

**Minutes of Regular Assembly Meeting  
Held on April 22, 2014**

Mayor David L. Jack called the Regular Assembly meeting to order at 7:00 p.m., April 22, 2014, in the Borough Assembly Chambers. Assembly Members Stough, Wiederspohn, Stokes, Blake, and Decker were present. Assembly Member McCloskey was absent. 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 Nettie Covalt with the Presbyterian Church.

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

A Proclamation for Municipal Clerk's Week was presented to Borough Clerk, Kim Lane.

A Proclamation for Youth Week was presented to Don Covalt of the Benevolent & Protective Order of Elks Lodge #1595.

**AMENDMENTS TO THE AGENDA**

There were no Amendments to the Agenda.

**CONFLICT OF INTEREST**

There were no Conflicts of Interest declared.

**CONSENT AGENDA**

*M/S: Blake/Decker, to approve Consent Agenda Items marked with an (\*) asterisk; 6a., 7a, 7b, 7c, 7d, 7e, & 13i. Motion approved unanimously by polled vote.*

**APPROVAL OF MINUTES**

The Minutes of the Public Hearing and Regular Assembly meetings held April 8, 2014 were approved, as presented.

**COMMUNICATIONS**

\*a. US Army Corps of Engineers Public Notice of an Application for Permit for Todd White (POA-2014-029)

\*b. Minutes of the Special and Regular Port Commission meetings held on March 10, 2014

\*c. Travel Summary for the month of March, 2014

\*d. School Board action from the Special Mtg. held April 14, 2014

\*e. Correspondence from the Petersburg Borough Assembly to the SEAPA Chairman, Robert Sivertsen regarding: Wholesale Power Rate

\*13i. Approval of a Replat of Lots 1 and 2, Block 24A, Wrangell Tidelands Addition (A.T.S. #83) and a portion of Unsubdivided A.T.S. #83 Tidelands, Creating Lot 1A

**BOROUGH MANAGER'S REPORT**

In addition to Manager Jabusch's report, he stated that the draft Budget should be distributed by the end of the next week.

Manager Jabusch also stated that Ms. Massin had requested some additional time to review the information he had provided to her. His recommendation would be to postpone this item until further notice.

### **BOROUGH CLERK'S FILE**

In addition to Borough Clerk Lane's Report, she stated that the Borough had an opportunity to purchase some surplus chairs from Tongass Business Center in Ketchikan; they had received the contract to replace the chairs at the Ted Ferry Civic Center and they were selling the surplus chairs for \$20 each. Clerk Lane stated that she wished to replace the existing chairs that had come out of the old 49er Theater with these chairs. There was no objection from the Assembly.

### **MAYOR/ASSEMBLY REPORTS AND APPOINTMENTS**

#### **10a Reports by Assembly Members**

Assembly Member Decker reported on the collaborative project between the Economic Development Committee and the Port Commission to create a website for the Marine Service Center lessees to promote their business. She also reminded the listening public about the Path to Prosperity opportunities.

#### **10b Appointment to fill the vacancy on the Wrangell Convention & Visitors Bureau**

As there were no letters of interest received for the vacancy, Mayor Jack directed the Borough Clerk to continue advertising.

### **PERSONS TO BE HEARD**

**John Getty, 13 Mile Zimovia Hwy.,** spoke in support of the animal control efforts and the enforcement of a leash law.

**Shady Grove Oliver, 13 Mile Zimovia Hwy.,** as a resident of Wrangell, spoke in support of enforcing the leash law; possibility of setting aside "leash free" areas; other dogs who are not on a leash running up to her dog while on its leash; dogs being hit by cars, getting shot; dogs constantly running into the road is unsafe.

**Bob Maxand, 319 Church St.,** commended the Mayor and Assemblies, and the administration of both Wrangell and Petersburg for their efforts on the creation of their Resolutions pertaining to SEAPA taking over Thomas Bay.

Maxand stated that the other Commissioners knew nothing of the letter that Assembly Member Stough wrote to the SEAPA Board Chairman.

Maxand read from the list of questions Assembly member Stough sent to the Borough Attorney and from a section in the TBPA Commission Policy No. 3, stating:

*"How can the TBPA Commission President negotiate for the Commission without explicit permission from the Commission which says that they must have a vote."*

*Each Commissioner shall recognize that he has no authority outside of the Commissioner meeting, except and unless he is specifically authorized or assigned a project with authority to act or speak for the Commission. The Commission recognizes that should any Commissioner undertake in private conversation with others to make commitments for the Commission, that Commissioner becomes involved in a serious breach of policy."*

Assembly Member Stough stated that the letter that Mr. Maxand was reading was written prior to him being President and was directed towards the past President of the TBPC; because the prior TBPC President had started negotiations and talked to Petersburg; he started negotiation talking without the approval of the TBPC.

Maxand questioned Stough about the Wrangell newspaper article from April 10<sup>th</sup>.

Stough said that was from the original letter that he brought forward to send to the lawyer before he was the TBPC President.

Mayor Jack stated that Mr. Maxand had the floor.

Maxand said "so the letter in the paper that said that you had said to cease and desist was from somebody else"?

Stough answered "no, I did not say that".

Maxand said in reading the letter, he thought that it had come from Assembly Member Stough.

Stough asked Mr. Maxand which letter he was talking about.

Maxand replied that he was referencing the letter that he had read about in the paper from April 10<sup>th</sup>.

Stough said that the one from the paper was clarifying that the Charter formed and it was part of the Charter that formed Thomas Bay Power Commission; it's part of the Charter; you can't do away with without the vote of the people; the other part of that question was: Thomas Bay was formed under a Joint Action which formed Thomas Bay and under that the Ordinances gave all of the negotiating rights, and all of the rest of that, to the Commission. He stated that his letter didn't state anything about him doing anything other than bring the facts, bring the information to the Commission, so that the Commission can make a decision; he said that was the way his letter was written.

Stough further said that he was stating where the auditory lies and where it's done because "our council here and that stated under resolution stated that they want to get rid of the Thomas Bay Power Commission"; that that was part of those legal questions that were asked.

Maxand asked who voted on that Commission to give him permission to write the letter; he stated that Assembly Member Stough would have had to have the full Commission's support to write a letter.

Stough replied "why would I have to have the full Commission's support to write a letter that states the rules"...

Assembly Member Decker called a Point of Order, stating that this was the Public Comment Period and the discussion could take place under the appropriate Agenda Item.

Mayor Jack ruled in favor of the Point of Order.

Maxand stated that he believed that writing the letter was wrong and was a slander to the Council of both communities; he further stated that he believed that Assembly Member Stough should be taken from the seat.

### **UNFINISHED BUSINESS**

**12a.** Approval to purchase residential property from Shelly Massin for the purpose of a right of way (*postponed from the April 8, 2014 meeting*)

***M/S: Stough/Decker, to postpone this item until further notice. Motion approved unanimously by polled vote.***

### **NEW BUSINESS**

**13a** Approval of a request by Steve Keller to extend the leased lot in the Marine Service Center

***M/S: Stough/Wiederspohn, to approve extending existing leased lot 4 in the Wrangell Marine Service Center from 2650 sq. ft. to 3332 sq. ft. and to raise the monthly fee to \$266.56. Motion approved unanimously by polled vote.***

**13b** Discussion and Possible action regarding the letter that was received by the Borough Assembly – sent to the SEAPA Board Chairman and the letter that was sent to the Wrangell Borough Attorney, both from the Thomas Bay Power Commission President/Wrangell Borough Assembly Member James Stough (*request to add the letter to the Assembly was made at the April 8<sup>th</sup> Regular Assembly meeting*)

Assembly Member Decker stated that when he wrote the four questions to the Wrangell Borough Attorney, he was questioning the rights of the TBPC President and now that he was the TBPC President, he was directing everyone to negotiate with him; the TBPC Members did not know that Assembly Member Stough was writing these letters.

Assembly Member Stough replied that the letter that he wrote was in clarification of the rules; that at the bottom of the letter he had asked that any communication needs to go to the Commission; he took no action other than stating that any communication needs to be directed to the Commission because of the Charter and Ordinances; he said that if "we" fail to do it with the Ordinance, we are in violation of our Ordinances; ethical part is in violation of section 1.20; when they formed Thomas Bay Power Commission, they gave them the right to negotiate contracts and do the rest of that, so it lies with them; there has been no

communication with the TBPC since he was appointed to the position of TBPC President; have not been included on any of the stuff that has been going on.

Decker replied that Assembly Member Stough's letters to the SEAPA Board Chair and to the Wrangell Borough Attorney did give direction; letter you wrote said to "cease and desist and negotiate with me"; as the TBPC President, you tried to direct the Wrangell Attorney.....

Stough said "no I didn't".

Decker said "that's what the letter says". She further said that the letter said "as soon as practicable, please provide a legal opinion regarding the aforementioned questions".

Decker said that as an Assembly, we need to talk about who has the power to direct the Borough Attorney; believed that it should be by a motion and by a majority vote of the Assembly.

Decker further stated the following:

- SEAPA is not beholden to Thomas Bay;
- SEAPA is beholden to the Cities of Wrangell and Petersburg;
- the Assemblies have been trying to negotiate on behalf of the Thomas Bay employees;
- we have a much stronger position and ability to do that than the Thomas Bay Power Commission;
- SEAPA is not required to work with Thomas Bay;
- SEAPA has a contract that they can cancel with a one year notice;

Decker said that right now they are trying to negotiate an amenable transition because the Wrangell and Petersburg Assemblies said that's what they wanted; what you are doing is making that weaker, and that would be the worst deal for the employees.

Stough replied that it was Assembly Member Decker's opinion to bypass the Ordinances and stuff that are in place.

Decker replied that that was not true; section 3.40.060 reads that operation maintenance of Lake Tyee hydroelectric project:

*"On approval by resolution of the borough assembly, the commission may enter into an agreement as an agent of the borough to maintain and operate Lake Tyee hydroelectric project owned by the state. Under said agreement, the commission shall have the following powers and duties"*

Assembly Member Decker stated that the project was not owned by the state though, it was owned by SEAPA, so that needed to be changed. She further stated it was only through this agreement that was given to them by the Borough; these are all things that we are trying to work out through the Borough Attorney; to figure out the exact way to do them legally and correct; nobody is trying to step around the Ordinances.

Stough said that was from the original questions that were a part of the letter to the Attorney; we are clear on where the power lies; trying to get rid of the "dog-gon" Thomas Bay Power Commission, that's part of the Charter; can't get rid of that without it going to the vote of the people; had an Ordinance that formed them with the power to negotiate contracts and the rest of that; I am not disagreeing with you on a lot of stuff; SEAPA has the right to tell Thomas Bay from here on out, we aren't going to use you; they need to negotiate; everybody realizes that's the direction to go; I didn't have any objections to your Resolution that said that the Communities wanted this.

Decker replied the four questions to the Borough Attorney were drafted and given by you on January 14<sup>th</sup> to (I don't know who came first, the Clerk or the Mayor), but it was before our Assembly meeting that evening; I saw you talking to the Mayor before the meeting; we went through the entire meeting and those questions were never brought up; the next day we received an email from the Clerk saying that these questions were given to the Clerk and the Mayor stated that she could forward them to the Borough Attorney by the request of Assembly Member Stough. Assembly Member Decker questioned why these questions were not mentioned at the meeting that evening; how can one assembly member direct the attorney?; this is one question that should be addressed by the group; it takes money to direct the attorney.

Stough stated that it was the duty of us; we the council have the fiduciary responsibility to make sure that things are being done right; my questions were of existing Ordinances and rules; we have the right to have clarification of those rules; you are saying that by what you guys are doing, you didn't want to follow the Charter?; and now we are not going to try and follow the Ordinances that are written?; SEAPA can have their meetings and figure out what they want to do; I just want it done right; I am not stopping them.....; let's all get on the page; let's sit down and negotiate; that's all I wanted.

Mayor Jack stated that Assembly Member Stough was stating that the Charter formed Thomas Bay Power Commission; that is an error; the Charter formed the Thomas Bay Power Authority and gave the municipalities under that Charter the authority to form a Commission to administer the Thomas Bay Power Authority that was formed by the Charter; that was done by Ordinance, the Commission was formed by Ordinance that states that by Resolution the Commission could be formed. He further stated that the Resolution that was recently passed is not in any way disbanding either one of them; it was meant for SEAPA to take over the operation and maintenance of the Thomas Bay Power Authority.

Decker said that her understanding was that the Authority would "go away" because those employees would become the employees of SEAPA and the Commission would be put "on ice" because there would be no body for them to be managing.

Jack stated that was what the first Resolution had said and that the new Resolution that was recently considered was to correct that.

Assembly Member Blake stated that the issue wasn't whether or not Thomas Bay's or the Assembly was negotiating with SEAPA; no one member of the Assembly, nor any one member of the Thomas Bay Power Commission can act on their own; it has to be with the approval of the Assembly or the Commission; in the first letter that states "therefore, cease and desist all negotiations" you (Assembly Member Stough) are putting an order out there; you are doing it as the Thomas Bay Power Commission President without the consent of the rest of the commission, you cannot do that according to their own rules.

Blake further stated that in the very last line of the letter to the Borough Attorney, Assembly Member Stough had written "as soon as practicable, please provide a legal opinion regarding the aforementioned questions"; that involves the city spending money to get that legal opinion and it's being done without the consent of the Assembly; you cannot do that.

Stough replied "I can", what you are saying is that we have the right to clarify the rules that we have passed; that's what that letter was doing; because we put those same questions before; you have to designate exactly where that money is coming from; what you are saying is that under our monthly fee, this type of thing should be taken care of; we go over our monthly fee quite often; we should be designating where that money should be coming from.

Decker said that if we put questions to the Borough Attorney, the "body" needs to approve that; those four questions were never brought forward to the Assembly; only one of the four questions is worthy of sending to the Attorney; Jeff (without given the direction by the Assembly) sorted that out on his own and sent that question to the Attorney and has been working with the Attorney on that question.

Decker also stated that in Assembly Member Stough's letter to the Attorney where he said "a list of questions regarding the legality or rather lack thereof regarding the City Manager negotiating the demise of Thomas Bay Power Authority...."; the City and Borough Manager has only been doing what we have asked him to do.

Stough stated that he agreed that the Manager was doing exactly what the Council directed him to do; this council is going against its own rules.

Decker replied that she disagreed and could point out where Assembly Member Stough had gone against Ordinances and Policies; what we need to agree on is the path forward.

***M/S: Blake/Decker, to direct the City Manager to draft a letter to the Thomas Bay Power Commission stating what our intent is, and also asking them to put something in writing as far as what their standing is in this matter and deliver that back to the Assembly. Motion approved unanimously by polled vote.***

Decker requested that the discussion regarding who can direct the Borough Attorney be added to the next Agenda. There were no objections from the Assembly.

Manager Jabusch clarified that the Borough Attorney was in the process of gathering the information to provide a legal opinion as to what the legal process was to do what Wrangell and Petersburg want to do.

**13c** Discussion and possible action relating to Animal Control issues in the Community (*request from Assembly Member Blake to add this item to the Agenda from the 4-8-14 regular Assembly Mtg.*)

Assembly Member Blake requested that the Assembly consider the following:

- Dog feces around town (charge a \$25 fine to the animal owner)
- Dogs at large getting hit
- Dogs biting people or other dogs that are on a leash
- Leash law (leash inside the city, leash in-hand outside of the city)
- Feeding wild animals around town (change the code to prohibit this)
- Impound costs should be increased to \$50 per day
- Penalty for at-large dogs should be increased
- Licensing code says that the Borough Clerk distributes; needs to be changed to say that the Wrangell Police Department does this
- Change the licensing policy so that as long as your animal has its current rabies vaccine, you could receive a license at no charge; license would be valid until the rabies vaccine expired.

Blake also stated that the Police Officers were not trained Animal Control Officers; a part-time, permanent Animal Control Officer (or Code Enforcement Officer) may be a good idea.

Blake said that the City should look into obtaining grants in order to offer free spay/neuter clinics; there should be more signs with "doggie" waste bags around town.

Direction was given to the Borough Manager to find out how much hiring a part-time permanent Code Enforcement Officer would cost.

Assembly Member Decker said that she would like to hear from the Chief of Police on this issue.

**13d** Approval of the Senior Tax Exemptions that were received after the March 3rd deadline, but before the late filing grace period

***M/S: Wiederspohn/Decker, to approve the 2014 Senior Tax Exemption for: Charlotte & Lloyd Brown; Donald R. & Dana K. Van Slyke; Lurine McGee; Ted & Nondas Haux; Joanne Roberts; Paul Matteoni; John C. & Donna Wellons; Roland & Donna Larsen. Motion approved unanimously by polled vote.***

**13e** Approval to dispose of City Surplus Property



***M/S: Stough/Wiederspohn, to approve the items listed as surplus, that these items be advertised for bid as required under Wrangell Municipal Code 5.10.060, and authorize the Borough Manager to dispose of any items not bid on, in a manner that is in the best interest of the City. Motion approved unanimously by polled vote.***

Recessed at: 8:25 p.m.

Reconvened at: 8:27 p.m.

**13f** PROPOSED RESOLUTION No. 04-14-1294: A RESOLUTION OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, AUTHORIZING THE CONVEYANCE OF PUBLIC TIDELANDS, LOT 1A, BLOCK 24A WRANGELL TIDELANDS ADDITION (ATS#83), WHICH IS A REPLAT OF LOTS 1 AND 2, BLOCK 24A, WRANGELL TIDELANDS ADDITION (ATS #83) AND AN ADJACENT PORTION OF UNSUBDIVIDED ATS #83 TIDELANDS TO BE RECORDED IN THE WRANGELL RECORDING DISTRICT BY QUITCLAIM DEED TO DAVID SVENDSEN, DBA SVENDSEN MARINE WORKS

***M/S: Stough/Wiederspohn, to adopt Resolution No. 04-14-1294. Motion approved unanimously by polled vote.***

**\*13g** Approval of a Replat of Lots 1 and 2, Block 24A, Wrangell Tidelands Addition (A.T.S. #83) and a portion of Unsubdivided A.T.S. #83 Tidelands, Creating Lot 1A

This item was approved under the Consent Agenda.

**13h** Approval of an amendment to add a section in the Wrangell Medical Center Policy Manual

***M/S: Wiederspohn/Stough, to approve the addition in the Wrangell Medical Center Policy Manual under the Worker's Compensation section.***

In response to Assembly Member Blake, Mayor Jack and Assembly Member Wiederspohn clarified that this addition was for training purposes; for example, teaching employees the proper way to lift boxes and equipment.

***Motion approved unanimously by polled vote.***

**13i** Approval to award the bid received from Rock n' Road Construction, Inc. for the Cassiar Street Roadway and Utility Improvements Project

***M/S: Decker/Blake, to approve the bid received from Rock-n-Road Construction, Inc., and authorize the Borough Manager to enter into a contract with Rock-n-Road Construction, Inc. for the construction of the Cassiar Road Street Roadway and Utilities Improvements Project, for the amount of \$790,960.48 to be paid from DCCED and DEC Grant Funds. Motion approved unanimously by polled vote.***

13j Approval of a letter from the CBW on behalf of the WMC for re-application to Medicare/Medicaid

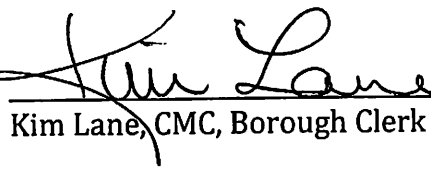
*M/S: Blake/Wiederspohn, to approve the letter written by our attorney for the benefit of Wrangell Medical Center in the application process with Medicare/Medicaid. Motion approved unanimously by polled vote.*


**ATTORNEY'S FILE** - None.

**EXECUTIVE SESSION** - None.

Meeting adjourned at: 8:38 p.m.

ATTEST:

  
Kim Lane, CMC, Borough Clerk

  
David L. Jack, Mayor

