered that Cold Climate Research was partnering with the City of Wrangell.

Rhonda Christian, 9.2 Mile- voiced the following:

- Stated her concern about the conflict of interest with people sitting on the Thomas Bay Board
- Stated that she was "O&M" expense; had done 15 hours of non-net billable in the last 4 months – 3 months; most of that was in the last 2 weeks with the chaos going on
- Working on financials, working on R&R
- Doesn't understand why SEAPA can go from paying 1.3 million in wages to hiring two more employees and pay 1.7 million, but cannot pay for its own O&M costs from the non-net billable; why should Wrangell have to pay for it; legitimate O&M charges under the FERC code
- Audited on a monthly basis from SEAPA
- Would like the Assembly to consider this motion and properly code the O&M expenses
- It's in the best interest of Wrangell to keep Thomas Bay Power Authority

Warren Edgley, 209 First Ave. - voiced the following:

- Questioned why the talk of rate increase hasn't raised questions
- We pay 6.8 cents for the wholesale power; 4 cents of that goes to debt services; bond of indebtedness will be paid off; what happens to that 4 cents
- We were told that when the bond of indebtedness was paid off, rates would go down

Brian Ashton, 750 Case Ave. - spoke on the following:

- SEAPA does have real costs to consider
- SEAPA costs for doing maintenance R&R Costs coming up
- SEAPA Board was making the best choices that it could to manage the reserves and debt in keeping costs down
- At the last SEAPA Board, it was asked that the SEAPA Board consider stopping the rebate
- Rates may need to be raised to cover R&R maintenance costs
- We could manage and bill O&M costs properly
- Should ask SEAPA to cover the entire O&M contract costs
- Suggested changing the motion to have the Assembly ask SEAPA directly instead of directing him to ask the SEAPA Board
- KPU passed resolution that said that they would not give up automation of Swan as an O&M Contractor
- Tyee is in our boundaries as a renewable energy resource; we have justification for taking that same position

Assembly Member McCloskey asked if SEAPA pays the O&M costs for KPU.

Mr. Ashton stated that he believed that they roll it. He also said that this was something that would need to be identified.

Interim Manager Jabusch asked if she was talking about the costs that SEAPA were denying.

Assembly Member McCloskey if SEAPA covers secretary wages for KPU.

Jabusch answered that he didn't believe that they ever had.

Mr. Ashton suggested calling and asking KPU.

Mayor Jack asked Robin Taylor if Thomas Bay was formed under the same statutes as SEAPA.

Mr. Taylor answered "no, Thomas Bay was formed much earlier".

Mayor Jack asked Mr. Taylor if it took Legislative approval to form Thomas Bay.

Mr. Taylor answered that no, it took a Legislative vehicle for us to work within, as part of the Joint Action Agency to accomplish the transition of moving the assets from the Four Dam Pool over to that, so as to allow the break up to then occur.

Mayor Jack asked if it would take Legislative action to do away with Thomas Bay.

Mr. Taylor answered "no, it would not take Legislative approval".

Mr. Taylor stated that he thought that it would take a vote of the people to do away with the Thomas Bay Power commission because the commission was part of the Charter.

Assembly Member Decker stated that whatever conclusion Wrangell comes to:

- Thomas Bay Power Authority employees should remain whole
- City of Wrangell should be treated fairly
- Working more cooperatively , as a region
- Petersburg has asked for the reimbursement on the non-net billable; doesn't see that anything has changed; SEAPA will come back with the negative
- Looking to go down a positive/cooperative avenue
- KPU gets paid O&M; anything outside of the O&M costs gets absorbed within the KPU Utility
- Need a long term plan

Assembly Member Stough stated the following:

- We are trying to recover the money that Petersburg is refusing to pay
- Without going forward to seek legal advice is what has gotten us into trouble
- Need to take a hard stand and let them make a decision
- Wrangell needs to do our due diligence

Mayor Jack agreed with Assembly Member Stough, that we need to look at getting legal advice, possibly before going down this avenue.

Assembly Member Stough called for the question.

Motion failed with Stough and Stokes voting yea; Decker, Wiederspohn, McCloskey, and Jack voting nay.

Assembly Member Christian abstained from voting as it was determined that he had a perceived conflict of interest.

Assembly Member McCloskey asked if the Assembly could look at getting legal advice.

Assembly Member Stough requested that the proper type of attorney be contacted.

Interim Borough Manager Jabusch requested that the Assembly give him clear direction on the questions that they would like answered.

With the consensus of the Assembly, Interim Borough Manager Jabusch was directed to contact a Power Attorney.

Manager Jabusch stated that he would contact a Power Attorney to see if one would be willing to look at the issue. He further stated that he would then bring the information that he had gathered back to the Assembly for approval to move forward.

Assembly Member Decker stated that in the title of the Resolution that Petersburg was considering, it said "suggest that the non-net billable be paid by SEAPA". She stated that the difference was that they were giving something to get something; 750,000 that would be in Wrangell and Petersburg's benefit. She stated that we should not ignore that. She suggested that the Assembly consider the whole package.

13c Consideration and possible action regarding the sale of City Tidelands to Donald & Betsy McConachie (Nore Estate)

Interim Borough Manager Jabusch stated that it was possible that somewhere along the way, there might have been an error; either Ms. Nore paid for the Tidelands and the City failed to issue the deed, or Ms. Nore did not pay for the Tidelands. He stated that she had been added to the tax rolls when the survey was done.

Don McConachie, 622 Zimovia Hwy., stated that his belief was that Ms. Nore probably thought that she owned the Tidelands since the Tidelands had been added to the City Tax Rolls; Ms. Nore had been paying the property taxes for a number of years.

Assembly Member Stough asked if this was the president for Tideland property that was not clear.

Manager Jabusch stated that this situation was different since she had been added to the tax rolls as though she had been issued the deed.

Assembly Member Stough said "isn't this the same problem that we had with the Bakke (Keller) property?"

Manager Jabusch stated that this was not the same issue.

Moved by Christian, seconded by Wiederspohn, to transfer the Deed of the Tidelands Lot 8, Block 83A to the Nore Estate for a sum of \$203.18; that the Appraisal fee is waived, and that the conditions of sale of tidelands as stated in WMC 16.12.040 Paragraphs' A, B, and C are also waived. Motion approved unanimously by polled vote.

13d Approval to cancel the November 26, 2013 Regular Borough Assembly Meeting

Moved by Stough, seconded by Christian, to approve the cancellation of the November 26, 2013 regular Borough Assembly Meeting, and conduct only one meeting on November 12, 2013. Motion approved unanimously by polled vote.

ATTORNEY'S FILE

Summary provided to the Borough Assembly.

EXECUTIVE SESSION

15a Discussion with Borough Attorney on former employee arbitration proceeding

Moved by Stough, seconded by Decker, to go into executive session to discuss the arbitration proceeding, which the immediate knowledge of would clearly have an adverse effect upon the finances of the Borough. Motion approved unanimously by polled vote.


Recessed into Executive Session at 9:32 p.m.

Reconvened back into Regular Meeting at 9:58 p.m.

There was no action taken.

ADJOURNMENT: 9:59 p.m.

ATTEST:


Kim Lane, Borough Clerk


David L. Jack, Mayor

