



**City and Borough of Wrangell
Borough Assembly Meeting
AGENDA**

September 11, 2012 – 7:00 p.m.

Location: Assembly Chambers, City Hall

- 1. CALL TO ORDER**
 - a. PLEDGE OF ALLEGIANCE** led by Assembly Member Don McConachie
 - b. INVOCATION**
 - c. COMMUNITY PRESENTATION**
- 2. ROLL CALL**
- 3. AMENDMENTS TO THE AGENDA**
- 4. CONFLICT OF INTEREST**
- 5. CONSENT AGENDA:**
 - a. Items (*) 6a and 7a**
- 6. APPROVAL OF MINUTES**
 - *a. Minutes of Public Hearing held August 28, 2012; Minutes of Special Assembly meeting held August 28, 2012; Minutes of Regular Assembly meeting held August 28, 2012**
- 7. COMMUNICATIONS**
 - *a Travel Summary for the months of July and August**
- 8. BOROUGH MANAGER'S REPORT**
- 9. BOROUGH CLERK'S FILE**
- 10. MAYOR/ASSEMBLY REPORTS AND APPOINTMENTS**
 - a. Reports by Assembly Members**
- 11. PERSONS TO BE HEARD**
- 12. UNFINISHED BUSINESS**

None
- 13. NEW BUSINESS**
 - a. A RESOLUTION OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, AUTHORIZING THE CONVEYANCE OF FORECLOSED**

PUBLIC LAND, PART OF LOT 4 (LOT 4A), BLOCK 17, BY QUITCLAIM DEED TO GARY AND SCARLET POOVEY, AND KEVIN AND ABIGAIL BYLOW

- b. A RESOLUTION OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, DESIGNATING CANVASS BOARD DUTIES TO THREE ASSEMBLY MEMBERS FOR CANVASSING THE RESULTS OF THE REGULAR ELECTION TO BE HELD OCTOBER 2, 2012**
- c. Discussion and possible action relating to a Letter of Support to Governor Sean Parnell supporting the Alaska Regional Development Organization Program**

14. ATTORNEY'S FILE

15. EXECUTIVE SESSION

- a. Discussion of Wrangell v. Rea, et.al. 1WR-12-55**

16. ADJOURNMENT

CITY & BOROUGH OF WRANGELL, ALASKA

BOROUGH ASSEMBLY

AGENDA ITEM

September 11, 2012

ITEM NO. 1 CALL TO ORDER:

INFORMATION: The Mayor, by code, is required to call the meeting to order at 7:00 p.m. in the City Council Chambers. Special meetings or continued meetings may be called for at differing times but at the same location. Notice of such will be required by the Borough Clerk. The Mayor will call the meeting to order according to such special or continued meeting notice. At all meetings of the assembly, four assembly members or three members and the mayor shall constitute a quorum for the transaction of business, but a smaller number less than a quorum may adjourn a meeting to a later date.

RECOMMENDED ACTION:

The Mayor, as presiding officer, is to call the meeting of the Borough Assembly to order, with the following actions to follow:

- a. Pledge of Allegiance to be given by Don McConachie
- b. Invocation
- c. Community Presentation

ITEM NO. 2 ROLL CALL – BOROUGH CLERK:

INFORMATION: The Borough Clerk shall conduct a roll call of each elected and duly qualified Assembly Member. Such call shall result in an entry of those present or absent from the meeting. The roll call is primarily utilized in determining if sufficient member(s) are present to conduct a meeting. The Borough Clerk may randomly change the conduct of the roll to be fair to the members of the governing body unless the council determined an adopted procedure for roll call which is different than currently in use.

RECOMMENDED ACTION:

Borough Clerk to conduct a roll call by voice vote. Each member to signify by saying here, present (or equal) to give evidence of attendance.

ITEM NO. 3 AMENDMENTS TO THE AGENDA:

INFORMATION: The assembly may amend the agenda at the beginning of its meeting. The outline of the agenda shall be as from time to time prescribed and amended by resolution of the assembly. (WMC 3.04.100)

CITY & BOROUGH OF WRANGELL, ALASKA

RECOMMENDED ACTION:

The Mayor should request of the members if there are any amendments to the posted agenda. ***THE MAYOR MAY RULE ON ANY REQUEST OR THE ASSEMBLY MEMBERS MAY VOTE ON EACH AMENDMENT.***

ITEM NO. 4 CONFLICT OF INTEREST:

INFORMATION: The purpose of this agenda item is to set reasonable standards of conduct for elected and appointed public officials and for city employees, so that the public may be assured that its trust in such persons is well placed and that the officials and employees themselves are aware of the high standards of conduct demanded of persons in like office and position.

An elected city official may not participate in any official action in which he/she or a member of his/her household has a substantial financial interest.

ITEM NO. 5 CONSENT AGENDA:

INFORMATION: Items listed on the Consent Agenda or marked with an asterisk (*) are considered part of the Consent Agenda and will be passed in one motion unless the item has been removed by an Assembly Member or the Mayor and placed on the regular agenda.

RECOMMENDED ACTION:

Move to approve those Agenda items listed under the Consent Agenda and those marked with an asterisk (*) Items:

6a and 7a

ITEM NO. 6 APPROVAL OF MINUTES:

INFORMATION:

6a Minutes of Public Hearing held August 28, 2012; Minutes of Special Assembly meeting held August 28, 2012; Minutes of Regular Assembly meeting held August 28, 2012

**Minutes of Public Hearing
Held on August 28, 2012**

Mayor Jeremy Maxand called the public hearing to order at 6:00 p.m., August 28, 2012, in the Assembly Chambers. Assembly Members Privett, McConachie, McCloskey and Stokes were present. Assembly Member Jack was absent. Borough Manager Timothy Rooney and Borough Clerk Kim Flores were also in attendance.

Public Hearing Item:

**PROPOSED ORDINANCE: AN ORDINANCE OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, AMENDING TITLE 3, CHAPTER 3.32 OF THE WRANGELL MUNICIPAL CODE RELATING TO THE WRANGELL MEDICAL CENTER AND LONG-TERM CARE FACILITY BOARD
(second reading)**

Written Testimony – written documentation was included in the agenda packet.

Oral Testimony –

Janet Buness, 113 Reed Street, referenced page 6 – Personal Property, of the Proposed Ordinance and asked if a long term care resident were to purchase a personal item and place it in their room, or if she were to keep a personal item in her office, would those items now belong to the City? Her concern was that the Proposed Ordinance did not define “personal property”.

Buness also referenced page 8 – Personnel Policy, of the Proposed Ordinance and asked what the intent of this section was. She said that her concern was that the Borough Personnel Policy stated that City workers worked an eight (8) hour day and that some hospital employees often work (ten) 10 to (twelve) 12 hour days. She also said that hospital employees are excluded from the state retirement program and that City employees are not. She expressed that it appeared that hospital employees were being penalized for past events of the hospital administrator and the past hospital board actions.

Alice Rooney, 510 Wrangell Avenue, written testimony submitted and inserted into the minutes as follows:

Public Testimony given August 28, 2012

I have been employed part-time by Wrangell Medical Center as a social worker since 2008 and provided the facility with social work services as an employee of AICS for some 18 years prior to that.

Alice Rooney, PO Box 737, Wrangell

Title 3, Section 3.32.030 Hospital Board General Powers and Duties

G. C. The board shall determine, charge and collect such fees and charges for the services rendered and furnished by the hospital. as it shall deem advisable. **The rates as determined by the board shall be in full compliance with federal and state laws. The rates as determined by the board** Said rates, however, shall be subject to modification by the borough assembly, which may change the rates at any time. No rates, however, will be changed by the borough assembly without the board being advised of a proposal to review such rates and until the board has an opportunity to be present and be heard with respect thereto.

Comments about this subsection:

Medicare and Medicaid funds provide the bulk of revenue for Wrangell Medical Center. It makes me extremely nervous to contemplate the borough assembly modifying hospital rates without a process that ensures maximum input into meeting the complex network of regulatory requirements that govern rate-setting actions. Why would you not value input from the hospital board regarding any proposed modification of rates?

There is a risk of significant financial loss to the facility without a recognition that, in practice, rates are not controlled by local desires, but are controlled by the need to comply with Medicaid and Medicare regulations. This ordinance needs to ensure that future borough assemblypersons and hospital board members will work together to not jeopardize the hospital's primary funding sources.

I urge you to strengthen this section by taking two actions:

1. Leave in the following sentence proposed for deletion:

No rates, however, will be changed by the borough assembly without the board being advised of a proposal to review such rates and until the board has an opportunity to be present and be heard with respect thereto.

2. Add one additional sentence to ensure that we don't run afoul of our primary funding sources:

"It is the intention of this provision that the rates set under this section will continue to qualify services for Medicaid or Medicare reimbursement or partial Medicaid or Medicare reimbursement."

Steven Ruks, 11 Mile Zimovia Highway, expressed that current Ordinance in place would have prevented the events that occurred with the hospital board; City didn't have enough oversight over the hospital board; asked how much more would the Proposed Ordinance mean if the hospital board wasn't being held accountable; concerned that the Proposed Ordinance section 3.32.020 – Purchasing, \$25,000 spending limit was not realistic; asked if

the assembly would be approving all purchases by the hospital over \$25,000; concerned that the Proposed Ordinance section on Consulting, limit of \$5,000 was too low.

Woody Wilson, 1003 Case Avenue, written testimony submitted and inserted into the minutes as follows:

Honorable Mayor Maxand and Borough Assembly Members:

Regarding the proposed action of the Borough Assembly to amend Title 3, Chapter 3.32 of The Wrangell Municipal Code I make the following comments and suggestions.

Section 3.32.020 A. Facility Ownership and Maintenance

First of all I would complement the Assembly for providing clarification on how facility modifications and proposed construction is to be managed for the WMC. Different municipalities handle and manage construction of facilities in different ways. It is only prudent that this is clear for the hospital. I would hope that your intent is to generalize these clarifications throughout the ordinances.

Section 3.32.020 B. Disposal of Property

I would submit that to require the hospital to follow the current ordinance for property disposal may not be in the best interest of the Borough. The ordinance was created in consideration of rolling stock, street equipment, and other such Borough purchases that may have some value and interest by the general public of Wrangell. The hospital may from time to time have X-ray equipment and other specialized equipment that will not be of interest to the general public of Wrangell. With today's advantages of electronic sales through E bay and other online sale opportunities this ordinance could perhaps be revised to allow for this means of disposal of all surplus property. I would encourage you to review this policy in ways that would allow this type of disposal of surplus property.

**Section 3.32.030 and Throughout the Remaining Document
Borough Attorney Requirement Wasteful and Unnecessary**

I noticed numerous times throughout this proposed ordinance where it is required that actions of the WMC "must" be reviewed by both the borough manager and the borough attorney. Having been a superintendent of schools I recognize the expense of such a requirement. It is my belief that your borough manager should be given the option of employing assistance of the attorney at his/her discretion. To require inclusion of the attorney each and every time, as this ordinance does, would be wasteful and unnecessarily. Your borough manager should be given this option.

I would doubt the borough attorney has been allowed to make a suggestion like this one since it would be self-serving guarantees business. Therefore it must be an oversight.

Please consider its removal of the numerous times where the borough attorney is required, by ordinance, to be inserted in these deliberations and replace it as an option for the borough manager to request attorney assistance as necessary.

Section 3.32.030 C. Grants and Monetary Solicitations

My concern in this section centers around the definition of a grants or solicitation of funds. The WMC solicits funds from the federal and state governments on an ongoing basis through many of its entitlement programs. To require reporting of each of these solicitations in writing to the Borough Manager would be, in my opinion, unnecessary and a burden on both administrative systems. Clarification of this section seems to be in order.

Section 3.32.030 D. Personnel Policies

I understand the Assembly's concerns over the personnel policies of the WMC. There are some questions that I believe need to be answered prior to requiring that the personnel policies of the WMC be ".....consistent with the personnel rules and regulations of the borough, and shall be subject to modification by the assembly." Is it the

intent of the Assembly that employees of the WMC are to become members of the Alaska Personnel Retirement System? To be consistent with the Borough's "personnel rules and regulations" this would have to become reality. Regardless of whether this is a move in the right direction or not the topic should be thoroughly discussed and deliberated upon before taking such action.

Also, the WMC has different classes of employees than are currently under the Borough's Personnel Policies. Considerable investigation of such an overarching requirement should be completed before making such a move in ordinance.

I do not believe the Assembly intends to offend the employees of the WMC, but to make such a grand change in the personnel oversight without specifically discussing the reasons for the changes and the results or outcomes of such changes with the personnel who will be affected seems on its face to be dictatorial and inconsiderate.

Concerns of the Assembly might be alleviated with such an ordinance but the unintended consequences of such a change could become very expensive and cause unnecessary disruption to the WMC employees and what they have been accustomed to expect.

I would recommend an organized discussion with all classes of WMC employees by the Borough Manager prior to any change of this nature in personnel policy. Their input and concerns should be addressed prior to action by this ordinance.

Section 3.32.030 E. Borough Attorney Required Approval

This section discusses the contract of the WMC COO/CEO. I believe there is an error in the verbiage of this section, "No administrator may be employed without a contract approved by the borough manger and the borough attorney." The borough attorney should never have administrative authority over a matter such as this. It is appropriate for the borough manager or the Borough Assembly, if the Assembly so chose, to have approval authority. The borough attorney, on the other hand, is not an elected official nor a direct employee of the Assembly. Again, in my opinion, it is inappropriate for the Assembly to become subservient to their attorney's approval.

Furthermore, if the contract from one administrator to the next is for all practical purposes the same it may be unnecessary and cause additional expense to require attorney involvement. In my opinion this should again be at the discretion of the borough manager.

Section 3.32.030 J. Rules and Regulations of WMC

I am sure this section is well intended but I do not believe the Assembly realizes the volume of rules and regulations that will be subject to review and approval. Also as I have previously mentioned some of the personnel classes are different from those found in the city and to change what the WMC employees currently have without their input and consideration is inappropriate. I believe this section, if it is to be retained, needs to have more work and input from WMC employees about what rules and regulations are to be considered or changed.

3.32.030 K. Budget, Audit, Expenditures and Assembly Approval

I understand the concerns of the Assembly but believe this section of the ordinance as written is awkward in the least and poorly written. The language needs to be amended with input from the current acting CEO and former CFO of WMC. I believe clarifications can be made that will satisfy the Assembly and be workable for WMC daily operations. Please consider input and revision of this section.

Section 3.32.040 A. Borough Manager's Oversight of WMC CEO

Again, I understand where the Assembly is on this matter. The language of this section would, however, imply that the CEO is a Wrangell Department Head. There may be unintended consequences of this language. Does this mean the CEO is an employee of the Borough? What is the direct line authority of this action in the staff personnel chart? Is the CEO entitled to PERS and all other benefits of borough employees? Does this action infer that the school superintendent is also to become a department head? What does this section mean in relation to the other employees of WMC? Perhaps the Assembly has had all these and other questions answered to their

satisfaction but I have not seen this reported. Again, proceeding with caution is recommended because of possible unintended consequences and the need for more answers.

Section 3.32.040 B (5) Hire and Discharge of Employees

This section again speaks to personnel rules and regulations of the Borough. I would suggest that this could become an impediment to the employment or discharge of employees because of the differences in the classes of employees the WMC deals with. There may be codes of ethics and other documents of importance that are not found in law, regulation or ordinance but add significant structure and guidelines to the performance and behavior of certain employees. Having left these professional ethics out of this section and again requiring borough code to be followed, which does not include these professional ethics statements, could become an impediment management of personnel. The intention again may be good but the result could have unfortunate consequences. More work needs to be completed on this section if it is to be included.

Section 3.32.040 B (6) Needs Clarification or Definition

This section includes a group of people who are unidentified in definition or explanation. The paragraph begins with, "To work with professional staff and with those concerned with the rendering of professional services at the hospital.....". Who are "those concerned with the rendering of professional services?" This section needs to be explained since it is new and has no previous history through which to explain its meaning. Clarity is needed.

Section 3.32.090 Hospital Board Liaison, Meetings Ordinance and Alaska Statute Contradict Proposed Ordinance

It is my belief that much more communication is necessary for trust to be regained between board, the Assembly, and the community. This being said I welcome a WMC Board Liaison to meet on a regular basis with the WMC board. This liaison can be crucial to building this trust and sharing action and information of the WMC Board with the Assembly. It will also give the media two opportunities to report on any information or action of the WMC Board. The proposed ordinance would seem to be inappropriate and possibly illegal in one respect.

It appears, based on the Borough's own ordinance and by the Open Meetings Act of Alaska, inserting an Assembly liaison into a WMC executive session is precluded. The forced insertion of this liaison into an executive session of another body, namely the WMC Board, without proper invitation or purpose is not spoken to in either ordinance or Alaska Statute. If the Borough forces this action upon the WMC Board it should do so with the full understanding that it may be challenged at some future time. It would also seem prudent for the Assembly, if they do force the WMC Board in this direction, that the Borough would willingly and in advance indemnify the WMC Board, WMC board members individually and collectively, and the WMC from any such challenges and furthermore fully accept all consequences and the financial responsibility of any action that results from this ordinance.

Lawsuits are brought under this section through Alaska's Superior Court. The following excerpts from the Open Meetings Statute spell out only two of the reasons for which a complaining party might prevail in such a lawsuit under the proposed ordinance.

"(8) the degree to which violations of this section were willful, flagrant, or obvious;

(9) the degree to which the governing body failed to adhere to the policy under AS 44.62.312 (a)."

Obviously, if the Borough forces this action upon the WMC Board through ordinance section (8) above would be violated and action taken would be considered willful, flagrant, and obvious. Furthermore, in section (9) the governing body (which in this case according to law is the WMC Board) would be obviously failing to adhere to policy under AS 44.62.312 (a). There is no provision anywhere in any of the open meetings statute for one body to forcibly insert a member of its body into an executive session of another body for any purpose.

I believe this section of the Assembly's ordinance is on its face illegal, could be costly, and I do not recommend it. I understand the Assembly's desire to amend the ordinance to allow this action but I do not think it to be possible under current law.

Your current ordinance, **3.04.120 Executive session**, and the Alaska Statute are below for your review and consideration in this matter.

I have not made these remarks to be contrary to the Assembly's desires or wishes. I have made them to offer assistance. Such a large change in policy in such a short time could have many unintended consequences and not be in the Borough's best interest or, in the language of the proposed ordinance, ".....be in accordance with sound business practices."

I believe you have made a good attempt at changes that need to be made in the governance of the Borough and the WMC. I also understand the concern of the Assembly and the need for promptness in this matter. However, to make such sweeping changes as are suggested without formal conversation with the newly elected WMC Board appears intentional and rushed.

There still appears to be many areas in the proposed ordinance where clarification, wording, or consequences have not been thoroughly thought through, the ramifications of which could be significant. I would encourage the Assembly to form a committee that would work with a committee of the newly elected WMC Board and both the administration of the Borough and the Hospital to clarify and perfect this ordinance.

This is a complicated issue. As always I appreciate the time and effort each of you put into the operation of the Borough. Again, thank you for your consideration as you deliberate on this and other matters.

Respectfully submitted,

Woody Wilson
PO Box 830, 1003 Case Avenue
Wrangell AK 99929

Attachments: **3.04.120 Executive session (Borough) and AS 44.62.310. Government Meetings Public**

**City and Borough of Wrangell Ordinance
3.04.120 Executive session.**

The assembly may, after its agenda is otherwise completed, recess for the purpose of discussing, in a closed or executive session, any questions permitted by law (Alaska Statute Section 44.62.310, as amended) which is expressed in the motion calling for the executive session. The public may be excluded from the session, but final action shall not be taken by the assembly on any matter discussed in executive session until brought back into the regular session. In all cases, the meeting must first be convened as a public meeting and the question of holding an executive session to discuss matters that come within the authorized exceptions to public agency meetings shall be determined by a majority vote of the body. No subjects may be considered at the executive session except those mentioned in the motion calling for the executive session unless auxiliary to the main question. [Ord. 296 § 5, 1974; prior code § 27.10.110.]

Alaska Statutes.
Title 44. State Government
Chapter 62. Administrative Procedure Act
Section 310. Government Meetings Public.
previous: Section 305. Judicial Relief in Administrative Matters.
next: Section 312. State Policy Regarding Meetings.

AS 44.62.310. Government Meetings Public.

(a) All meetings of a governmental body of a public entity of the state are open to the public except as otherwise provided by this section or another provision of law. Attendance and participation at meetings by members of the public or by members of a governmental body may be by teleconferencing. Agency materials that are to be considered at the meeting shall be made available at teleconference locations if practicable. Except when voice votes are authorized, the vote shall be conducted in such a manner that the public may know the vote of each person entitled to vote. The vote at a meeting held by teleconference shall be taken by roll call. This section does not apply to any votes required to be taken to organize a governmental body described in this subsection.

(b) If permitted subjects are to be discussed at a meeting in executive session, the meeting must first be convened as a public meeting and the question of holding an executive session to discuss matters that are listed in (c) of this section shall be determined by a majority vote of the governmental body. The motion to convene in executive session must clearly and with specificity describe the subject of the proposed executive session without defeating the purpose of addressing the subject in private. Subjects may not be considered at the executive session except those mentioned in the motion calling for the executive session unless auxiliary to the main question. Action may not be taken at an executive session, except to give direction to an attorney or labor negotiator regarding the handling of a specific legal matter or pending labor negotiations.

(c) The following subjects may be considered in an executive session:

(1) matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity;

(2) subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion;

(3) matters which by law, municipal charter, or ordinance are required to be confidential;

(4) matters involving consideration of government records that by law are not subject to public disclosure.

(d) This section does not apply to

(1) a governmental body performing a judicial or quasi-judicial function when holding a meeting solely to make a decision in an adjudicatory proceeding;

(2) juries;

(3) parole or pardon boards;

(4) meetings of a hospital medical staff;

(5) meetings of the governmental body or any committee of a hospital when holding a meeting solely to act upon matters of professional qualifications, privileges or discipline;

(6) staff meetings or other gatherings of the employees of a public entity, including meetings of an employee group established by policy of the Board of Regents of the University of Alaska or held while acting in an advisory capacity to the Board of Regents; or

(7) meetings held for the purpose of participating in or attending a gathering of a national, state, or regional organization of which the public entity, governmental body, or member of the governmental body is a member, but only if no action is taken and no business of the governmental body is conducted at the meetings.

(e) Reasonable public notice shall be given for all meetings required to be open under this section. The notice must include the date, time, and place of the meeting and if, the meeting is by teleconference, the location of any teleconferencing facilities that will be used. Subject to posting notice of a meeting on the Alaska Online Public Notice System as required by AS 44.62.175 (a), the notice may be given using print or broadcast media. The notice shall be posted at the principal office of the public entity or, if the public entity has no principal office, at a place designated by the governmental body. The governmental body shall provide notice in a consistent fashion for all its meetings.

(f) Action taken contrary to this section is voidable. A lawsuit to void an action taken in violation of this section must be filed in superior court within 180 days after the date of the action. A member of a governmental body may not be named in an action to enforce this section in the member's personal capacity. A governmental body that violates or is alleged to have violated this section may cure the violation or alleged violation by holding another meeting in compliance with notice and other requirements of this section and conducting a substantial and public reconsideration of the matters considered at the original meeting. If the court finds that an action is void, the governmental body may discuss and act on the matter at another meeting held in compliance with this section. A court may hold that an action taken at a meeting held in violation of this section is void only if the court finds that, considering all of the circumstances, the public interest in compliance with this section

outweighs the harm that would be caused to the public interest and to the public entity by voiding the action. In making this determination, the court shall consider at least the following:

- (1) the expense that may be incurred by the public entity, other governmental bodies, and individuals if the action is voided;
- (2) the disruption that may be caused to the affairs of the public entity, other governmental bodies, and individuals if the action is voided;
- (3) the degree to which the public entity, other governmental bodies, and individuals may be exposed to additional litigation if the action is voided;
- (4) the extent to which the governing body, in meetings held in compliance with this section, has previously considered the subject;
- (5) the amount of time that has passed since the action was taken;
- (6) the degree to which the public entity, other governmental bodies, or individuals have come to rely on the action;
- (7) whether and to what extent the governmental body has, before or after the lawsuit was filed to void the action, engaged in or attempted to engage in the public reconsideration of matters originally considered in violation of this section;
- (8) the degree to which violations of this section were wilful, flagrant, or obvious;
- (9) the degree to which the governing body failed to adhere to the policy under AS 44.62.312 (a).
- (g) Subsection (f) of this section does not apply to a governmental body that has only authority to advise or make recommendations to a public entity and has no authority to establish policies or make decisions for the public entity.

(h) In this section,

(1) "governmental body" means an assembly, council, board, commission, committee, or other similar body of a public entity with the authority to establish policies or make decisions for the public entity or with the authority to advise or make recommendations to the public entity; "governmental body" includes the members of a subcommittee or other subordinate unit of a governmental body if the subordinate unit consists of two or more members;

(2) "meeting" means a gathering of members of a governmental body when

(A) more than three members or a majority of the members, whichever is less, are present, a matter upon which the governmental body is empowered to act is considered by the members collectively, and the governmental body has the authority to establish policies or make decisions for a public entity; or

(B) the gathering is prearranged for the purpose of considering a matter upon which the governmental body is empowered to act and the governmental body has only authority to advise or make recommendations for a public entity but has no authority to establish policies or make decisions for the public entity;

(3) "public entity" means an entity of the state or of a political subdivision of the state including an agency, a board or commission, the University of Alaska, a public authority or corporation, a municipality, a school district, and other governmental units of the state or a political subdivision of the state; it does not include the court system or the legislative branch of state government.

Robert Maxand, 319 Church Street, said that he had attended the hospital board meetings for going on 30 years. He also said that there was a Proposed Ordinance brought to the borough assembly some years back and that Proposed Ordinance did not pass. Maxand expressed that he was in favor of the Proposed Ordinance and said that this Proposed Ordinance was a starting point.

Bill Messmer, 11 Crest Drive, said that the timing of this Proposed Ordinance was unfair to the candidates who ran for the hospital board. Messmer added that the candidates ran for the hospital board based on an existing set of guidelines.

Laura Salard, 3 ½ Mile Zimovia Highway, said that she had attended all hospital board meetings unless she was out of town. Salard said that money used for consulting services

was money wasted and did very little to help the hospital. The other issue Salard addressed was that she believed with the existing Ordinance, the City was ultimately responsible with no authority. Salard said that she was in favor of the Proposed Ordinance and that the City needed to have the authority and oversight over the hospital; believed this was a starting point to move forward.

Mayor Maxand thanked everyone for their comments and concerns.

Adjourned at: 6:32 p.m.

Jeremy Maxand, Mayor

Attest: _____
Kim Flores, Borough Clerk

**Minutes of Special Assembly Meeting
Held August 28, 2012**

Mayor Jeremy Maxand called the special assembly meeting to order at 6:30 p.m., August 28, 2012, in the Assembly Chambers. Assembly Members Privett, McConachie, McCloskey and Stokes were present. Assembly Member Jack was absent. Borough Manager Timothy Rooney and Borough Clerk Kim Flores were also in attendance.

CONFLICT OF INTEREST:

None.

PERSONS TO BE HEARD:

Dorothy Hunt Sweat, 8 ¾ Mile Zimovia, gave a speech to thank the Wrangell voters and to welcome the new Hospital Board members.

ITEMS OF BUSINESS:

5a Certification of Election Results for the August 28, 2012 Special Election
Moved by Privett, seconded by McConachie, that the Borough Assembly of the City and Borough of Wrangell, Alaska, hereby certifies the results of the Special Election held August 21, 2012, as prepared by the Canvass Board, and that the following persons were elected into the office of the Wrangell Medical Center Board.

***Judy K. Allen
Marlene Messmer
Robert Henry***

Per WMC 2.28.160 – Tie Election, Barbara Conine and Robert Henry both received 290 votes. With both candidates present, Robert Henry was the successful candidate by the toss of a coin.

***Terri Henson
Bernie Massin
Megan Clark
Cori Robinson
Larry "Woody" Wilson***

Motion approved unanimously by polled vote.

5b Administer Oath of Office

Borough Clerk Flores administered Oath of Office to all members except Robert Henry who was absent.

Special meeting adjourned at 6:40 p.m.

Jeremy Maxand, Mayor

ATTEST: _____
Kim Flores, Borough Clerk

Draft

**Minutes of Regular Assembly Meeting
Held on August 28, 2012**

Mayor Jeremy Maxand called the regular assembly meeting to order at 7:00 p.m., August 28, 2012, in the Assembly Chambers. Assembly Members Privett, McConachie, McCloskey and Stokes were present. Assembly Member Jack was absent. Borough Manager Timothy Rooney and Borough Clerk Kim Flores were also in attendance.

Pledge of Allegiance was led by Assembly Member Bill Privett.

Invocation given by a member from the Baha'i Faith.

Community Presentation by North American Wood Products, Randy Volk.

AMENDMENTS TO THE AGENDA

None.

CONFLICT OF INTEREST

None.

CONSENT AGENDA

Moved by McConachie, 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 Regular Assembly meeting held July 24, 2012; Minutes of Special Assembly meeting held July 31, 2012; Minutes of Special Assembly meeting held August 6, 2012; Minutes of Special Assembly meeting held August 13, 2012; Minutes of Special meeting held August 17, 2012, were approved as presented.

BOROUGH MANAGER'S REPORT

Written report provided in packet. Borough Manager Rooney stated that there were copies on the table in the City Hall Lobby for the public and that the report, as always, was posted on the Borough Website.

Mayor Maxand said that the full Assembly Meeting packets were now available on the Borough Website as well.

BOROUGH CLERK'S FILE

- Upcoming Dates to Remember

Borough Clerk Flores thanked the following departments for their help during the Special Election held August 21, 2012:

- The Employees of Public Works
- The Nolan Center Staff
- The Election Workers
- To Christie Jamieson, CLJ Consulting

Borough Clerk Flores stated that the preparations for the Special Election went very well, as planned. As of July 28, 2012, Wrangell had 1,615 registered voters. This number was 24 more than the total registered voters as of May 29, 2012. The voter turnout for the Special Election of August 21, 2012 was 30% which was a decrease from the Special Election held June 19, 2012 by 22%

Borough Clerk Flores stated that the Full Regular Assembly Packets are available in PDF format with bookmarks and links for easy navigation on the Borough Website.

Borough Clerk Flores also said that the Wrangell Municipal Code had been updated from a PDF version to a HTML (searchable) version on the Borough Website at **Wrangell.com**. She explained that this allows for copying and pasting and easier searching. She stated that this was a great tool for both the Borough Assembly and the public.

MAYOR/ASSEMBLY REPORTS AND APPOINTMENTS

10a Reports by Assembly Members

Assembly Member McConachie said that it was great to see the Downtown Revitalization project coming to an end. He also said that he was pleased with the way the project was turning out.

Mayor Maxand thanked Randy Volk and Alan Ollivent, North American Wood Products, for their presentation.

10b Certificate of Service presented to Michael Symons, Borough Assembly.

10c Appointment to the Borough Assembly to fill the vacancy of Assembly Seat "F".

Mayor Maxand stated that the Borough Assembly was required by ordinance to fill the vacancy. Mayor Maxand accepted the letter of interest submitted by Billie Younce and asked for a motion to be made.

Moved by Privett, seconded by McCloskey, to appoint Billie Younce to fill the vacancy of Seat "F" of the Borough Assembly up until the next Borough Election to be held October 2, 2012.

Motion approved with Privett, McCloskey and Mayor Maxand voting yea; McConachie and Stokes voting nay.

Borough Clerk administered the Oath of Office to appointed Assembly Member Younce. Assembly Member Younce took her seat at the Diaz.

PERSONS TO BE HEARD

Janet Buness, 113 Reed Street, spoke about dead animal carcasses around town; she gave the assembly a map of the northern part of Wrangell; the map illustrated a path that she walks with her dog and in that area, there were 13 dead animal carcasses; called the Forest Service and they said that they would also look into the matter; dead animal carcasses are not being picked up and discarded; stated that the carcasses pose a public health hazard.

Borough Manager Rooney said that there was a group working on the Paddle Craft Trail on Spur Road and that they would be collecting dead animal carcasses in that area.

Mayor Maxand thanked Ms. Buness for coordinating the Disaster Drill for the community.

UNFINISHED BUSINESS

12a PROPOSED ORDINANCE NO. 865: AN ORDINANCE OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, AMENDING TITLE 3, CHAPTER 3.32 OF THE WRANGELL MUNICIPAL CODE RELATING TO THE WRANGELL MEDICAL CENTER AND LONG-TERM CARE FACILITY BOARD (*second reading*)

Moved by Privett, seconded by McConachie, to approve second reading and adopt.

Bernie Massin, 621 Wrangell Avenue, said that he was offended with the Proposed Ordinance; felt that the newly elected hospital board was being compared to the old hospital board; asked not to be placed in the same category as the old hospital board; agreed to most of the Proposed Ordinance; did not agree with a member of the borough assembly being allowed to enter into hospital board executive sessions; asked if the assembly member would be adding their comments while in the executive session; asked if that assembly member would be reporting back to the borough assembly and divulging what was talked about during the executive session; suggested appointing a borough assembly member to the hospital board.

Assembly Member Privett said that it has taken a long time to get where we are; blames the past assembly for not staying as focused as they ought to have been; views Proposed Ordinance as a tool for new hospital board; gives the hospital board the opportunity for some guidance and support; gives the hospital board time to go thru the Ordinance (if passed), and make recommendations for changes; gives clear direction on what their functions and duties are.

Assembly Member McConachie agreed with Robert Maxand; that this Proposed Ordinance is a chance for a new beginning; stated that he would be voting in favor of the Proposed Ordinance; charge for the new hospital board would be taken seriously if they have clear direction; said what scared him the most with this Proposed Ordinance was the compliance issue with Medicare and Medicaid; believed that the first order of business for the new

hospital board would be make sure that with this Proposed Ordinance, the hospital would be in compliance.

Assembly Member McCloskey agreed that this Proposed Ordinance was a good starting point; not a lack of trust, but hoping to help everyone moving in the right direction; believed that there were items in the Proposed Ordinance that needed to be changed in the future.

Assembly Member Younce expressed her sympathy to Bernie Massin and said that she understood that it was not fair to be compared to the old hospital board; agreed that we would get through this one step at a time.

Assembly Member Stokes thanked Woody Wilson for his oral and written testimony.

Mayor Maxand said that he had been worried that there would not be many members of the community who would step up and run for the hospital board seats; believed that everyone who was elected would dig in and do the hard work; looking forward to the new hospital board being seated; goal for the Proposed Ordinance was to have something in place for the new hospital board; wants to tighten up the relationship between the hospital and the City; wants to protect the City and the hospital; Proposed Ordinance is not meant to micromanage the hospital board; meant to protect the hospital board and provide clear guidance.

Motion approved unanimously by polled vote.

NEW BUSINESS

13a PROPOSED RESOLUTION NO. 08-12-1255: A RESOLUTION OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, AUTHORIZING AN ELECTRICAL RATE INCENTIVE FOR THE NEW CONSTRUCTION FACILITIES FOR SEA LEVEL SEAFOODS, LLC. AND ESTABLISHING THE TERMS AND CONDITIONS OF SUCH INCENTIVE

Moved by Privett, seconded by McConachie, to adopt resolution. Motion approved unanimously by polled vote.

13b Approval of City Tidelands Annual Reassessments for Silver Bay Logging

Moved by McCloskey, seconded by McConachie, to approve the Tidelands Reassessments for the two (2) Silver Bay Logging sites as recommended by Michael C. Renfro of Appraisal Company of Alaska. Motion approved unanimously by polled vote.

13c Consideration and Appropriate Action relating to the interim management services for the Wrangell Medical Center

Moved by McCloskey, seconded by Privett, to approve the interim management services contract for the Wrangell Medical Center.

Borough Manager Rooney said that the proposed "draft" agreement was sent to us by Peace Health; try to get to an agreement with Peace Health so that Olinda White, Interim Hospital Administrator, could go on vacation and have peace of mind; this agreement would allow for management services of the hospital; Peace Health is familiar with the hospital facility; will be going over some aspects of the proposed agreement with the Borough Attorney; encouraged by the agreement.

Assembly Member McConachie pointed out some date compliance issues in the proposed agreement.

Manager Rooney said that he was aware of this and that those date compliance issues would be addressed.

Manager Rooney stated that he was looking for authorization to enter into an agreement with Peace Health once all of the compliance issues were addressed. He also said that he would continue to update the assembly and that Olinda would update the hospital board.

Bernie Massin asked if the hospital board could be given the opportunity to review the proposed agreement.

Manager Rooney answered that there were many changes to the proposed agreement and that once all of those changed had been made, he would give it to the hospital board to approve.

Mayor Maxand said that the hiring a new hospital administrator would be completely in the hands of the hospital board.

Motion approved unanimously by polled vote.

13d Consideration and Appropriate Action relating to the Community Facilities Grant Agreement between the USDA and the City and Borough of Wrangell for the Community Garden Greenhouse

Moved by McConachie, seconded by McCloskey, to authorize the Borough Manager to enter into an Agreement with the USDA for the administration of the construction of a Community Garden Greenhouse. Through USDA grant funds, reimbursement for all costs associated with grant administration and compliance, shall not exceed the amount of \$100,000.

Borough Manager Rooney said that this was a grant that was applied for by the Wrangell Medical Center; the USDA contacted the City to confirm both the approval of the grant and the required \$33,500 match. Rooney said that the land that the greenhouse would sit on is the grant match, and was valued at \$189,000.

Motion approved by unanimous polled vote.

13e Consideration to Cancel the November 13, 2012 Borough Assembly Meeting

Moved by McCloskey, seconded by Younce, to approve the cancellation of the November 13, 2012 Borough Assembly meeting, and conduct only one meeting on November 27, 2012.

Borough Manager Rooney explained that the reason behind cancelling the first meeting in November was that the AML Conference would be occurring during that time.

Motion approved unanimously by polled vote.

13f Discussion and Possible Action relating to a Letter of Support for SEAPA's Hydrogen Feasibility Study

Moved by McCloskey, seconded by Privett, to authorize a Letter of Support for SEAPA's Hydrogen Feasibility Study to the Alaska Energy Authority.

Assembly Member McCloskey asked for clarification on some of the verbiage in the proposed letter.

Mayor Maxand explained how the feasibility study would determine if hydrogen production and storage is feasible for this region.

Assembly Member Privett suggested that if anyone had questions on "cells", to speak with Mike Ashton. Privett said that Mr. Ashton knows a lot about cells.

Motion approved unanimously by polled vote.

ATTORNEY'S FILE

None.

EXECUTIVE SESSION:

15a Borough Manager's Annual Evaluation

Moved by McCloskey, seconded by Privett, to move, pursuant to 44.62.320 (c) (2), that we recess into executive session to discuss matters that may tend to prejudice the reputation and character of any person, specifically the Borough Manager's Annual Evaluation. Motion approved unanimously by polled vote.

Meeting recessed into Executive Session at 7:57 p.m.

Meeting reconvened at 9:00 p.m.

Assembly Member McConachie reported that the Borough Assembly had successfully completed the Borough Manager's evaluation. He thanked Borough Manger Rooney for his services.

ADJOURNMENT: 9:03 p.m.

Jeremy Maxand, Mayor

ATTEST: _____
Kim Flores, Borough Clerk

Draft

CITY & BOROUGH OF WRANGELL, ALASKA

BOROUGH ASSEMBLY AGENDA ITEM September 11, 2012

ITEM NO. 7 COMMUNICATIONS:

INFORMATION: The Assembly may receive items for Communications, reasons only which do not require action. This is an avenue to keep the Assembly informed, for the public to enter items on the record, if necessary. The Assembly also receives agenda communications directly by their constituents, Borough Manager, other agencies' Officers and Department Directors.

A MAIL BOX IS ALSO AVAILABLE IN THE BOROUGH CLERK'S OFFICE FOR EACH MEMBER OF THE ASSEMBLY AND SHOULD BE CHECKED ON A ROUTINE SCHEDULE.

All items appearing under Communications on the Agenda have been approved under the Consent Agenda unless removed.

7a Travel Summary for the months of July and August

7a

[illegible]

[illegible]

2505.2

**TO: THE HONORABLE MAYOR AND ASSEMBLY
CITY AND BOROUGH OF WRANGELL**

**FROM: TIMOTHY D. ROONEY
BOROUGH MANAGER**

RE: BOROUGH MANAGER'S REPORT

DATE: September 7, 2012

*"Watch your thoughts; they become words.
Watch your words; they become actions.
Watch your actions, they become habits.
Watch your habits, they become character.
Watch your character, it becomes your destiny."*

- Frank Outlaw

MANAGERIAL:

LYNCH STREET – As discussed in the August 24, 2012 Borough Manager's Report, Staff had been in the process of developing cost estimates to address paving concerns on Lynch Street. Currently, the plan is to pave it with six inches of concrete to match the work already performed on Brueger Street and the North end of Campbell Drive. Under this scenario, the City would purchase the concrete and perform the excavation and preparation for concrete installation.

Quotes have now been received and the City and Borough of Wrangell is moving forward with this project as the quotes received for the labor portion of the project do not exceed \$25,000 and are within the spending authority of the Borough Manager. A budget amendment for this project will be presented at the September 25, 2012 Borough Assembly meeting. Work on this project will begin on Monday, September 10, 2012.

SEAPA – Southeast Alaska Power Agency is now offering a \$10,000 reward for information that leads to the arrest and conviction of whomever fired rifle shots at one of its transmission towers in August. The damage resulted in both Wrangell and Petersburg having to switch to diesel generation to provide power until repairs were made and hydropower was restored.

The total outage was for approximately 50 hours resulting in an average cost of \$1,000 per hour for the diesel generation, or a total cost of \$54,000. Fuel and Kilowatt Hours were recorded and a fuel surcharge will be included in the next billing cycle to offset this cost.

DOWNTOWN REVITALIZATION PROJECT – A Downtown Revitalization Project update meeting was conducted on Thursday, August 30, 2012 at 10:00 AM at City Hall. No business owners attended the meeting, however an update was provided regarding the progress since the previous meeting and the schedule looking ahead.

All utility work has been completed, as well as all excavation and backfill work. Southeast Earthmovers is performing final grading to have all remaining areas ready for concrete and working on signage and a variety of other outstanding items. Concrete has been completed in the Episcopal Street intersection. St. Michaels Street should be completed in the next few days – potentially open to traffic on Tuesday, September 11, 2012.

All remaining concrete work, between Episcopal Street and Case Avenue, could be complete in the next two weeks. McGraw Custom Construction believes they can complete the project by the current contract completion date of September 21, 2012 but have submitted a request for a time extension to September 28, 2012 for substantial completion and October 5, 2012 for completion of punch-list items. The request states that the extra time is justified to perform change order work performed on the project. Staff and ADOT are currently evaluating this request.

The next (and potentially final) Downtown Revitalization Project update meeting will be conducted on Thursday, September 13, 2012 at 10:00 AM in City Hall. The public is welcome to attend.

INITIATIVE PETITION – As discussed in the August 24, 2012 Borough Manager's Report, the next step in initiative petition process now that the Borough Attorney has verified the petition application is for the petition sponsors – Mr. Ernie Christian and Ms. Rhonda Dawson – to obtain 94 signatures to place the initiative petition before the voters of Wrangell.

The letter of notification to Mr. Christian and Ms. Dawson was submitted on Thursday afternoon, September 6, 2012 and is attached for your information and review. Mr. Christian and Ms. Dawson have 90 days from the date the petition booklets are issued in which to obtain 94 signatures of registered voters for the petition to be voted on by Wrangell citizens. If the signatures are obtained and verified, the petition would be voted on by voters at the next Regular Borough Election to be held on **October 1, 2013.**

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF – On Tuesday, September 4, 2012, the City and Borough of Wrangell filed an amended complaint for declaratory and injunctive relief and return of property and answer to counterclaim of defendant Selle-Rea. The memorandum in support of motion for leave to file first

amended complaint is attached for your information and review, as well as the entire amended complaint. If you have questions regarding this item, please do not hesitate to contact Mr. Blasco.

WMC REPLACEMENT PROJECT – Project Status meetings for the WMC Replacement Project have resumed – the first of which was conducted this morning. These meetings were previously kept on hold while awaiting the results of the WMC Board election and its election of officers. Staff has initiated contact with the USDA regarding what steps they would like us to take (amending existing loan application, submitting a new loan application, etc) in moving forward.

Staff was asked to provide an update regarding the WMC Replacement Project at the WMC Board's work session on Wednesday, September 5, 2012. That report is attached for your information and review and contains information previously communicated to the Borough Assembly in July and August.

SOUTHEAST CONFERENCE – Southeast Conference will be conducting its Annual Membership Meeting September 25-27, 2012 in Craig, Alaska. Southeast Conference was formed in 1958 as an association of communities joined to advocate for the establishment of the Alaska Marine Highway System. While their commitment to its development and efficient operation continues, Southeast Conference has greatly expanded both its membership and its overall mission. Today, Southeast Conference is a regional, nonprofit corporation that advances the collective interests of the people, communities, and businesses in southeast Alaska.

At the Annual Membership Meeting, I will be assuming the role of President through September of 2013. It is both an honor and a privilege to serve on the Southeast Conference Board of Directors and I look forward to serving as their President as we celebrate the 50th Anniversary of the Alaska Marine Highway System.

COFFEE WITH THE MAYOR - The next "Coffee with the Mayor" meeting will be held on Friday, September 14, 2012 from 9:00 AM to 11:00 AM at City Hall. The purpose of these meetings is to provide an opportunity for citizens to meet with the Mayor and discuss issues, concerns, and ideas they would like to share in a forum other than at regularly scheduled meetings of the Borough Assembly.

If you know of any citizens or business owners that would like to meet with the Mayor, no appointment is necessary, just direct them to City Hall on the above date and time do so. Coffee and donuts will be provided.

Borough Manager's Report
September 7, 2012
Page 4 of 7

TIMESHEET – My timesheet for the month of August is attached for your information and review. My office hours continue to be 7:00 AM until 4:00 PM unless requested to meet with a citizen that cannot meet during those times. I will be out of the office September 24-28, 2012 attending Southeast Conference in Craig, AK.

ELECTRIC DEPARTMENT:

INFORMATIONAL ITEMS - The following items have been submitted by the Electric Department for informational purposes:

- The High Ranger Bucket Truck that had an engine problem has been repaired and returned. Staff is still waiting on a full service report from the dealer with details on why it failed and what repairs were necessary. The latest bucket truck, the Terex, has been in service for several weeks and the crew is satisfied with the performance. The older Techo has been officially removed from the line up and is being stripped of equipment in preparation to be declared surplus.
- The Under Ground Service Locator approved in the FY 2012-13 budget has arrived and the crew will be training on it in the near future. This should aid in preventing accidental contact with underground energized services.
- The new Pole Trailer included in the FY 2012-13 budget has been ordered and is almost through the manufacturing process. This week it was scheduled to be galvanized and should be ready for shipping in the next several weeks.
- The line crew has been busy preparing for the stormy season as well as catching up on the latest round of service upgrades and maintenance issues.

If you have any questions regarding the above items, please contact Mr. Hammer.

CAPITAL PROJECTS:

CITY DOCK REHABILITATION - The Contractor, Northwest Underwater Construction (NUC), continues work on the City Dock Rehabilitation project. They will continue to wrap piles for the next several weeks. The only work remaining besides the pile wraps is some repair/stabilization work at the concrete abutment between the street and the dock. This will be the last work to be completed on the project.

COMMUNITY CENTER ROOF REPLACEMENT - Johnson Construction is continuing work on the Community Center roof replacement. Other than removal of a concrete chimney, all demolition work has been completed. Rot repairs on the lower roof has also been completed. The new roof has been installed on the Church Street side of the building and the installation of the new metal roofing on the Reid Street side has begun.

Borough Manager's Report
September 7, 2012
Page 5 of 7

ETOLIN STREET AND MEDICAL CAMPUS UTILITIES - This project is substantially complete. All that remains is for the contractor, Ketchikan Ready Mix, to finish any punch-list items from the substantial completion inspection.

EAST CHANNEL PADDLE CRAFT - This project is substantially complete. The contractor, Ketchikan Ready Mix, is working on punch-list items. Pictures of the new trail are attached for your information and review.

MARINE SERVICE CENTER CONCRETE PAVING - S&S General Contractors is on track to complete this project early. Possibly within the next two weeks. There is one small section left to excavate at the container runway area of the dock and only three remaining concrete pours, one at the area near the dock where the contractor is currently excavating and two pours near the yard entrance by Rayme's Bar.

MARINE SERVICE CENTER CONCRETE PAVING PHASE II - The City and Borough of Wrangell issued a contract to PND Engineers for the design of the Marine Service Center Concrete Paving Phase 2, in order to provide concrete paving over the remainder of the boat haul-out facility. The engineering design is scheduled to be complete by March 2013, after which the construction bidding phase will follow.

The concrete surface improvements to the Marine Service Center Concrete Paving Phase 2 includes demolition of existing concrete surfacing, subgrade excavation and structural backfill, geotextile reinforcement, grading and drainage improvements, utility upgrades, and concrete paving to support boat-handling and seafood-related activities.

MARINE SERVICE CENTER PIER UPGRADES - The City and Borough of Wrangell issued a contract to PND Engineers for the design of the Marine Service Center Pier Upgrades in order to accommodate heavier vessel loads. The engineering design is scheduled to be complete by March 2013, after which the construction bidding phase will follow.

The existing marine travel lift pier was originally designed to support a 200-Ton Travel Lift. The pier is designed with precast concrete deck panels spanning between steel pile caps supported by steel bearing piles. The deck panels control the allowable load on the pier. In order for the piers to handle a new 300 Ton Travel Lift loads, the deck panels will need to be supported below deck with additional steel beams spanning between pile caps. The design concept will be further refined during the design phase.

ECONOMIC DEVELOPMENT:

TIMBER DISCUSSIONS - Staff met with Mr. George Woodbury and Mr. John Glenn twice while he was in town on August 27-28, 2012. Mr. Glenn presented his business

plan for the proposed operation of a small mill and manufacturing plant to staff with the requirement that a non-disclosure agreement be signed. It could be shared with the Assembly in executive session but not to the public in general. Mr. Glenn also notified the Wrangell Sentinel that he had presented a plan to the Borough, but because of the nondisclosure agreement, the media was not allowed a copy. Mr. Glenn agreed to remove the confidential portions of the document so that it could be shared with the media, public, and Assembly. The business plan is attached for your information and review.

At this time, Mr. Glenn is not requesting anything specific of the Borough or Assembly other than their continued support. Staff has discussed grant opportunities with Rural Development and the Economic Development Administration for assistance with installation of utilities. At this time, Mr. Glenn was still considering site locations between Wrangell and Petersburg. He was headed next to Petersburg and then was going to be going back home for appointments with financial entities.

Staff also met with Paul Slenkamp of the Mental Health Trust for Public Lands. They have been working on a land trade with the USFS. Mental Health is seeking to trade a large share of their land in Wrangell and other communities for land on Prince of Wales. While some of the tracts they are proposing to trade are a positive – land around Pats Lake and Rainbow Falls trail, there are other areas that could potentially be utilized long term for future economic use, residential development, or other commercial activity. Once transferred to the USFS, it is forever unavailable for private development.

Areas proposed for trade to continue to change. The USFS is also providing comment. Many of the proposed lands in Wrangell they do not want, because development has already occurred – mostly consisting of roads. Staff would like to stress that this is early in the process and Wrangell will have many additional opportunities to provide feedback and make official comments.

Finally, staff is also meeting with individuals to discuss early draft maps of timber harvest units and issues surrounding timber harvesting as part of the Wrangell Island Timber Sale process. The USFS is still working on alternatives and issues.

MUSEUM:

INFORMATIONAL ITEMS – The following items have been submitted by the Museum for informational purposes:

- The “First Ladies” doll exhibit has been added to the lobby of the Nolan Center and will be in place through the election in November. This unique exhibit features inauguration day doll replicas of all the first ladies from Washington through Reagan. The gowns replicas were all made by a Wrangell resident.

- The museum will be moving to winter hours after the last cruise ship visits Wrangell on September 19, 2012.
- Upcoming projects include the completion of the photo archiving project and a complete inventory of the collection.

If you have any questions regarding these items, please contact Ms. Clark.

PARKS AND RECREATION:

INFORMATIONAL ITEMS – The following items have been submitted by the Parks and Recreation Department for informational purposes:

- The swimming pool has reopened after a 4-week annual maintenance closure.
- The Community Center annual maintenance is currently underway. Please note that the opening may be delayed due to Community Center roof replacement project.
- Registration for Youth Basketball (Grades 3,4,5,and 6) is underway. Practice commences September 17, 2012.
- There will be an Open House for the Swimming Pool on Saturday, September 15, 2012 from 1 to 3 PM to introduce the new Nessie inflatable. This will be free and open to the public.

If you have any questions regarding these items, please contact Mr. Covalt.

ATTACHMENTS:

1. Letter of Notification to Mr. Christian and Ms. Dawson
2. Memorandum in Support of Motion for Leave to File First Amended Complaint
3. First Amendment Complaint for Declaratory and Injunctive Relief
4. Memorandum/Report Provided to the WMC Board
5. Timesheet for the month of August
6. Pictures of East Channel Paddle Craft Trail
7. Business Plan submitted by Mr. John Glenn



City & Borough of Wrangell, Alaska
P.O. Box 531
Wrangell, Alaska 99929
Ph: (907) 874-2381
Fax: (907) 874-3952 or 874-2304
clerk@wrangell.com

September 6, 2012
Via US Mail and Email

Ernie Christian
P.O. Box 428
Wrangell, AK 99929
echristian@aptalaska.net

Rhonda Dawson
P.O. Box 575
Wrangell, AK 99929
rhondainwrangell@hotmail.com

Re: Petition Booklets for Initiative Ordinance

Dear Mr. Christian and Ms. Dawson:

The Petition booklets for the Initiative Ordinance to adjust the Rate of Consumer Sales Tax Levied within the City & Borough of Wrangell from seven percent (7%) to five and one half percent (5.5%) be placed on the ballot for the next Regular Borough Election to be held October 1, 2013 shall be prepared and will be ready for pickup at my office, no later than the afternoon of September 6, 2012.

As the contact person, you are responsible for notifying sponsors that the petition will be available at that time. In reference to WMC 2.32.030 (C), copies of the petition shall be provided by the clerk to each sponsor who appears in the clerk's office and requests a petition, and the clerk shall mail the petition to each sponsor who requests that the petition be mailed.

Per WMC 2.32.040 (A), the signatures on an initiative or referendum petition shall be secured within 90 days after the clerk issues the petition.

Letter to Mr. Christian and Ms. Dawson
September 6, 2012
Page 2 of 2

Also, per WMC 2.32.050 (A), all copies of an initiative or referendum petition shall be assembled and filed as a single instrument.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kim Flores".

Kim Flores
Borough Clerk

cc: Mayor/Assembly Members
Borough Manager
Borough Attorney

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FIRST JUDICIAL DISTRICT AT WRANGELL

CITY AND BOROUGH OF WRANGELL,

Plaintiff,

v.

NOEL D. SELLE-REA, MARK ROBINSON,
LINDA BJORGE, LURINE MCGEE, JIM
NELSON, SYLVIA ETTEFAGH, and LEANN
RINEHART, individually and as co-conspirators

Defendants.

CASE NO.: 1WR-12- 55 CI

**MEMORANDUM IN SUPPORT OF MOTION FOR LEAVE TO
FILE FIRST AMENDED COMPLAINT**

Plaintiff, City and Borough of Wrangell, pursuant to Alaska Rule of Civil Procedure, Rule 15 has moved this Court to accept for filing its First Amended Complaint. Civil Rule 15(a) provides that leave to amend "shall be freely given when justice so requires " The Alaska Supreme Court has consistently held that "A party should be granted leave to amend when there is no showing that the amendment will result in an injustice. " *Estate of Thompson v Mercedes-Benz, Inc.*, 514 P.2d 1269 (Alaska 1973).

The proposed amendment adds two claims. It appears from a review of WMC board records that the board did not pass a resolution to amend, modify, or change the February 22, 2010 contract with Defendant Selle-Rea before the board president signed those amendments. The failure to adopt a resolution before signing the two amendments violated Section 8 of the February 22, 2010 contract, making the purported First and Second Amendments "void and not binding" on the WMC by the terms of the contract. (Exhibit 1; Exhibit 2; Exhibit 3). There is no prejudice to the six recalled board member defendants by

1 the Court accepting the First Amended Complaint for filing because they have known that
2 they did not pass a resolution as to each purported amendment.

3 The second added claim relates to the Borough learning since the filing of the Complaint
4 that Defendant Selle-Rea had retained property belonging to the WMC (which is owned by
5 the Borough), specifically a Blackberry cell phone and iPad. The Borough/WMC demanded
6 return of that property, but he refused. Defendant Selle-Rea has “discarded” the cell phone
7 and is using the iPad for “personal matters.” Both items likely would have had important
8 and relevant information in this litigation, in addition to Defendant Selle-Rea’s improper
9 retention of property that does not belong to him. There is no prejudice to Defendant Selle-
10 Rea in adding the claim as he had the information before the Borough that he had kept
11 possession of public property and made the decision to destroy evidence and refuse to return
12 Borough property.

13 The parties have not exchanged Initial Disclosures and the Defendants have provided no
14 discovery—other than Defendant Selle-Rea’s admission that he “discarded” the cell phone.
15 As discovery has not even begun, there is no prejudice to the Defendants under the liberal
16 interpretation of Rule 15 to allow the filing of the First Amended Complaint. The Borough
17 respectfully requests that the Court allow the proposed First Amended Complaint that is
18 attached to this Memorandum.

19 DATED: September 4, 2012.

HOFFMAN & BLASCO, LLC

20
21 By: Robert P. Blasco
22 Robert P. Blasco AK Bar # 7710098
Attorneys for the City and
Borough of Wrangell

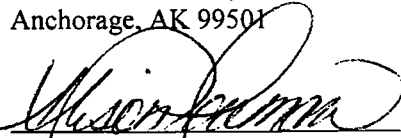
HOFFMAN & BLASCO, LLC
9360 Glacier Highway, Suite 202
Juneau, AK 99801
907-586-3340 (T) 907-586-6818 (F)

Certificate of Service

This is to certify that on September 4, 2012, true and correct copies of the forgoing **MEMORANDUM IN SUPPORT OF MOTION TO AMEND COMPLAINT** was provided to the parties of record as indicated below:

Elizabeth P. Hodes [x] US Mail
Jon S. Dawson [] Facsimile
Davis Wright Tremain LLP [x] Email
701 West 8th Ave., Suite 800
Anchorage, AK 99501-3468

David H. Shoup [x] US Mail
Tindall Bennett & Shoup [] Facsimile
508 West 2nd Ave., Third Floor [x] Email
Anchorage, AK 99501


Alison Foreman

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FIRST JUDICIAL DISTRICT AT WRANGELL

CITY AND BOROUGH OF WRANGELL,

Plaintiff,

v.

NOEL D. SELLE-REA, MARK ROBINSON,
LINDA BJORGE, LURINE MCGEE, JIM
NELSON, SYLVIA ETTEFAGH, and LEANN
RINEHART, individually and as co-conspirators

Defendants.

CASE NO.: 1WR-12- 55 CI

**FIRST AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE
RELIEF AND RETURN OF PROPERTY AND ANSWER TO COUNTERCLAIM OF
DEFENDANT SELLE-REA**

The City and Borough of Wrangell (hereafter the Borough or Wrangell), through counsel, Hoffman & Blasco, LLC, by Robert P. Blasco, alleges the following complaint against the defendants.

I. **INTRODUCTION**

On June 20, 2012, six Board members of the Wrangell Medical Center Board, named as defendants above, all of whom had been recalled by the voters of the City and Borough of Wrangell in a special election on June 19, 2012, terminated the Wrangell Medical Center Administrator, Defendant Selle-Rea (hereafter Selle-Rea), without any discussion and without any agenda item related to Selle-Rea. The six recalled Board Member defendants immediately directed the Chief Financial Officer of the Wrangell Medical Center (hereafter WMC) to immediately pay Selle-Rea \$520,788.58, allegedly pursuant to an Evergreen Clause and a Golden Parachute provision in a recent amendment to Selle-Rea's employment contract. The actions of the recalled board members were unlawful in many ways and

1 violated their fiduciary obligations to the WMC, the Borough and the people of the
2 community of Wrangell. On behalf of the people of Wrangell, the Borough respectfully
3 requests that the Court declare the amendments to Selle-Rea's contract void, declare the
4 actions of the recalled board members ultra vires and illegal, order Selle-Rea to return the
5 monies to the Borough, and order Selle-Rea and the individual recalled board members to
6 pay the attorneys' fees incurred by the Borough in this action and hold them jointly and
7 severally liable for any and all funds improperly paid by their actions.

8 **II. PARTIES**

9 1. The Borough is a home rule borough organized and existing under the constitution
10 and laws of the State of Alaska. The Borough owns and operates the Wrangell Medical
11 Center.

12 2. Noel D. Selle-Rea was the Wrangell Medical Center Administrator until June 20,
13 2012. Mr. Selle-Rea is believed to be a resident of Wrangell, Alaska, and was so on June 20,
14 2012 and at all times relevant to this action.

15 3. Mark Robinson, Linda Bjorge, Lurine McGee, Jim Nelson, Sylvia Ettefagh and
16 LeAnn Rinehart are all former members of the Wrangell Medical Center board. All of these
17 defendants are believed to be residents of Wrangell, Alaska and were residents at all times
18 relevant to this action.

19 **III. JURISDICTION AND VENUE**

20 4. The Court has subject matter jurisdiction over this action for declaratory judgment
21 and injunctive relief pursuant to AS 22.10.020(c)&(g) because a justiciable controversy is
22 known to exist between the parties that is within the Court's jurisdiction.

1 5. The Court has personal jurisdiction over Defendant Selle-Rea as a resident of
2 Wrangell, Alaska. Defendant Selle- Rea recently voted in an election in Wrangell.

3 6. The Court has personal jurisdiction over Defendants Mark Robinson, Linda Bjorge,
4 Lurine McGee, Jim Nelson, Sylvia Ettefagh and LeAnn Rinehart as residents of Wrangell,
5 Alaska.

6 7. Venue is proper because the underlying civil controversy and the key events related
7 to that controversy have taken place in Wrangell, Alaska.

8 **IV. FACTS**

9 8. The Borough owns and operates the Wrangell Medical Center (hereafter WMC),
10 located in Wrangell, Alaska and the Borough is ultimately responsible for WMC's budget
11 and debts.

12 9. The Wrangell Medical Center is a non-profit public medical care facility.

13 10. According to the Wrangell Borough Charter, Section 3-9, "The borough- operated
14 Wrangell Medical Center shall be operated by a board established by ordinance and elected
15 by the voters."

16 11. On February 22, 2010, the WMC Board entered an employment contract with
17 Defendant Selle-Rea. (Exhibit 1). The February 22, 2010 contract was not provided to the
18 Borough Assembly. The February 22, 2010 contract was not approved by the Borough
19 Assembly. The February 22, 2010 contract contained the following provisions, among other
20 provisions:

21 a) At Will Employment (Section 5a);

22 b) One year severance pay if terminated without cause (Section 5c.i.);

- c) The severance payment would be after “the usual amounts for federal withholding and other as required by law or as authorized by the CEO”;
- d) Required a confidentiality agreement and release of all claims by Selle-Rea against the WMC within 10 days of termination (Section 5e);
- e) The failure to provide the Release of Claims and Covenant Not to Sue by Selle-Rea relieved WMC of any obligation to pay severance (Section 5e).

12. The contract dated February 22, 2010 contained the following provision:

“Section 8 Amendments. The terms and conditions of this Contract may be amended, modified or changed at any time by mutual agreement of the parties in writing, provided that the amendment, modification or change has been approved by a resolution of the Board of Directors. Any amendment, modification or change that has not been approved in advance by a resolution of the Board of Directors is void and is not binding on WMC.”

13. On March 14, 2011, the President of the WMC Board signed a purported “First Amendment to Chief Executive Officer Contract.” (Exhibit 2). The records of the WMC Board of Directors does not contain any resolution approving in advance the amendments, modifications and changes contained in the document titled First Amendment.

14. The First Amendment was not provided to the Borough Assembly. The First Amendment was not approved by the Borough Assembly.

15. The First Amendment purported to change Section 5e to allow Selle-Rea twenty-one (21) days to provide the Release of Claims and Covenant Not to Sue to WMC after termination. It did not change the requirement that Selle-Rea must sign the Release of Claims and Covenant Not to Sue as a pre-condition to payment of any severance.

1 16. The First Amendment did not change the Section 8 requirement that any and all
2 amendments, modifications or changes to the February 22, 2010 agreement had to be
3 approved by resolution of the WMC Board in advance or those changes were void and not
4 binding on the WMC.

5 17. On March 10, 2012, the Borough clerk acknowledged by letter that eight (8)
6 applications for petitions to recall were filed with the Borough clerk to recall Mark
7 Robinson, Linda Bjorge, Lurine McGee, Jim Nelson, Sylvia Ettefagh, LeAnn Rinehart, Jake
8 Harris and Delores Norman from the WMC Board.

9 18. The petitions to recall each of the recalled board member defendants were signed by
10 a sufficient number of Wrangell residents under state law on or before March 9, 2012.

11 19. On March 28, 2012, the Borough Clerk notified the sponsors of the eight recall
12 petitions that the petitions met the requirements of WMC 2.40.030. The letter advised the
13 sponsors that the packets for the Petitions for Recall could be obtained at the Borough office
14 on April 2, 2012. On March 28, 2012, the Borough Clerk withdrew the earlier notice of
15 sufficiency. On March 29, 2012 eight applications for petitions to recall were filed with the
16 Borough to recall defendants Mark Robinson, Linda Bjorge, Lurine McGee, Jim Nelson,
17 Sylvia Ettefagh, LeAnn Rinehart.

18 20. On March 29, 2012, Defendant Robinson, then WMC Board President, signed a
19 document titled: Second Amendment To Chief Executive Officer Employment Contract
20 Dated February 22, 2010 (Exhibit 3; hereafter Second Amendment). The records of the
21 WMC Board of Directors does not contain any resolution approving in advance the
22

1 amendments, modifications and changes contained in the document titled Second
2 Amendment as required by Section 8 of the February 22, 2010 Contract.

3 21. The Second Amendment did not change the Section 8 requirement that any and all
4 amendments, modifications or changes to the February 22, 2010 agreement had to be
5 approved by resolution of the WMC Board in advance or any purported amendments,
6 modifications or changes were void and not binding on the WMC.

7 22. The Second Amendment was not provided to the Borough Assembly. The Second
8 Amendment was not approved by the Borough Assembly.

9 23. The Second Amendment purported to change Defendant Selle-Rea's contract in part
10 as follows:

11 4. TERM. "... Upon the expiration of the first year, and each year
12 subsequent, a new five year term begins unless WMC advises the CEO
13 in writing prior to the expiration of the current year that WMC does not
14 authorize the renewal of the five year term in which instance the
15 contract will expire at the conclusion of the current five year term. This
16 means that the start of each year begins a new five year term unless
17 WMC gives written notice to the CEO as described above. This term is
18 to be used when calculating any amounts that may be owed to the CEO
19 in accordance with Section 5 payments upon termination unless stated
20 otherwise in Section 5."

17 Paragraph (c) of Section 5 of the Contract is amended to read as
18 follows:

18 c. Severance Payments. Upon the termination of the CEO's
19 employment for any reason, WMC will pay the CEO, within the time
20 required by law, any salary earned through the date of the termination.
21 In addition, WMC shall pay the CEO severance benefits on the
22 following terms and conditions:

21 i. Grounds for Payment. Subject to the CEO's satisfaction of the
22 requirements of paragraph (e) below, the severance benefit will be
payable if the CEO's employment is terminated by:

- I. The Board without Cause; or
- II. The CEO for Good Reason.

ii. Cash Payment. At the times specified in clause iii below, WMC will pay the CEO a total payment equal to:

I. The total salary owed the CEO during just the first five year term of this contract less any amounts already received by the CEO. However, in the event that the CEO is owed less than one year's base salary when his employment is terminated, the CEO shall be paid no less than one year's base salary;

II. The annualized amount of any incentive compensation or bonus the CEO earned through the date of termination for the year in which the-termination occurred, to the extent unpaid. For this purpose, the amount of the bonus earned will be determined by the extent to which the CEO, as of the date of termination, was on track for achieving the bonus/incentive compensation criteria for the year in which the termination occurred;

III. \$5,200 or, if greater, the amount WMC is paying under Sections 3(e) and (f), as of the date of the termination, to reimburse the CEO for the purchase of life insurance and an automobile allowance; and

IV. The amount of the employer contributions WMC is scheduled to make to WMC's 401(a) plan (or any additional or replacement retirement benefit planes) adopted by WMC) for the year in which the termination occurs.

iii. Payment Terms. The payment under clause ii above will be paid, net of applicable income tax, in two installments:

I. The first payment will be made on the 60th day after the date of termination; and

II. The second payment will be made on the anniversary of the first payment date.

If the payment date under subclause I or II above falls on a day that is not a business day for WMC, the payment will be made on the following business day.

1 iv. Health Benefits. WMC shall provide the CEO and his spouse
2 with continued group health plan coverage (medical, dental and vision)
as follows:

3 I. Coverage shall continue until whichever of the following
4 occurs first:

5 aa. The date the CEO qualifies for group health plan
6 coverage provided by a subsequent employer; or

7 bb. The fifth anniversary of the date of termination.

8 II. During the continuation period under subclause I above,
9 WMC shall continue to pay 100 percent of premiums for coverage
10 under its group health plans, except as provided under subclause III
11 below.

12 III If WMC reasonably determines that the CEO cannot
13 participate in WMC's group health plans because he is no longer
14 actively performing services for WMC, WMC will pay the COBRA
15 coverage premiums for group health plan coverage for the CEO and his
spouse. If the COBRA continuation coverage period expires before the
benefit continuation period specified in subclause I above, WMC shall
pay for the balance of the period remaining under subclause I above, the
premiums for a conversion or portability policy obtained by the CEO.

16 v. Outplacement/Tax Planning. Within ten business days of the
17 date of termination, WMC will pay the CEO \$5,000 which the CEO
18 may, but is not required to, apply towards outplacement and/or tax
19 planning services.

20 24. Section 4a of the Second Amendment is generally referenced in employment
21 agreements as an Evergreen Clause.

22 25. Section 5 of the Second Amendment states provisions generally referenced in
employment agreements as a Golden Parachute.

 26. The Second Amendment confirmed and readopted the February 22, 2010 Contract,
"not otherwise addressed" by the First Amendment. The Second Amendment purported to

1 absolve and release Selle-Rea of any actions or inactions in the performance of his duties if
2 it occurred before March 29, 2012.

3 27. The Second Amendment did not change the Section 5e requirement that Rea sign a
4 Release of Claims and Covenant Not to Sue within twenty-one (21) days of termination as a
5 “precondition to obtaining any severance.”

6 28. On March 30, 2012, the Borough clerk sent a second letter to the sponsors of the
7 petitions to recall advising that the applications for the petitions to recall were sufficient
8 under WMC 2.40.030 and the packets for the Petitions for Recall could be obtained on April
9 2, 2012 at the Borough office, and further advising as to certain restrictions on the dates
10 related to which board members could be the subject of a recall petition.

11 29. On April 9, 2012, the Borough clerk notified the petition sponsors by letter that the
12 Petitions for Recall were certified.

13 30. On April 24, 2012, the Borough Assembly directed the Borough clerk to schedule
14 the special election on the eight Petitions for Recall for June 19, 2012.

15 31. On June 19, 2012, the special election was held. All eight WMC Board members
16 subject to the Petitions for Recall were recalled by the voters of the City and Borough of
17 Wrangell. The voter turnout was 52% of the total registered voters in Wrangell.

18 32. From public notices, the WMC Board members knew that the election results would
19 be certified on June 25, 2012. On June 20, 2012, a WMC Board meeting was held, even
20 though eight of the nine board members had now been recalled.

21 33. The agenda for the June 20, 2012 WMC Board meeting did not include any item
22 related to Defendant Selle-Rea and his employment at WMC.

1 34. The six recalled board member defendants attended the meeting on June 20, 2012.
2 The meeting was also attended by the one board member not subject to the recall, Dorothy
3 Hunt-Sweat.

4 35. At the meeting on June 20, 2012, the six recalled board member defendants went
5 into executive session on a matter not related to Defendant Selle-Rea.

6 36. Upon coming out of executive session, Defendant Ettefagh made a motion to
7 terminate Defendant Selle-Rea. Ms. Hunt-Sweat asked: "So does everybody know what
8 they're doing, if they terminate Noel Rea and where -- what it does to the city and the
9 hospital financially?" Defendant Ettefagh answered: "Yes." Ms. Hunt-Sweat stated "we
10 haven't discussed it" and that "Obviously, that's something we should discuss in executive
11 session, shouldn't we?" Ms. Hunt-Sweat said "I want more time to think." Defendant
12 Robinson stated: "No discussion," and immediately took the vote. The six recalled board
13 member defendants voted 6-1 to terminate Rea. Ms. Hunt-Sweat voted against the motion.
14 The six recalled board member defendants appointed Olinda White, the Chief Financial
15 Officer at WMC, as the Acting Administrator.

16 37. Upon adjournment of the June 20, 2012 meeting, the six recalled board member
17 defendants directed Ms. White, to remain in the building when she attempted to go home.
18 The six recalled board member defendants directed Ms. White to immediately write a check
19 to Defendant Selle-Rea. The six recalled board member defendants directed Ms. White to
20 issue a check to Selle-Rea for one-half the amount of the five year severance plus an
21 additional 25% to cover his taxes on the severance pay, which total was \$520,788.58.
22

1 38. The purported Second Amendment to the February 22, 2010 Contract stated that:
 2 “The first payment will be made on the 60th day after the date of termination.”

3 39. When Ms. White protested, Defendant Selle-Rea told her she had no choice because
 4 the board members (the six recalled board member defendants) were her bosses and she had
 5 to do what they told her to do. Ms. White wrote the check.

6 40. After Ms. White provided the check for Selle-Rea to the six recalled board member
 7 defendants, Ms. White received a call from Defendant Robinson on June 21, 2012.
 8 Defendant Robinson ordered Ms. White to cancel the check and immediately arrange for a
 9 wire transfer of the monies to Selle-Rea’s account. Ms. White arranged for the wire transfer
 10 and Rea had the monies in his account as of June 21, 2012.

11 41. In violation of the requirements of Section 5e of the Contract, Selle-Rea did not sign
 12 a Release of Claims and Covenant Not to Sue before receiving and accepting the wire
 13 transfer for \$520,788.58 as “severance.”

14 42. The February 22, 2010 Contract, the First Amendment and the Second Amendment
 15 appear to have been drafted by the law firm of Garvey Schubert Barer. It is unknown to the
 16 Borough whether Garvey Schubert Barer ever drafted the Release of Claims and Covenant
 17 Not to Sue, referenced as Exhibit A to the Contract, First Amendment and Second
 18 Amendment. It is unknown whether Defendant Selle-Rea, as the “CEO” of the WMC
 19 requested that Garvey Schubert Barer draft the Exhibit. It is unknown whether either board
 20 President Lynn Campbell or Defendant Robinson requested Garvey Schubert Barer to draft
 21 the Exhibit A or directed Defendant Selle-Rea to have the Exhibit A drafted or otherwise
 22

1 acted to fulfill their fiduciary obligation to insure that Exhibit A was attached to the
2 Contract, First Amendment and Second Amendment.

3 43. In violation of the precondition to payment of any severance as required by Section
4 5e of the Contract and in breach of their fiduciary obligations to the WMC, the six recalled
5 board member defendants failed to require Selle-Rea to sign a Release of Claims and
6 Covenant Not to Sue before ordering Ms. White to make the payment to Defendant Selle-
7 Rea.

8 44. The Borough Mayor, Assembly and Manager did not have any advance notice of the
9 action taken by the six recalled board members on June 20, 2012. On June 26, 2012, the
10 Borough attempted to stop payment on the wire transfer. Due to the wire transfer being
11 immediately implemented on June 21, 2012, the Borough had no opportunity to stop the
12 transfer of the funds.

13 45. On June 25, 2012, the Borough Assembly certified the recall election results in
14 accordance with state law and the Borough Code.

15 46. On June 28, 2012, the Borough, by letter, requested that Defendant Selle-Rea return
16 the monies paid to him on June 21, 2012. To the date of this First Amended Complaint,
17 Selle-Rea has not done so.

18 47. On August 1, 2012, Ms. White advised the Borough Manager that Defendant Selle-
19 Rea had continued to possess Borough/WMC property and that he refused to return that
20 property, specifically, an iPad and Blackberry cell phone. Those items were paid for with
21 WMC funds for Defendant Selle-Rea's use while the WMC Administrator. Neither item
22 was Selle-Rea's personal property.

1 48. On August 3, 2012, the Borough made a written request to Defendant Selle-Rea's
2 attorney to immediately return the iPad and cell phone.

3 49. On August 9, 2012, Defendant Selle-Rea advised the Borough, through his attorney,
4 that he had "discarded" the cell phone and he intended to keep the iPad for his "personal
5 matters."

6 50. Defendant Selle-Rea had no authority to "discard" the cell phone, which was
7 property belonging to the Borough/ WMC.

8 51. Defendant Selle-Rea has no authority to retain possession of the iPad, which is
9 property belonging to the Borough/ WMC.

10 52. The cell phone likely contained relevant evidence in this case, consisting of phone
11 calls and text messages between Defendant Selle-Rea and the six recalled board member
12 defendants, and likely others, with relevant information as to the facts and causes of action
13 in this First Amended Complaint.

14 53. The iPad phone likely contains relevant evidence in this case, consisting of e-mails
15 between Defendant Selle-Rea and the six recalled board member defendants, and likely
16 others, with relevant information as to the facts and causes of action in this First Amended
17 Complaint.

18 **V. FIRST CAUSE OF ACTION: THE FIRST AND SECOND**
19 **AMENDMENTS ARE VOID AND UNENFORCEABLE AS AGAINST**
20 **THE BOROUGH/WMC**

21 54. The Borough incorporates by reference paragraphs 1-53 above.

22 55. Section 8 of the contract dated February 22, 2010, prohibited the WMC Board of
Directors from amending, modifying or changing any of the conditions of the contract unless

1 the amendments, modifications or changes were approved in advance by the Board by
2 resolution of the board.

3 56. The First Amendment to the contract dated February 22, 2010 was not approved by
4 resolution of the board. The First Amendment did not change Section 8 of the February 22,
5 2010 contract.

6 57. The Second Amendment to the contract dated February 22, 2010 was not approved
7 by resolution of the board. The Second Amendment did not change Section 8 of the
8 February 22, 2010 contract.

9 58. By the terms of the contract dated February 22, 2010, Section 8, the purported First
10 and Second Amendments to the contract are "void and not binding on WMC." As the First
11 and Second Amendments are void and not binding on the WMC, the First and Second
12 Amendments are void and not binding on the Borough.

13 59. The six recalled board member defendants violated their fiduciary obligations to
14 WMC, violated their oath of office, and breached the contract dated February 22, 2010, by
15 ordering the payment of \$520,788.58 to Defendant Selle-Rea on June 19 and June 20, 2012.

16 60. The actions of the six recalled board members in ordering the payment of
17 \$520,788.58 to Defendant Selle-Rea on June 19 and June 20, 2012 is void and
18 unenforceable.

19 61. The First Amendment is void and unenforceable.

20 62. The Second Amendment is void and unenforceable.

21 63. The Borough, as the owner of the WMC, is entitled to a declaratory judgment
22 declaring the First and Second Amendments void and unenforceable, and for an order

1 directing the return of the monies given to Defendant Selle-Rea from Defendant Selle-Rea
2 and the six recalled board member defendants, jointly and severally.

3 **VI. SECOND CAUSE OF ACTION: FOR A DECLARATION THAT THE**
4 **SECOND AMENDMENT TO CHIEF EXECUTIVE OFFICER**
5 **EMPLOYMENT CONTRACT DATED FEBRUARY 22, 2010, SIGNED**
6 **ON MARCH 29, 2012 IS VOID AS AN ULTRA VIRES ACT OF THE**
7 **SIX RECALLED BOARD MEMBER DEFENDANTS**

8 64. Wrangell incorporates by reference paragraphs 1-63 above.

9 65. The action of the six recalled board member defendants allowing the board president
10 to sign the Second Amendment exceeded their authority as elected officials under the
11 Borough charter and Borough code, and thus, constituted an ultra vires act.

12 66. The six recalled board member defendants exceeded the scope of their authority by
13 entering the Second Amendment for the personal benefit of Defendant Rea, which
14 constituted an ultra vires act.

15 67. As the approval of the Second Amendment was an ultra vires act of the WMC
16 board, the Second Amendment is void and unenforceable.

17 68. The Borough, as the owner of the WMC, is entitled to a declaratory judgment
18 declaring the Second Amendment void and unenforceable, and for an order directing the
19 return of the monies given to Defendant Selle-Rea by Selle-Rea and the other defendants,
20 jointly and severally.

21 **VII. THIRD CAUSE OF ACTION: THE ACTIONS OF THE SIX**
22 **RECALLED BOARD MEMBER DEFENDANTS DIRECTING**
IMMEDIATE PAYMENT TO DEFENDANT SELLE-REA ARE VOID
AS ULTRA VIRES

69. Wrangell incorporates by reference paragraphs 1-68 above.

1 70. The six recalled board member defendants exceeded the scope of their authority
2 when they directed Ms. White to make an immediate payment to Defendant Selle-Rea in the
3 amount of \$520,788.58 after the adjournment of the Board meeting of June 20, 2012.

4 71. The six recalled board member defendants had no authority to act outside of a board
5 meeting to order Ms. White to immediately pay Defendant Selle-Rea. No board action was
6 taken to approve the order of the six recalled board member defendants.

7 72. There is no provision in the Second Amendment allowing the six recalled board
8 member defendants to modify the contract orally to the personal benefit of Defendant Rea to
9 allow for payment earlier than the 60th day after termination. The six recalled board member
10 defendants knew or should have known that their action directing immediate payment to
11 Defendant Rea was contrary to the provisions of the Second Amendment, which provided:
12 “The first payment will be made on the 60th day after the date of termination.”

13 73. The six recalled board member defendants ordered Ms. White to make the
14 immediate payment to Defendant Selle-Rea with full knowledge that their action would have
15 a severe negative financial impact on the WMC and that the direction to make immediate
16 payment to Defendant Selle-Rea was contrary to the best interests of the WMC, the Borough
17 and the community.

18 74. Defendant Robinson exceeded the scope of his authority when he directed Ms.
19 White to make an immediate wire transfer payment to Defendant Selle-Rea in the amount of
20 \$520,788.58 on June 21, 2012.

21 75. Defendant Robinson knew that no board action had been taken approving an
22 immediate wire transfer to Defendant Selle-Rea.

1 76. Defendant Robinson knew or should have known that his order to Ms. White to
2 make an immediate wire transfer to Defendant Selle-Rea constituted an illegal private gift of
3 public funds to Defendant Selle-Rea.

4 77. Defendant Robinson knew or should have known that he had no authority to direct
5 Ms. White to make an immediate wire transfer to Defendant Selle-Rea.

6 78. Defendant Robinson acted for the personal benefit of Defendant Selle-Rea and
7 contrary to the best interests of the WMC, the Borough and the community.

8 79. Defendant Robinson knew or should have known that his action would have a
9 severe adverse financial impact on the WMC, and he intended to affect that severe adverse
10 financial impact by his actions.

11 80. The Borough, as the owner of the WMC, is entitled to a declaratory judgment
12 declaring the Second Amendment void and unenforceable, and for an order directing the
13 return of the monies received by Defendant Selle-Rea, as the actions of the six recalled
14 board member defendants, and the additional individual acts of Defendant Robinson, were
15 all ultra vires acts exceeding the scope of their authority.

16 **VIII. FOURTH CAUSE OF ACTION: THE ACTIONS OF THE SIX**
17 **RECALLED BOARD MEMBER DEFENDANTS VIOLATED ALASKA**
18 **CONST. ART. IX §6 BY APPROVING THE SECOND AMENDMENT**

19 81. Wrangell incorporates by reference paragraphs 1-80 above.

20 82. The evergreen clause in Section 4 of the Second Amendment constitutes an illegal
21 private gift of public funds to Defendant Selle-Rea.

22 83. The Evergreen Clause in Section 4 of the Second Amendment does not serve any
public purpose.

1 84. The six recalled board member defendants knew or should have known when they
2 purported to enter the Second Amendment that the evergreen clause in the Second
3 Amendment that the personal benefit to Selle-Rea did not serve any public purpose.

4 85. The six recalled board member defendants knew or should have known when they
5 purported to enter the Second Amendment that the personal benefit to Defendant Selle-Rea
6 was not in the best interests of the WMC and did not benefit the WMC, the Borough or the
7 community of Wrangell.

8 86. The Borough, as the owner of the WMC, is entitled to a declaratory judgment
9 declaring the Second Amendment void and unenforceable as having been entered by the six
10 recalled board member defendants in violation of Alaska Const. art. IX §6.

11 **IX. FIFTH CAUSE OF ACTION: THE ACTIONS OF THE SIX**
12 **RECALLED BOARD MEMBER DEFENDANTS VIOLATED ALASKA**
13 **CONST. ART. IX §6 BY APPROVING THE SECOND AMENDMENT**

14 87. Wrangell incorporates by reference paragraphs 1-86 above.

15 88. The Golden Parachute clause in Section 5 of the Second Amendment constitutes an
16 illegal private gift of public funds to Defendant Selle-Rea.

17 89. The Golden Parachute clause in Section 5 of the Second Amendment does not serve
18 any public purpose.

19 90. The six recalled board member defendants knew or should have known when they
20 purported to enter the Second Amendment for the personal benefit of Defendant Selle-Rea
21 that the Golden Parachute provision did not serve any public purpose.
22

1 91. The six recalled board member defendants knew or should have known when they
2 purported to enter the Second Amendment that the personal benefit to Defendant Selle-Rea
3 was not in the best interests of the WMC or the Borough and did not benefit the WMC,
4 Borough or the community of Wrangell.

5 92. The Borough, as the owner of the WMC, is entitled to a declaratory judgment
6 declaring the Second Amendment void and unenforceable as having been entered by the six
7 recalled board member defendants in violation of Alaska Const. art. IX §6.

8 **X. SIXTH CAUSE OF ACTION: THE ACTIONS OF THE SIX**
9 **RECALLED BOARD MEMBER DEFENDANTS VIOLATED ALASKA**
10 **CONST. ART. IX §6 BY THEIR ACTIONS DIRECTING IMMEDIATE**
11 **PAYMENT TO DEFENDANT REA**

12 93. Wrangell incorporates by reference paragraphs 1-92 above.

13 94. The six recalled board member defendants exceeded the scope of their authority
14 when they directed Ms. White to make an immediate payment to Defendant Selle-Rea in the
15 amount of \$520,788.58 after the Board meeting of June 20, 2012.

16 95. The six recalled board member defendants had no authority to act outside of a board
17 meeting to direct Ms. White to immediately pay Defendant Selle-Rea and no board action
18 was taken to approve the order of the six recalled board member defendants.

19 96. The six recalled board member defendants knew or should have known that their
20 action directing immediate payment to Defendant Selle-Rea was contrary to the provisions
21 of the Second Amendment, which provided: "The first payment will be made on the 60th
22 day after the date of termination." There is no provision in the Second Amendment allowing
the six recalled board member defendants to modify the contract orally to the personal

1 benefit of Defendant Selle-Rea to allow for payment earlier than the 60th day after
2 termination. Section 8 of the Contract specifically required a resolution by the board before
3 any amendments, modifications or changes could be made to the contract.

4 97. The six recalled board member defendants ordered Ms. White to make the
5 immediate payment to Defendant Selle-Rea to personally benefit Selle-Rea and with full
6 knowledge that the direction to make immediate payment to Defendant Selle-Rea was
7 contrary to the best interests of the WMC, the Borough and the community and that their
8 action would have a severe negative financial impact on the WMC and the Borough.

9 98. The action of the six recalled board member defendants ordering Ms. White to make
10 the immediate payment to Defendant Selle-Rea after the board meeting on June 20, 2012
11 violated Alaska Const. art. IX §6.

12 99. The Borough, as the owner of the WMC, is entitled to a declaratory judgment
13 declaring the Second Amendment void and unenforceable and entitling the Borough to an
14 order to Defendant Selle-Rea and the six recalled board members, jointly and severally, to
15 immediately return the monies as the action of the six recalled board member defendants
16 violated Alaska Const. art. IX §6.

17 **XI. SEVENTH CAUSE OF ACTION: THE ACTIONS OF DEFENDANT**
18 **ROBINSON VIOLATED ALASKA CONST. ART. IX §6 BY**
19 **DIRECTING IMMEDIATE PAYMENT TO DEFENDANT SELLE-REA**

20 100. Wrangell incorporates by reference paragraphs 1-99 above.

21 101. Defendant Robinson exceeded the scope of his authority when he directed Ms.
22 White to make an immediate wire transfer payment to Defendant Selle-Rea in the amount of
\$520,788.58 after the Board meeting of June 20, 2012.

1 102. Defendant Robinson knew that no board action had been taken approving an
2 immediate wire transfer to Defendant Selle-Rea. Defendant Robinson knew that no board
3 resolution had been passed approving the Second Amendment and no board resolution had
4 been passed approving a modification of the Second Amendment changing the time for the
5 first payment from 60 days to immediately.

6 103. Defendant Robinson knew or should have known that his order to Ms. White to
7 make an immediate wire transfer to Defendant Selle-Rea constituted an illegal private gift of
8 public funds to Defendant Selle-Rea.

9 104. Defendant Robinson knew or should have known that he had no authority to
10 direct Ms. White to make an immediate wire transfer to Defendant Selle-Rea.

11 105. Defendant Robinson intended to personally benefit Defendant Selle-Rea and
12 Defendant Robinson knew or should have known his actions were contrary to the best
13 interests of the WMC, the Borough and the community.

14 106. Defendant Robinson knew or should have known that his action would have a
15 severe adverse financial impact on the WMC, and he intended to affect that severe adverse
16 financial impact by his actions.

17 107. The Borough, as the owner of the WMC, is entitled to a declaratory judgment
18 declaring the First and Second Amendments void and unenforceable and entitling the
19 Borough to an order to Defendant Selle-Rea and Defendant Robinson, jointly and severally
20 to immediately return the monies as the action of Defendant Robinson violated Alaska
21 Const. art. IX §6.
22

XII. EIGHTH CAUSE OF ACTION: THE ACTION OF DEFENDANT SELLE-REA VIOLATED ALASKA CONST. ART. IX §6 BY ACCEPTING THE WIRE TRANSFER IMMEDIATE PAYMENT

108. Wrangell incorporates by reference paragraphs 1-107 above.

109. Defendant Selle-Rea knew or should have known acceptance of the immediate wire transfer constituted an illegal private gift of public funds to Defendant Selle-Rea.

110. Defendant Selle-Rea knew that no board action had been taken approving an immediate wire transfer to Defendant Selle-Rea.

111. Defendant Selle-Rea knew or should have known that his action would have a severe adverse financial impact on the WMC, and he intended to affect that severe adverse financial impact by his actions.

112. The Borough, as the owner of the WMC, is entitled to a declaratory judgment declaring the Second Amendment void and unenforceable and entitling the Borough to an order to Defendant Selle-Rea to immediately return the monies as the action of Defendant Selle-Rea violated Alaska Const. art. IX §6.

XIII. NINTH CAUSE OF ACTION: THE ACTION OF THE SIX RECALLED BOARD MEMBER DEFENDANTS AND DEFENDANT SELLE-REA WERE FRAUDULENT

113. Wrangell incorporates by reference paragraphs 1-112 above.

114. The six recalled board member defendants made false and misleading statements to Ms. White to induce her as the Chief Financial Officer of the WMC to write an immediate check to Defendant Selle-Rea in the amount of \$520,788.58. The false and misleading statements include, but may not be limited to, telling Ms. White:

- a) That the Second Amendment to Defendant Selle-Rea's contract required that he be immediately paid one-half of the five year Golden Parachute;
- b) That the Second Amendment required the immediate payment to Defendant Selle-Rea to be increased by 25% to pay his taxes;
- c) That the six recalled board member defendants had the authority to order her to make the immediate payment to Defendant Selle-Rea;
- d) That she had no choice but to do what they ordered her to do;
- e) That she could not leave the building until she wrote the check for Defendant Selle-Rea.

115. Defendant Robinson made false and misleading statements to Ms. White, in addition to the false and misleading statements outlined in Paragraph 114, by ordering Ms. White to cancel the check she wrote to Defendant Selle-Rea and to immediately effect a wire transfer to Defendant Selle-Rea. By words or tone of voice, Defendant Robinson asserted he had personal authority to order Ms. White to make the wire transfer and that she had no choice but to obey his order.

116. Defendant Selle-Rea made false and misleading statements to Ms. White, in addition to the false and misleading statements outlined in Paragraphs 114 and 115 above, when Selle-Rea personally told Ms. White that the six recalled board member defendants were her bosses and she had no choice but to write the check to him.

117. The six recalled board member defendants and Defendant Selle-Rea knew or should have known that their statements were false and misleading.

118. The six recalled board member defendants and Defendant Selle-Rea knew or should have known that Ms. White would rely on their statements to her and their intimidation of her and as a result that she would comply and write the check, and then later change the payment from a check to wire transfer as ordered by Defendant Robinson.

119. The six recalled board member defendants and Defendant Selle-Rea knew or should have known that they did not have authority to order Ms. White to issue the check, and later the wire transfer, because they knew or should have known that the Second Amendment violated public policy and was void and not binding on the WMC per the terms of the February 22, 2010 contract.

120. The six recalled board member defendants and Defendant Selle-Rea knew or should have known that they did not have authority to order Ms. White to issue the check, and later the wire transfer, because they knew or should have known no Board action authorized the immediate issuance of the check or authorized the amount of the check.

121. The six recalled board member defendants and Defendant Selle-Rea knew or should have known that they did not have authority to order Ms. White to issue the check, and later the wire transfer, because they knew or should have known the immediate issuance of the check, and the later the wire transfer, violated Wrangell Municipal Code Chapter 5.10.

122. The Borough, as the owner of the WMC, is entitled to a declaratory judgment declaring the Second Amendment void and unenforceable and entitling the Borough to an order to Defendant Selle-Rea and the six recalled board members, jointly and severally, to immediately return the monies as the actions of the six recalled board member defendants

1 and Defendant Selle-Rea constituted fraud against the WMC, the Borough and the people of
2 the community of Wrangell.

3 123. The Borough, as the owner of WMC, has suffered a severe monetary loss as a
4 result of the fraudulent statements and conduct of the six recalled board member defendants
5 and Defendant Selle-Rea.

6 124. The reliance by Ms. White, in her capacity as the Acting Administrator and
7 Chief Financial Officer of the WMC, on the misleading and fraudulent statements of the six
8 recalled board member defendants and Defendant was a substantial factor in causing the
9 severe financial loss to the Borough as the owner of the WMC.

10 125. The six recalled board member defendants are individually liable for the full
11 amount of the payment to Defendant Rea as the result of their misleading and fraudulent
12 statements and conduct and jointly and severally liable to the Borough.

13 **XIV. TENTH CAUSE OF ACTION: THE ACTION OF THE ACTIONS OF**
14 **THE SIX RECALLED BOARD MEMBER DEFENDANTS VIOLATED**
15 **THEIR OATH OF OFFICE AND VIOLATED THEIR PUBLIC TRUST**
16 **OBLIGATIONS AS ELECTED OFFICIALS**

16 126. Wrangell incorporates by reference paragraphs 1-125 above.

17 127. The six recalled board member defendants each took an oath of office as
18 members of the Wrangell Medical Center Board.

19 128. Wrangell Code 3.32.010 state:

20 Before entering upon his or her duties, each member of the medical
21 center and long-term care facility board shall subscribe an oath in
22 writing in substantially the following form:

The undersigned having been appointed as a member of the Wrangell
Medical Center and Long-Term Care Facility Board being first duly
sworn, deposes and says: I will honestly and faithfully perform the

1 duties devolving upon me as a member of the Wrangell Medical Center
2 and Long-Term Care Facility Board and will comply with the
3 Ordinances of the City and Borough of Wrangell and the laws of the
4 State of Alaska and the rules and bylaws of the Hospital Board with
5 respect thereto, So Help Me, God.

6
7 129. Wrangell Code 3.04.112 states in part:

8 “A. Purpose. The purpose of this chapter is to set reasonable standards
9 of conduct for elected and appointed officials and for borough
10 employees, so that the public may be assured that its trust in such
11 persons is well-placed and that the officials and employees themselves
12 are aware of the high standards of conduct demanded of persons in like
13 office and position.”

14 WMC 3.04.112 defines the Borough as including the hospital board. A Borough
15 official is defined in part as anyone who holds elected office. Section C of 3.04.112 states
16 as follows:

17 “This chapter shall be liberally construed to protect the public interest in
18 full disclosure of conflicts of interest and promoting ethical standards of
19 conduct for borough officials and employees.”

20 130. The six recalled board member defendants actions and statements on March 29,
21 2012 and June 20-21, 2012, outlined in paragraphs 1-129 above, and possibly other actions
22 and statements at other times as may be revealed in discovery, violated their oath of office
and violated Wrangell Code 3.04.112 as to their responsibility to act in the public trust in at
least the following ways: a) misuse of public funds; b) concealing from the public
information to which the public was entitled by law; c) engaging in actions that put the
private interests of Defendant Selle-Rea above the interests of the WMC, the Borough and
the people of the community of Wrangell to whom they owed high standards of ethical
conduct; d) misuse of their elected positions to retaliate against the Borough and the people

1 of Wrangell because of the recall vote recalling from office Defendants Robinson, Bjorge,
2 McGee, Nelson, Ettefagh, and Rinehart.

3 131. The Borough, as the owner of the WMC, is entitled to a declaratory judgment
4 declaring the Second Amendment void and unenforceable and entitling the Borough to an
5 order to Defendant Selle-Rea to immediately return the monies as the actions of the six
6 recalled board member defendants violated their oath of office pursuant to Wrangell Code
7 3.32.101 and violated their obligations of public trust to the Borough and the people of
8 Wrangell pursuant to Wrangell Code 3.04.112.

9 132. The six recalled board member defendants are individually liable for the full
10 amount of the payment to Defendant Selle-Rea as the result of their violations of Wrangell
11 Code 3.32.010 and 3.04.112 and as to their general obligation to the Borough and people of
12 Wrangell to act in manner of the highest ethical standards in their position of public trust and
13 their obligation to protect and preserve the public funds of the Borough and its medical
14 center, the WMC.

15 **XV. ELEVENTH CAUSE OF ACTION: BREACH OF CONTRACT**

16 133. Wrangell incorporates by reference paragraphs 1-132 above.

17 134. The six recalled board member defendants breached the February 22, 2010
18 Contract, as amended in at least the following ways:

- 19 a) Paying Selle-Rea severance before the 60th day after termination;
- 20 b) Paying Selle-Rea severance without requiring him to sign a Release of
- 21 Claims and Covenant Not to Sue as a precondition to any payment of
- 22 severance;

c) Paying Selle-Rea without a resolution of the board approving the Second Amendment and approving the modifications of immediate payment and payment without signing the Release of Claims and Covenant Not to Sue.

135. Selle-Rea breached the February 22, 2010 Contract, as amended in at least the following ways:

- a) Demanding and/or accepting severance before the 60th day after termination;
- b) Demanding and/or accepting severance without signing the Release of Claims and Covenant Not to Sue, which was a precondition to any severance payment;
- c) Destroying and/or refusing to return property belonging to the Borough/WMC.

136. The six recalled board member defendants are individually and jointly liable for the full amount of the payment to Selle-Rea for their breach of contract.

137. Selle-Rea is liable for the return of the full amount of the monies he received due to his breach of contract.

138. The Borough, as the owner of the WMC, is entitled to full reimbursement of the \$520,788.58 from Selle-Rea, or from the six recalled board member defendants, for their actions taken in breach of the February 22, 2010 contract.

XVI. TWELTH OF ACTION: BREACH OF FIDUCIARY OBLIGATIONS

139. Wrangell incorporates by reference paragraphs 1-138 above.

140. The six recalled board member defendants had fiduciary obligations of care and loyalty in the management of WMC funds.

141. The budget for the WMC is subject to the approval of the Borough Assembly.

142. The failure of the WMC to meet its financial obligations would require the Borough Assembly to appropriate monies from the Borough general funds to the WMC.

143. The six recalled board members had the same fiduciary obligations to the Borough with respect to WMC funds as they had to the WMC.

144. The six recalled board members breached their fiduciary obligations to the WMC and the Borough in at least the following ways:

- a) Paying Selle-Rea \$520,788.58 without a resolution of the board approving the Second Amendment;
- b) Terminating Defendant Selle-Rea without cause after each of the six defendants had been recalled in a special election by the citizens of Wrangell;
- c) Terminating Defendant Selle-Rea without cause without any notice to the public and without any discussion, in public session or executive session;
- d) Failing to adhere to the contract requirement that the first severance payment to Defendant Selle-Rea was not to be paid until the 60th day after termination;
- e) Failing to pass a resolution of the board to modify the first payment to Selle-Rea to immediately rather than the 60 day requirement of the Second Amendment;
- f) Failing to adhere to the contract requirement that Selle-Rea was required to sign a Release of Claims and Covenant Not to Sue as a precondition of any severance payment;

1 g) Failing to require the attorneys who prepared the Contract, First
2 Amendment and Second Amendment to prepare the Release of Claims and
3 Covenant Not to Sue, or otherwise insuring that the document was prepared and
4 signed by Defendant Selle-Rea before ordering Ms. White to pay Defendant
5 Selle-Rea \$520,788.58 on the night of June 19, 2012;

6 h) Failing to adhere to Section 8 of the contract prohibiting any amendment,
7 modification or changes to the contract without a resolution of the board
8 approving in advance the purported amendment, modification or changes;

9 i) Ordering Ms. White to make the payment to Selle-Rea without any board
10 action directing that payment;

11 j) Ordering Ms. White to make the payment to Selle-Rea immediately,
12 purportedly modifying the contract without any board resolution as required by
13 Section 8 of the contract approving the immediate payment modification;

14 k) Allowing the law firm of Garvey Schubert Barer to draft the Second
15 Amendment in a manner constituting an illegal gift of public funds to Selle-Rea
16 and/or allowing Garvey Schubert Barer to advise Selle-Rea on the Second
17 Amendment in a conflict of interest with the interests of the WMC and/or failing
18 to obtain independent legal counsel before signing the Second Amendment;

19 l) Violating Wrangell Code 3.06.020 by paying Garvey Schubert Barer to
20 draft the Second Amendment without authorization from the Borough Manager;

21 m) Ordering Ms. White to make a wire transfer of the monies to Selle-Rea
22 without any notice to the Borough, knowing that by ordering the wire transfer

1 without notifying the Borough, the Borough would not be able to take any action
2 to protect the public funds;

3 n) Violating Wrangell Code 5.10.030, which requires prior approval by the
4 Borough Assembly of every contract for services in excess of \$25,000.

5 145. The Borough, as the owner of the WMC, is entitled to a declaratory judgment
6 declaring the First and Second Amendments void and unenforceable and entitling the
7 Borough to an order to Defendant Selle-Rea to immediately return the monies and an order
8 that the six recalled board member defendants and Selle-Rea are jointly and severally liable
9 for the full amount of the monies paid to Selle-Rea, as the six recalled board member
10 defendants breached their fiduciary obligations to the WMC and the Borough and the people
11 of Wrangell.

12 **XVII. THIRTEENTH CAUSE OF ACTION: CONSPIRACY**

13 146. Wrangell incorporates by reference paragraphs 1-145 above.

14 147. The six recalled board member defendants and Defendant Selle-Rea conspired
15 to enrich Defendant Selle-Rea and personally benefit Selle-Rea at the expense of the WMC
16 and the Borough in at least the following ways:

- 17 a) Signing the Second Amendment after the six recalled board member
18 defendants knew they would be the subject of a petition to recall;
- 19 b) Signing the Second Amendment purporting to amend, modify and change the
20 February 22, 2010 contract without a prior resolution of the WMC board
21 approving the Second Amendment;
- 22

- 1 c) Holding a board meeting the day after the recall election, knowing they had
- 2 been recalled, and knowing that the certification of those results would not
- 3 occur until June 25, 2012;
- 4 d) Knowing that by holding a meeting on June 20, 2012, the day after the recall
- 5 election, there would be only one board member able to vote on any action
- 6 who was not subject to the recall, and thus, that the six recalled board
- 7 member defendants would have a quorum and majority to take any action
- 8 they wanted;
- 9 e) Apparently communicating amongst themselves before the meeting of June
- 10 20, 2012, and possibly with Defendant Selle-Rea, to plan to make a motion to
- 11 terminate Selle-Rea without cause at the June 20 meeting for the sole purpose
- 12 of putting into effect the purported severance payments to Selle-Rea of
- 13 approximately \$1,000,000 of public funds;
- 14 f) Providing no public notice of any potential action as to the employment of
- 15 Selle-Rea for the June 20, 2012 special meeting;
- 16 g) Signing the Second Amendment without obtaining prior approval of the
- 17 Borough Assembly;
- 18 h) Apparently planning to make immediate payment to Selle-Rea at the
- 19 adjournment of the June 20, 2012, without any board action directing that
- 20 payment, in knowing violation of Section 5 and Section 8 of the Contract and
- 21 Second Amendment for the sole purpose of immediately enriching Rea
- 22 personally at the expense of the WMC and the Borough, and without

1 requiring Selle-Rea to sign the contractually required Release of Claims and
2 Covenant Not to Sue as a precondition before any severance payment.

3 148. The Borough, as the owner of the WMC, is entitled to a declaratory judgment
4 declaring the Second Amendment void and unenforceable and entitling the Borough to an
5 order to Defendant Selle-Rea to immediately return the monies and/or an order that the six
6 recalled board member defendants are jointly and severally liable for the full amount of the
7 monies paid to Selle-Rea, as the six recalled board member defendants and Selle-Rea
8 engaged in a conspiracy to personally benefit Selle-Rea at the expense of the WMC and the
9 Borough.

10 **XVIII. FOURTEENTH CAUSE OF ACTION: VIOLATION OF THE OPEN**
11 **MEETINGS ACT AS 44.62**

12 149. Wrangell incorporates by reference paragraphs 1-148 above.

13 150. The vote to terminate Selle-Rea without cause at the WMC Special meeting on
14 June 20, 2012 was 6-1 in favor of the motion to terminate. The 6 yea votes were all cast by
15 the six recalled board member defendants. The lone dissenting vote was cast by the one
16 WMC board member who was not subject to the recall election.

17 151. The six recalled board member defendants did not provide any notice of their
18 intent to terminate Selle-Rea in an agenda item related to his employment, for either public
19 or executive session, for the meeting of June 20, 2012.

20 152. When the motion was made by Defendant Ettefagh, Ms. Hunt-Sweat, who had
21 not been subject to the recall, stated "we haven't discussed it" and that "Obviously, that's
22

1 something we should discuss in executive session, shouldn't we?" Ms. Hunt-Sweat said "I
2 want more time to think."

3 153. The six recalled board member defendants did not state on the public record
4 when the termination of Selle-Rea had been discussed among the six recalled board member
5 defendants. Defendant Robinson stated "No discussion." Defendant Robinson, as board
6 president, and or the six recalled board member defendants, refused to allow discussion of
7 the motion.

8 154. The Borough believes that discovery will establish that the six recalled board
9 member defendants communicated amongst themselves, and possibly with Defendant Selle-
10 Rea, before the June 20, 2012 meeting to discuss making the motion and to assure sufficient
11 votes to pass the motion for the benefit of Defendant Selle-Rea, acting in a manner causing
12 severe financial harm to the WMC and the Borough, which conduct and actions violated the
13 Open Meetings Act.

14 155. All of the actions of the six recalled board member defendants after
15 adjournment of the June 20, 2012 meeting violated the Open Meetings Act, as there had
16 been no meeting where the board approved immediate payment of severance to Selle-Rea by
17 wire transfer, and no discussion, vote or meeting where the board approved that immediate
18 payment in violation of the contractual provision that the first severance payment "will" be
19 60 days after termination and in violation of Section 5e requiring that Rea sign a Release of
20 Claims and Covenant Not to Sue as a precondition of any severance payment and in
21 violation of Section 8 requiring all amendments, modifications and changes to the contract to
22 be approved in advance by board resolution. The decision by the six recalled board member

1 defendants to make the immediate payment in violation of the contract and in violation of
2 the Alaska Constitution, State law, the Wrangell Borough Code, their fiduciary obligations,
3 and their obligations of public trust, without any board meeting or board discussion, violated
4 the Open Meetings Act.

5 156. The Borough, as the owner of the WMC, is entitled to a declaratory judgment
6 and injunctive relief declaring the actions of the six recalled board member defendants at the
7 June 20, 2012 special meeting and their subsequent actions, to be in violation of the Open
8 Meetings Act, and thus, those actions are voidable, and for an order directing the return of
9 the monies received by Defendant Selle-Rea, and an order that the six recalled board
10 member defendants and Selle-Rea are jointly and severally liable for the full amount of the
11 monies paid to Selle-Rea.

12 **XIX. FIFTEENTH CAUSE OF ACTION: SPOILIATION OF EVIDENCE**

13 157. Wrangell incorporates by reference paragraphs 1-156 above.

14 158. While administrator for the WMC, Selle-Rea was provided with a Blackberry
15 cell phone and iPad for his use as the administrator. The cell phone and iPad were paid for
16 with WMC funds, which are public monies. Selle-Rea refused to return the cell phone and
17 iPad to the Borough/WMC after demand was made for the return.

18 159. The cell phone and iPad constitute evidence in this case as each may contain
19 communications between Selle-Rea and the other defendants as well as others during the
20 relevant time frames of the First Amended Complaint.

21 160. Without any authorization from the Borough/WMC, Selle-Rea “discarded” the
22 cell phone.

1 161. The action of Selle-Rea in “discarding” the cell phone constitutes spoliation of
2 evidence.

3 162. Without any authorization from the Borough/WMC, Selle-Rea has refused to
4 return the iPad and has advised the Borough he is using the iPad for “personal matters.”

5 163. Defendant Selle-Rea cannot be allowed to benefit from his spoliation of
6 evidence, destroying public property, and conversion of public property, and as such, the
7 Borough is entitled to an order that Selle-Rea return all monies paid to him and for
8 compensation to the Borough for his destruction of evidence and public property belonging
9 to the Borough/WMC, and his conversion of public property.

10
11 WHEREFORE, the City and Borough of Wrangell, requests the Court order as follows:

12 1. Declare that the First and Second Amendments to the Chief Executive Officer
13 Employment Contract dated February 22, 2010 are void, not binding on the Borough and
14 WMC, and unenforceable;

15 2. Order Defendant Selle-Rea to immediately return \$520,788.58 to the Chief
16 Financial Officer of the Wrangell Medical Center;

17 3. Order that Defendants Mark Robinson, Linda Bjorge, Lurine McGee, Jim Nelson,
18 Sylvia Ettefagh and LeAnn Rinehart are all individually, jointly and severally liable to the
19 City and Borough of Wrangell for the full amount of \$520,788.58;

20 4. Award the City and Borough of Wrangell reasonable attorneys’ fees and costs as
21 allowed by law or otherwise against all the defendants jointly and severally;

22

1 5. Enter such orders as the Borough may be entitled to due to Defendant Selle-Rea's
2 actions of spoliation of evidence, destruction of public property, conversion of public
3 property, including but not limited to dismissal of his counterclaim in its entirety with
4 prejudice.

5 6. For such other and further relief as the Court deems just and proper.
6

7 **ANSWER TO COUNTERCLAIM BY DEFENDANT SELLE-REA**

8 The City and Borough of Wrangell answers the Counterclaim as follows:

9 1. Denied.

10 2. Admit.

11 3. Denied that the WMC is a political subdivision of the Borough. Admit that the
12 WMC is owned and operated by the Borough as part of the Borough.

13 4. Counterclaim Plaintiff purports to recite a portion of the Borough Charter, which
14 speaks for itself.

15 5. Paragraph 5 purports to state a legal conclusion to which no response is required.

16 6. Denied as to "relevant part." Counterclaim Plaintiff purports to recite a portion of
17 the Borough Code, which speaks for itself.

18 7. Counterclaim Plaintiff purports to recite a portion of the Borough Code, which
19 speaks for itself.

20 8. Counterclaim Plaintiff purports to recite a portion of the Borough Code, which
21 speaks for itself.
22

1 9. Denied as to "relevant part." Counterclaim Plaintiff purports to recite a portion of
2 the Borough Code, which speaks for itself. Denied as to "revenue generated by the WMC."

3 10. Counterclaim Plaintiff purports to recite a portion of the Borough Code, which
4 speaks for itself. Denied as to Counterclaim Plaintiff's characterization or interpretation of
5 the meaning of the code or the obligations of the Borough.

6 11. Admit only that the WMC board hired Counterclaim Plaintiff as hospital
7 administrator. All other allegations are denied.

8 12. Denied as to First and Second Amendments to the Contract dated February 22,
9 2012.

10 13. Paragraph 5 purports to state a legal conclusion to which no response is required.

11 14. The Borough has insufficient information to admit or deny the allegations in
12 paragraph 14 and therefore all allegations are denied.

13 15. Denied that the WMC board had any power to enter a Chief Executive Officer
14 contract. Admit that board president Campbell signed an agreement on the date stated in
15 paragraph 15.

16 16. Denied that the WMC board had any power to enter a Chief Executive Officer
17 contract. Admit that board president Campbell signed an agreement on the date stated in
18 paragraph 15.

19 17. Admit as to who signed the document. All other allegations are denied.

20 18. Denied.

21 19. To the extent paragraph 19 could be implied that the Second Amendment was a
22 valid and enforceable amendment to the contract dated February 22, 2012, all such

1 allegations are denied. To the extent paragraph 19 purports to paraphrase Exhibit 1 to the
2 Plaintiff's Complaint, Exhibit 1 speaks for itself.

3 20. Denied.

4 21. Admit that Defendant Robinson ordered the WMC Chief Financial Officer to
5 immediately pay Counterclaim Plaintiff the amount specified. To the extent any of the
6 allegations in paragraph 21 attempt to imply that such action was lawful or proper in any
7 respect, all such allegations are denied.

8 22. Denied.

9 23. Admit there is an actual controversy among the parties.

10 24. Denied.

11 **DEFENSES**

12 1. The counterclaim should be dismissed for failure to state a cause of action upon
13 which relief may be granted.

14 2. All of the actions by the defendants and WMC board related to the Second
15 Amendment and the payment to Selle-Rea were illegal, or unlawful, or ultra vires, or a
16 breach of fiduciary obligations, or breach of their oath of office, or fraudulent, or violations
17 of the Alaska Constitution, or all of the above.

18 3. Spoliation of evidence.

19 4. Unclean hands.

20 5. If the Court determines that the Second Amendment is valid, in whole or in part, the
21 Counterclaim Plaintiff failed to fully perform his obligations under the contract before his
22 termination on June 19, 2012.

1 6. The terms and provisions in the Second Amendment are illegal, in whole and in
2 part, and thus, cannot be enforced against the Borough.

3 7. If the Counterclaim Plaintiff establishes that the WMC had authority to enter the
4 Second Amendment as a distinct legal entity separate from the Borough, then the Second
5 Amendment is unenforceable against the Borough as the Borough is not a party to the
6 Second Amendment and the Borough can have no liability on a purported contract to which
7 it was not a party and had no opportunity to negotiate any of its terms.

8 8. If the Counterclaim Plaintiff establishes as alleged by the Counterclaim that the
9 Borough has no obligation to fund the WMC and that the Borough general funds cannot be
10 at risk, accessed, or obligated to any debts or obligations incurred by the WMC, then the
11 Second Amendment is unenforceable against the Borough as the Borough is not a party to
12 the Second Amendment and the Borough can have no liability on a purported contract to
13 which it was not a party and had no opportunity to negotiate any of its terms.

14 9. The Counterclaim Plaintiff violated Wrangell Code 3.06.020 by authorizing Garvey
15 Schubert Barer to draft the Second Amendment and, as such, cannot benefit from his
16 violation of the Wrangell Code, and the Borough cannot be obligated on a purported contract
17 drafted in violation of the Wrangell Code.

18 10. The Counterclaim Plaintiff's directive to Ms. White to immediately write a check to
19 him on June 19, 2012, which violated the purported contract in multiple ways, and as having
20 been terminated by the six recalled board members moments earlier, he had no authority to
21 direct or order any WMC employ to do anything, his actions were fraudulent, harassing,
22

1 exceeded the scope of his authority, ultra vires, and possibly improper in other ways, such
2 that he cannot benefit from his actions.

3 11. As the Administrator of the WMC until his termination on June 19, 2012, the
4 Counterclaim Plaintiff knew or should have known that certain provisions of the purported
5 Second Amendment were in breach of the WMC health insurance agreement with Premera,
6 and he had a fiduciary obligation to so advise the WMC board and a fiduciary obligation not
7 to enter any purported contract that would potentially obligate the WMC to provide health
8 coverage for the Counterclaim Plaintiff not available within the agreement between WMC
9 and Premera, and by breaching that fiduciary obligation, the Counterclaim Plaintiff cannot
10 benefit from his actions.

11 12. Counterclaim Plaintiff has failed to join persons needed for just adjudication.

12 13. The Borough reserves the right to assert cross claims or claims against third parties
13 as may be revealed in discovery.

14 14. The Borough reserves the right to assert further claims against the Counterclaim
15 Plaintiff and to assert further defenses as may be revealed in discovery.

16 WHEREFORE, the City and Borough of Wrangell, requests the Court order as follows:

17 1. Dismiss the counterclaim of Defendant Selle-Rea against the Borough in its entirety
18 with prejudice;

19 2. Award the Borough its attorneys' fees and costs as allowable by law or otherwise;

20 //

21

22 //

1 3. For such other relief as the Court may deem just and proper.

2 DATED: September A, 2012

HOFFMAN & BLASCO, LLC

3
4 By: Mary Hunter Thurling for
Robert P. Blasco AK # 7710098
Attorneys for the City and
5 Borough of Wrangell

6 Certificate of Service

7 This is to certify that on September 4, 2012, true and correct copies of the
8 forgoing **FIRST AMENDED COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF AND RETURN OF PROPERTY AND ANSWER
TO COUNTERCLAIM OF DEFENDANT SELLE-REA** was provided to the
parties of record as indicated below:

9 Elizabeth P. Hodes ☒ US Mail
10 Jon S. Dawson ☐ Facsimile
11 Davis Wright Tremaine LLP ☒ Email
701 West 8th Ave., Suite 800
Anchorage, AK 99501-3468

12 David H. Shoup ☒ US Mail
13 Tindall Bennett & Shoup ☐ Facsimile
508 West 2nd Ave., Third Floor ☒ Email
Anchorage, AK 99501

14 
15 Alison Foreman

HOFFMAN & BLASCO, LLC
9360 Glacier Highway, Suite 202
Juneau, AK 99801
907-586-3340 (T) 907-586-6818 (F)

CHIEF EXECUTIVE OFFICER EMPLOYMENT CONTRACT

THIS CHIEF EXECUTIVE OFFICER EMPLOYMENT CONTRACT ("Contract") is made on the dates set forth below by and between WRANGELL MEDICAL CENTER, whose address is Box 1081, Wrangell, AK 99929, a municipally owned hospital, hereinafter called "WMC", and Noel D. Rea hereinafter called the "CEO."

WHEREAS, WMC desires to secure the services of the CEO and the CEO desires to accept such employment,

NOW, THEREFORE, in consideration of the foregoing premises and the mutual promises, covenants, conditions, and terms set forth herein, the parties agree as follows:

1. EMPLOYMENT DUTIES AND SUPERVISION; PERFORMANCE; EVALUATION.

- a. The CEO will render full time professional services to WMC in the capacity of Chief Executive Officer of Wrangell Medical Center and any other health care facilities managed or operated under any Lease & Operating Agreement with the City and Borough of Wrangell. The CEO shall be responsible to, and report to, the Board of Directors of WMC with the President of the Board as the key contact.
- b. The CEO shall perform all duties, faithfully, industriously, and to the best of his ability, in accordance with directives of the Board of Directors, including any specific duties assigned or delegated to the CEO by the Board. In addition, the CEO shall perform all duties in accordance with other corporate governance documents, as such now exist or as may be amended from time to time.
- c. The Board shall formally review and evaluate the CEO's performance not less than once every 12 months. If the Board has not conducted its formal review in over 12 months, then the CEO should request a formal performance review if he desires such a review.

2. COMPENSATION: SALARY REVIEW.

- a. WMC agrees to pay the CEO a base salary of \$159,905 per year, payable in biweekly increments effective January 1, 2010. The current salary remains in effect through December 31, 2010.
- b. The CEO's base salary is subject to review in conjunction with his performance evaluation as provided section 1 {c} above.

3. BENEFITS.

- a. Mandatory. WMC agrees to pay for or provide worker's compensation, social security, unemployment benefits and all other such benefits as are required by applicable law.
- b. In General. The CEO shall be entitled to participate in all of the employee benefit plans or programs of WMC when and as the CEO becomes eligible to participate therein, or as otherwise provided in this section. WMC does not guarantee the adoption or continuance of any particular employee benefit plan or other program during the term of this Contract, and participation in any such plan or program shall be subject to the policies, procedures,

rules and regulations applicable thereto, except to the extent that this Contract provides different provisions for the CEO.

- c. Retirement. The CEO may elect to participate in the Wrangell Medical Center retirement Plan ("Hospital Retirement Plan"); including §403b plan and §457 plan.
- d. Vacation. The CEO shall be entitled to six (6) weeks of vacation each year. The CEO shall be entitled to accrue and use other Paid Time Off (other PTO) in accordance with WMC's PTO policies and procedures
- e. Health, Vision and Dental Plans and Life Insurance. Health, vision and dental plans shall cover the CEO, his spouse and his legal dependents. WMC will pay all premium costs associated with these insurance plans. Such health, vision and dental plans comply with ERISA and COBRA to the extent applicable. WMC will also provide life insurance coverage for CEO for the benefit of his designated beneficiaries in an amount equal to 1.5 times the CEO's base salary.
- f. Automobile Allowance. WMC has the option of providing an automobile allowance to the CEO.
- g. Professional Dues and Education. WMC shall pay for dues for two (2) memberships for CEO in professional associations and for expenses of CEO's attendance at two (2) educational seminars each fiscal year. The Board President also may approve payment or reimbursement for other educational seminars for CEO.

6 x 40
240 hrs.
9.23 hrs.
p. 11 p. 17 provided

4. TERM.

This contract takes effect at the date of mutual signing and supercedes the existing contract between WMC and CEO except that the salary stated in Paragraph 2, above, will become effective January 1, 2010. The initial term of the contract shall be for five (5) years unless terminated earlier by the Board or CEO as provided in section 5 below. At the end of the initial five (5) year term the Board shall have the option of extending this Agreement for an additional twelve (12) months.

5. "AT WILL" POSITION; TERMINATION OF EMPLOYMENT; SEVERANCE; RELEASE.

- a. The CEO position is an exempt, "at will" position; the CEO serves at the pleasure of the Board. The Board, in its discretion, may terminate the CEO's employment and this Contract, with or without cause, at any time and on a date earlier than the contractual termination date stated in this Contract by the act of a majority of the Board of Directors as provided in WMC's Bylaws. While CEO is "at-will," how his employment with WMC ends will determine the payments, if any, that may be due to him under this Contract.
- b. The CEO, in his discretion, may terminate his employment, with or without cause, at any time upon prior written notice to the Board President at least ninety (90) days in advance of the date specified in the written notice. Upon receiving such notice, by the act of a majority of the Board of Directors, the Board may accept such termination and end CEO's employment on an earlier date within the notice period. Once CEO has provided notice of his intent to terminate his employment, he shall not be entitled to Severance pay identified below.

c. **Severance Payment.** In the event of the termination of the CEO's employment by the Board within the Term without Cause, subject to CEO's satisfaction of the requirements of section (e) below, WMC shall pay to the CEO a lump sum amount calculated as follows:

- i. If terminated without cause an amount equal to one (1) year's base salary, at the rate in effect immediately preceding the termination. The "effective date" of this contract is the date by which both parties have signed this contract.
- ii. No severance will be provided if the termination is at the end of the Term of this Agreement.
- iii. "Cause" shall mean (i) any indictment or conviction for any crime or offense that in the WMC's reasonable judgment makes CEO unfit for continued employment, prevents him from performing his duties or other obligations or adversely affects the reputation of WMC; (ii) dishonesty by CEO on a matter of consequence; (iii) CEO's violation of a key WMC policy or any term or condition of this Contract (including, but not limited to, acts of harassment or discrimination or being under the influence of alcohol or an unlawful drug while at work); (iv) CEO's insubordination; (v) CEO's failure to perform his core duties after warning and reasonable opportunity to correct the problem if the problem is one where correction would be practicable); (vi) conflict of interest or self-dealing incurring to CEO's direct or indirect benefit; or (vii) CEO no longer being able to perform his duties even after reasonable accommodation.

d. Any severance payment shall be made in a lump sum with WMC taking out the usual amounts for federal withholding requirements and other amounts as required by law or authorized by the CEO. No severance payment is due to the CEO upon the CEO's own voluntary termination of his employment or if CEO was terminated for cause.

e. Release of Claims and Covenant Not to Sue. CEO agrees that as a precondition to obtaining Severance, he must sign a Confidential Separation Agreement in the form attached as Exhibit A. Such Separation Agreement must, among other things, release any claims he may claim to have against WMC and its employees. Failure by CEO to sign and return to WMC the Separation Agreement within ten (10) days of receipt by the CEO will relieve WMC of any obligation to pay Severance to CEO. Violation of any aspect of this Agreement or the Separation Agreement shall immediately relieve WMC from its obligation to pay Severance and entitle it to recover in full any amounts paid under this paragraph.

6. NOTICES.

All notices, requests, demands and other communications to be given pursuant to this Contract shall be in writing and shall be deemed to have been duly given if delivered by hand or mailed by registered or certified mail, return receipt requested, postage prepaid, to the last known addresses of the parties or such other address as a party shall have designated by notice in writing to the other party, provided that notice of any change in address must actually have been received to be effective hereunder.

7. INTEGRATION.

This Contract, any directives of the Board, the corporate governance documents referenced in section 1, any executive incentive plan that is adopted, and the employment benefit plans of WMC constitute the entire agreement between the parties and contain all of the agreements between them with respect to the subject matter hereof, and supersede any and all other agreements or negotiations between those parties, both oral and written, with respect to the subject matter hereof.

8. AMENDMENTS.

The terms and conditions of this Contract may be amended, modified, or changed at any time by mutual agreement of the parties in writing, provided that the amendment, modification, or change has been approved by a resolution of the Board of Directors. Any amendment, modification, or change that has not been approved in advance by a resolution of the Board of Directors is void and is not binding upon WMC.

9. GOVERNING LAW, FORUM AND VENUE.

This Contract shall be governed in all respects, whether as to validity, construction, capacity, performance or otherwise, by the laws of the State of Alaska, without regard to its conflict of law provisions. The forum and venue for any lawsuit between these parties arising out of this Contract shall be in the Trial Courts for the State of Alaska in the First Wrangell District.

10. WAIVER. A waiver of any provision of this Agreement shall not be deemed, or shall not constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the parties making the waiver.

11. SEVERABILITY.

In the event any provision of this Contract is held to be unenforceable for any reason, such non-enforceability shall not affect the remainder of this Contract, which shall remain in full force and effect and enforceable in accordance with its terms.

12. BINDING EFFECT.

This Contract shall inure to the benefit of, and be binding upon, the parties and their respective legal representatives, successors, assignees, and agents.

13. HEADINGS.

The headings contained in this Contract are for reference purposes only and shall not affect, in any way, the meaning, construction or interpretation of this Contract.

14. MULTIPLE ORIGINALS.

This Contract may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

15. SAFEGUARD OF CONFIDENTIAL INFORMATION. Employee agrees to exercise the highest degree of care in safeguarding Confidential Information against loss, theft, or other inadvertent disclosure, and agrees generally to take all steps necessary to ensure the maintenance of confidentiality.

16. RETURN OF CONFIDENTIAL INFORMATION. Employee agrees, upon termination of his employment, or otherwise as requested, to promptly deliver to WMC all Confidential Information, in whatever form, that may be in his possession or under his control, together with written certification of his compliance with this paragraph.

IT IS SO UNDERSTOOD AND AGREED.

DATED at Wrangell, Alaska, this 22 day of February, 2010.

WRANGELL MEDICAL CENTER.

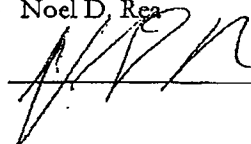


By: _____

Title: President, Board of Directors

IT IS SO UNDERSTOOD AND AGREED.

Noel D. Rea



By Approval of the Board of Directors of
Wrangell Medical Center

Approved on 2/17/10

SEA_DOCS:908275.3

**First Amendment
To Chief Executive Officer Employment Contract
Dated February 22, 2010**

This First Amendment to the Chief Executive Officer Employment Contract dated February 22, 2010 is made on the dates set forth below, by and between the **WRANGELL MEDICAL CENTER**, a municipally owned hospital, hereinafter called "WMC," and **NOEL D. SELLE-REA**, hereinafter called the "CEO."

WHEREAS, WMC, acting through its duly elected Board of Directors, and the CEO desire to amend the Chief Executive Officer Employment Contract dated February 22, 2010, as approved by the WMC Board of Directors on February 17, 2010 (the "Contract"); and

WHEREAS, Section 8 of the Contract provides WMC and the CEO (collectively, "the parties") the ability to amend the Contract by mutual agreement of the parties;

NOW, THEREFORE, the Contract is amended as follows:

FIRST: Paragraph (a) of Section 2 of the Contract shall be deleted in its entirety and replaced with the following:

2. **COMPENSATION: SALARY REVIEW.**

a. WMC agrees to pay the CEO a base salary of \$176,857 per year, payable in biweekly increments, effective January 1, 2011. This salary remains in effect through December 31, 2011.

SECOND: Paragraphs (e) and (g) of Section 3 of the Contract shall be deleted in their entirety and replaced with the following, and paragraph (h) shall be added to Section 3 of the Contract as follows:

3. **BENEFITS.**

e. **Health, Vision and Dental Plans and Life Insurance.** Health, vision, and dental plans shall cover the CEO, his spouse and his legal dependents. WMC will pay all premium costs associated with these insurance plans. Such health, vision, and dental plans shall comply with ERISA and COBRA to the extent applicable. WMC will reimburse the CEO up to \$5,200.00 towards purchase of a life insurance policy that provides life insurance coverage for the CEO for the benefit of his designated beneficiaries.

g. **Professional Dues and Education.** WMC shall pay dues for two (2) memberships for the CEO in professional associations and for reasonable expenses of the CEO's attendance at two (2) educational seminars each fiscal year, subject to the Board's pre-approval. The Board has further discretion to approve the CEO's attendance at additional educational seminars. Days spent by the CEO traveling to and from the seminars and actually attending the seminars shall be considered workdays and shall not be considered vacation or PTO. While the CEO is attending the seminar, however, any day that the CEO does not attend any events related to the educational seminar shall be counted as vacation taken by the CEO.

h. **Directors and Officers Liability Insurance.** WMC agrees to maintain a Directors and Officers liability insurance policy with a minimum policy limit of

\$2,000,000 during the term of the CEO's employment. Such insurance policy shall include the CEO as an insured under the policy.

THIRD: Paragraph (e) of Section 5 of the Contract shall be deleted in its entirety and replaced with the following:

5. TERMINATION OF EMPLOYMENT; SEVERANCE.

e. Release of Claims and Covenant Not to Sue. The CEO agrees that as a precondition to obtaining any severance, he must sign a Confidential Separation Agreement in the form attached as Exhibit A. Such Separation Agreement must, among other things, release any claims he may claim to have against WMC and its employees. Failure by the CEO to sign and return to WMC the Separation Agreement within twenty-one (21) days of receipt by the CEO will relieve WMC of any obligation to pay severance to the CEO. Violation of any aspect of this Agreement or the Separation Agreement shall immediately relieve WMC from its obligation to pay severance and entitle it to recover in full any amounts paid under this paragraph.

FOURTH: The parties confirm and readopt the remaining provisions of the Contract not otherwise addressed by this First Amendment.

IT IS SO UNDERSTOOD AND AGREED.

WRANGELL MEDICAL CENTER

03/14/2011
Date

By: Lynne Campbell
Title: President, Board of Directors

3/21/2011
Date

Noel D. Selle-Rea

By Approval of the Board of Directors
of Wrangell Medical Center

Approved on 3-14-11

By: Lynne Campbell

**Second Amendment
To Chief Executive Officer Employment Contract
Dated February 22, 2010**

This Second Amendment to the Chief Executive Officer Employment Contract dated February 22, 2010 is made on the dates set forth below, by and between the **WRANGELL MEDICAL CENTER**, a municipally owned hospital, hereinafter called "WMC," and **NOEL D. SELLE-REA**, hereinafter called the "CEO."

WHEREAS, WMC, acting through its duly elected Board of Directors, and the CEO desire to amend the Chief Executive Officer Employment Contract dated February 22, 2010, as approved by the WMC Board of Directors on February 17, 2010 (the "Contract"); and

WHEREAS, Section 8 of the Contract provides WMC and the CEO (collectively, "the parties") the ability to amend the Contract by mutual agreement of the parties;

NOW, THEREFORE, the Contract is amended as follows:

FIRST: Paragraphs (a) and (b) of Section 2 of the Contract shall be deleted in their entirety and replaced with the following:

2. COMPENSATION: SALARY REVIEW.

a. WMC agrees to pay the CEO a base salary of \$ 185,169.27 per year, payable in biweekly increments effective January 1, 2012. The current salary remains in effect through December 31, 2012.

b. The CEO's base salary is subject to review in conjunction with his performance evaluation as provided Section 1(c) above. However, should it be determined that a merit increase in base salary is not to be granted, the base salary for the coming year shall consist of the sum total of the present base salary plus a cost of living adjustment. The cost of living adjustment shall be computed using the Anchorage Consumer Price Index (CPI) augmented by the Alaska Geographic Differential that is defined by the State of Alaska.

SECOND: Section 4 of the Contract shall be deleted in its entirety and replaced with the following:

4. TERM.

This Contract takes effect at the date of mutual signing and supersedes the existing contract between WMC and the CEO except that the salary stated in paragraph 2, above, will become effective January 1, 2012. The initial term of the Contract shall be for five (5) years unless terminated earlier by the board or the CEO as provided in Section 5 below. Upon the expiration of the first year, and each year subsequent, a new five year term begins unless WMC advises the CEO in writing prior to the expiration of the current year that WMC does not authorize the renewal of the five year term in which instance the contract will expire at the conclusion of the current five year term. This means that the start of each year begins a new five year term unless WMC gives written notice to the CEO as described above. This term is to be used when calculating any amounts that may be owed to the CEO in accordance with Section 5 payments upon termination unless stated otherwise in Section 5.

THIRD: Paragraph (c) of Section 5 of the Contract is amended to read as follows:

c. Severance Payments. Upon the termination of the CEO's employment for any reason, WMC will pay the CEO, within the time required by law, any salary earned through the date of the termination. In addition, WMC shall pay the CEO severance benefits on the following terms and conditions:

i. *Grounds for Payment.* Subject to the CEO's satisfaction of the requirements of paragraph (e) below, the severance benefit will be payable if the CEO's employment is terminated by:

I. The Board without Cause; or

II. The CEO for Good Reason.

ii. *Cash Payment.* At the times specified in clause iii below, WMC will pay the CEO a total payment equal to:

I. The total salary owed the CEO during just the first five year term of this contract less any amounts already received by the CEO. However, in the event that the CEO is owed less than one year's base salary when his employment is terminated, the CEO shall be paid no less than one year's base salary;

II. The annualized amount of any incentive compensation or bonus the CEO earned through the date of termination for the year in which the termination occurred, to the extent unpaid. For this purpose, the amount of the bonus earned will be determined by the extent to which the CEO, as of the date of termination, was on track for achieving the bonus/incentive compensation criteria for the year in which the termination occurred;

III. \$5,200 or, if greater, the amount WMC is paying under Sections 3(e) and (f), as of the date of the termination, to reimburse the CEO for the purchase of life insurance and an automobile allowance; and

IV. The amount of the employer contributions WMC is scheduled to make to WMC's 401(a) plan (or any additional or replacement retirement benefit plan(s) adopted by WMC) for the year in which the termination occurs.

iii. *Payment Terms.* The payment under clause ii above will be paid, net of applicable income tax, in two installments:

I. The first payment will be made on the 60th day after the date of termination; and

II. The second payment will be made on the anniversary of the first payment date.

If the payment date under subclause I or II above falls on a day that is not a business day for WMC, the payment will be made on the following business day.

iv. *Health Benefits.* WMC shall provide the CEO and his spouse with continued group health plan coverage (medical, dental and vision) as follows:

I. Coverage shall continue until whichever of the following occurs first:

aa. The date the CEO qualifies for group health plan coverage provided by a subsequent employer; or

bb. The fifth anniversary of the date of termination.

II. During the continuation period under subclause I above, WMC shall continue to pay 100 percent of premiums for coverage under its group health plans, except as provided under subclause III below.

III. If WMC reasonably determines that the CEO cannot participate in WMC's group health plans because he is no longer actively performing services for WMC, WMC will pay the COBRA coverage premiums for group health plan coverage for the CEO and his spouse. If the COBRA continuation coverage period expires before the benefit continuation period specified in subclause I above, WMC shall pay for the balance of the period remaining under subclause I above, the premiums for a conversion or portability policy obtained by the CEO.

v. *Outplacement/Tax Planning.* Within ten business days of the date of termination, WMC will pay the CEO \$5,000 which the CEO may, but is not required to, apply towards outplacement and/or tax planning services.

vi. *Definition of "Cause."*

I. Subject to the conditions in subclause II below, "Cause" shall mean:

aa. Any indictment or conviction for any crime or offense that in WMC's reasonable judgment makes the CEO unfit for continued employment, prevents him from

performing his duties or other obligations or adversely affects the reputation of WMC;

bb. Dishonesty by the CEO on a matter of material consequence to WMC;

cc. The CEO's material violation of a key WMC policy or any term or condition of this Contract (including, but not limited to, acts of harassment or discrimination or being under the influence of alcohol or an unlawful drug while at work);

dd. The CEO's repeated and material insubordination;

ee. The CEO's failure to perform his core duties after warning and reasonable opportunity to correct the problem (if the problem is one where correction would be practicable);

ff. Conflict of interest or self-dealing incurring to the CEO's direct or indirect benefit; or

gg. The CEO no longer being able to perform his duties even after reasonable accommodation.

II. WMC may not terminate the CEO's employment for Cause unless:

aa. Two thirds of WMC's Board of Directors determines that Cause exists based upon substantial evidence of actions taken by the CEO or inaction by the CEO when he should have taken action for any time period after the date this Second Amendment is executed by the parties;

bb. The CEO is given reasonable notice of the Board meeting called to make that determination; and

cc. The CEO and his legal counsel are given the opportunity to address that meeting.

vii. *Definition of "Good Reason."*

I. Subject to the conditions in subclause II below, "Good Reason" means any one or more of the following conditions that occur without the CEO's express written consent:

aa. A reduction in the CEO's base salary without at least an offsetting increase in other compensation or benefits acceptable to the CEO;

bb. A material diminution in the CEO's authority, duties or responsibilities (including requiring the CEO to report to an officer of WMC instead of its Board of Directors);

cc. A material diminution of the budget over which the CEO has authority;

dd. A relocation or transfer of the CEO's place of employment to an office or location that is more than 35 miles from the CEO's then current place of employment; or

ec. Any other action or inaction that constitutes a material breach of this Contract by WMC.

II. The CEO may not terminate his employment for Good Reason unless:

aa. The termination occurs within two years of the date of the initial existence of the condition constituting Good Reason;

bb. The CEO gives WMC notice of the existence of the Good Reason condition within 90 days of its initial existence; and

cc. WMC has a reasonable opportunity of at least 30 days in which to cure the condition. WMC is not required to pay severance benefits during this correction period.

FOURTH: A new Section 17, Attorneys' Fees, is added to read as follows:

a. If any breach of or default under this Contract results in either party incurring attorneys' or other fees, costs or expenses (including those incurred in an arbitration or an appeal), the substantially prevailing party is entitled to recover from the non-prevailing party its reasonable legal fees, costs and expenses, including attorneys' fees and the costs of the arbitration.

b. Either party shall be entitled to recover any reasonable attorneys' fees and other costs and expenses it incurs in enforcing or collecting a judgment or arbitration award.

c. If an award under this Section is made to the CEO, and accountants or tax counsel selected by WMC with the CEO's consent (which shall not be unreasonably withheld) determine that the award is includible in the CEO's gross income, WMC shall also pay the CEO a gross-up payment to offset the taxes imposed on that award, including the taxes on the gross-up payment itself.

FIFTH: The parties confirm and readopt the remaining provisions of the Contract not otherwise addressed by this First Amendment.

IT IS SO UNDERSTOOD AND AGREED.

WRANGELL MEDICAL CENTER

3/29/2012
Date

By: [Signature]
Title: President, Board of Directors

3-29-2012
Date

[Signature]
Noel D. Selle-Rea

By Approval of the Board of Directors
of Wrangell Medical Center

Approved on 3/29/2012

By: [Signature]

SEA_DOCS:1057239.2

MEMORANDUM

**TO: BOARD OF DIRECTORS
WRANGELL MEDICAL CENTER**

**FROM: TIMOTHY ROONEY
BOROUGH MANAGER**

SUBJECT: WRANGELL MEDICAL CENTER REPLACEMENT PROJECT UPDATE

DATE: September 5, 2012

The following information is provided at the request of the WMC Board for the purpose of providing an update regarding the WMC Replacement Project.

JUNE, 2012

Staff met with Senator Lisa Murkowski and Representative Don Young, as well as representatives of Senator Begich's office in Washington, D.C. on Thursday, June 21, 2012, immediately following the recall of the WMC Board and the actions taken by the former WMC Board. The purpose of these meetings was to review the WMC Replacement Project to date and request their assistance in communicating the City and Borough of Wrangell's concerns regarding the possible change from a Revenue Bond to a General Obligation Bond as security requirements for the loan by the USDA.

JULY, 2012

On Tuesday, July 10, 2012, staff participated in a phone call with Mr. James Nordlund of USDA, the State of Alaska Director for Rural Development. Two things became clear as a result of the phone call. The first, that USDA will be doing nothing regarding the project loan until the new WMC Board is elected and seated. The second is that although the source of the loan funding may change from ARRA funds, the USDA remains committed and excited about the project. Please note that a review of available revenues from WMC will still be required prior to the closing of any loan and would require Borough Assembly approval. Notes from that phone call – reviewed by Mr. Nordlund – are attached for your information and review.

Following that phone call staff received an email from Mr. Keith Perkins, USDA Rural Development in Sitka, stating his continued support of the project and his willingness to help in any manner possible. I have attached this email correspondence as well.

AUGUST, 2012

All activity regarding the Wrangell Medical Center Replacement Project was placed on hold pending the outcome of the WMC Board Election.

SEPTEMBER, 2012

This morning, September 5, 2012, I placed a phone call with Mr. Perkins of the USDA. The purpose of the call was to review the results of the WMC Board Election, Election of Officers and inquire as to what steps the USDA and the City and Borough of Wrangell needed to take in order to once again move the project forward. At the time of the preparation of this memorandum, Mr. Perkins had not returned my call.

Project Status meetings continued for the month of July, but were suspended in August awaiting the outcome of the WMC Board election. These meetings occur telephonically with members of the project team including representatives of David E. Johnson Architects, Layton Construction, American Health Facilities Development, Sanderling, Wrangell Medical Center, and the City and Borough of Wrangell. Currently the project team continues to identify areas of potential cost savings for the project and I will be discussing these items with the Borough Assembly in the near future. The next project status meeting will be this Friday at 10 AM.

Biweekly updates are provided to the Borough Assembly as part of the written Borough Manager's Report. This report is available online usually by the end of the day on Fridays proceeding regular meetings of the Borough Assembly by visiting the City and Borough of Wrangell's website at www.wrangell.com. The report can also be emailed directly to you by request by contacting my office at tdrooney@wrangell.com.

If you or anyone you know has any questions regarding the WMC Replacement Project, please do not hesitate to contact me at any time.

ATTACHMENTS

1. Notes from phone call with Mr. Jim Nordlund, State of Alaska Director for USDA
2. Correspondence from Mr. Keith Perkins with USDA

City & Borough of Wrangell

| Pay Period | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 | Hours |
|------------|---|---|---|---|---|---|---|---|---|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|-------|
| Regular | 8 | 8 | 8 | | | 8 | 8 | 8 | 8 | 8 | | | AM | AM | AM | AM | AM | | | 8 | 8 | 8 | 8 | 8 | | | 8 | 8 | 8 | 8 | | |
| Overtime | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sick Leave | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Holiday WK | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Vacation | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | 8 | 8 | |

| | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---------------|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|
| Total Regular | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Overtime | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

AM = AML Summer Meetings - Bethel

Approved By: _____
Supervisor

Approved By: Timothy D. Rooney
Borough Manager

I hereby certify that the hours stated hereon are a true and accurate record of all hours I worked within this pay period.

Name: Timothy Rooney
Employee

Pay Period Ending August 31, 2012

Office Use Only

| | | |
|-----------|---------------------|--|
| AL _____ | Sal _____ @ _____ = | |
| SL _____ | HR _____ @ _____ = | |
| OTD _____ | OT _____ @ _____ = | |
| _____ | _____ @ _____ = | |
| _____ | _____ @ _____ = | |
| _____ | _____ @ _____ = | |
| | Total _____ = | |



Stikene River Forest Products, LLC

Business Plan

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1.0 Executive Summary

1.1 Objectives

The objective of building a full manufacturing lumber mill in Southeast Alaska is:

- 1] Provide high quality, affordable building material that is dried, dressed, and grade stamped into the Alaskan markets.
- 2] Develop foreign markets and supply them with finished high quality material in a consistent, timely manner.
- 3] Manufacture, to the fullest extent, the timber harvested in Southeast Alaska, within an Alaskan community, for the benefit of the communities in the region.
- 4] Develop a sustainable harvest plan to include young growth on an increasing level.

1.2 Mission

Our mission is to develop and operate a full scale lumber milling operation in Southeast Alaska, bringing economic growth and employment to the area. Once underway, our mill will offer:

- 1] A safe drug free work place
- 2] Respect to all who come in contact with us
- 3] Pride in every aspect of our work
- 4] A well manufactured, on time product

1.3 Keys to Success

The keys to success can be broken into the following areas:

- 1] Employment

It is important to have a training program to teach not only the technical side, but to instill pride

My Business Plan

and responsibility to the young men and women who will work at the mill.

2] Supply of raw materials

It will be important to develop a 10 year plan of supply with a mix of old growth and young growth logs in all 4 major species from both federal and state lands.

3] Finished products

The mill will be the first to develop a full scale dried and dressed ALS [American Lumber Standard] certified product in Southeast Alaska, and having a dried fully processed product will allow us to be competitive in the world markets.

4] Marketing

Developing a well diversified marketing plan to encompass not only Alaskan markets, but a wide variety of world markets from Europe to Asia is imperative.

5] Community and Environmental

Developing a strong commitment to the community and the environment fostered with education and communication.

2.0 Company Summary

Stikine River Lumber Products LLC, will be a full manufacturing company located in Wrangell, Alaska.

The company was formed 3 years ago with the primary goal of manufacturing from logs to a finished products in Wrangell. As well as being able to supply Alaskan markets with a well manufactured, dried, dressed, graded and stamped lumber in accordance with ALS [American Lumber Standards] at a reasonable price. Then develop and supply foreign markets throughout the world with a quality product. The mill and main office will be located in Wrangell.

Because of inadequate timber supply from the US Forest Service, and a lack of knowledge in manufacturing, the milling industry in Southeast Alaska has suffered. There is only one medium sized mill left, that only exports rough green material from Alaska. This new business will change how the world views Alaskan manufactured lumber products. It will also develop a better use of the timber harvested currently, and open the door for a young growth market.

My Business Plan

The owner John Glenn is dedicated to the success and future growth of this company through management and training opportunities.

2.1 Company Ownership

Stikene River Lumber Products, LLC is a limited liability company that is fully owned by Mr. John Glenn. With his extensive experience in finished manufacturing and having owned a full re-manufacturing company for 16 years, he brings the needed knowledge and experience to the industry in Alaska.

2.2 Startup Summary

Table: Startup

| | |
|--------------------------|--------------|
| Startup | |
| Requirements | |
| Startup Expenses | |
| Note Payments (3 Months) | \$750,000 |
| Other | \$0 |
| Total Startup Expenses | \$750,000 |
| Startup Assets | |
| Cash Required | \$250,000 |
| Startup Inventory | \$3,000,000 |
| Other Current Assets | \$1,500,000 |
| Long-term Assets | \$12,500,000 |
| Total Assets | \$17,250,000 |
| Total Requirements | \$18,000,000 |

3.0 Products and Services

Stikine River Lumber Products, LLC will be a medium volume, full manufacturing lumber company that manufactures domestic lumber for sale in Alaska and parts of the lower 48 states. It will also manufacture high grade material for the molding industry, and for export to both the European and Asian markets. We will also manufacture medium grade lumber in all four species of timber that is currently available in Southeast Alaska for the Asian markets .

There will be custom sawing, drying, grading, and surfacing available to customers for their material purchased from other sources, as well as whole log breakdown on a custom cut basis.

4.0 Market Analysis Summary

Diversity is key in the marketing of lumber products!

Stikine Rive Lumber Products, LLC is targeting 3 major markets:

1]Alaskan domestic and commercial building markets

Currently, the building industry in Alaska is supplied by the lower 48 states and pays high freight costs to ship from the Seattle area. We can supply an Alaskan made product, from Alaskan timber, at or below current market rates.

2]Asian Markets

I have developed over the years, a strong relationship with customers in Japan and the Philippines. Early indications are that they can purchase all of our excess production, after the domestic volume needs are met in all four species of timber available in Southeast Alaska; along with any doug fir lumber, which could be purchased in log from Canada and manufactured in Wrangell. We have obtained letters of commintment from some key buyers already.

3]European Markets

There is a specific need in Europe for very well manufactured and dried high grade material from Alaska. We have contacted various customers and have letters of interest in our products.

The quality of the Alaskan fiber lends to strong sales, even in weak markets, if manufactured well and on time delivery at a very good sales price. Good stewardship with the available log supply means manufacturing more and exporting fewer raw logs.

4.1 Market Segmentation

There are 4 major markets we are identifying which are separated by economies and

My Business Plan

geographics:

Alaskan Markets

The state of Alaska has a law that states if an Alaskan project receives Alaska state funding, it shall purchase Alaskan produced products first, as long as they are competitive. This allows us to be in first place on all state funded construction projects with our building materials, as long as they meet the design specs.

The domestic market will have access to a full range of kiln dried, surfaced, and grade stamped products that are currently imported. We will have the opportunity to capture a large portion of this market, as long as we stay competitive with the imported product.

Asian Markets

The Asian markets have been on a slow recovery since 1997, when their economy crashed. The producers in Canada and the U.S. have mostly stepped back because of the lengthy time it has taken for this market to recover. The environmental movement in Canada also has limited the availability of timber from Canada. This has caused a shortage of fine grain fiber, thus creating an opportunity to fill a void in the market place in both the Philippines, Japan, and China.

Continental U.S. Markets

The west coast of the U.S. has a limited harvest of western hemlock, which is used in the treated wood industry. The young growth timber that is currently being used is fast growing and doesn't have the strength of the slower growing timber from Alaska. The treaters have shown an interest in the fiber from Alaska and are using some from the small producers and Viking lumber, but quality and on time delivery are a problem. It also is important to ship a dry dressed product south because of freight costs. A dried product will weigh approximately 30% less than a green product, allowing an increase in volume and a lower cost per thousand board feet when shipped.

European markets

The European markets are a high end market and they require a very well manufactured dried product in all four species. Though their volume is small, it is very lucrative. Based on the past history of usage by Touchwood BV, a specialty company based out of the Netherlands,

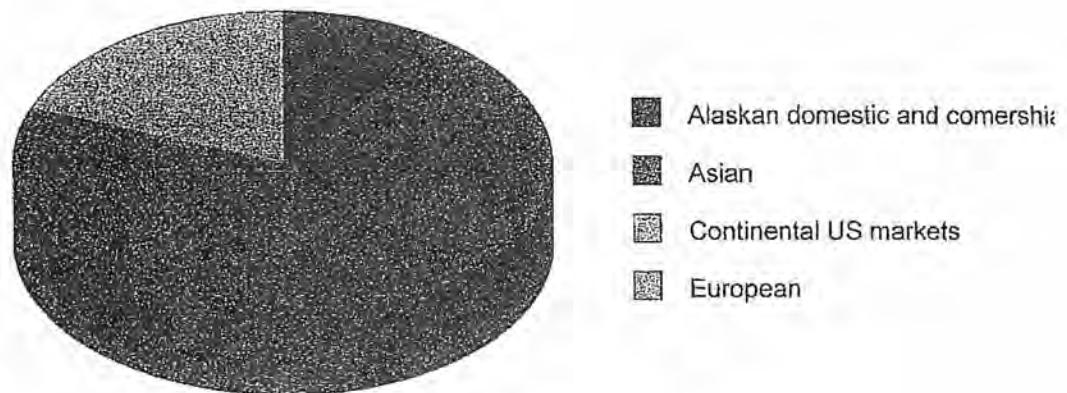
My Business Plan

it has been determined that this market will consume 12 to 14 containers a year at this time, and has a lot of room for expansion in the market share.

Table: Market Analysis

| Market Analysis | | 2012 | 2013 | 2014 | 2015 | 2016 | |
|---|--------|------|------|------|------|------|--------|
| Potential Customers | Growth | | | | | | CAGR |
| Alaskan domestic and comershial construction industry | 10% | 10 | 11 | 12 | 13 | 14 | 8.78% |
| Asian | 10% | 75 | 83 | 91 | 100 | 110 | 10.05% |
| Continental US markets | 15% | 15 | 17 | 20 | 23 | 26 | 14.74% |
| European | 5% | 5 | 5 | 5 | 5 | 5 | 0.00% |
| Total | 10.23% | 105 | 116 | 128 | 141 | 155 | 10.23% |

Market Analysis (Pie)



4.2 Target Market Segment Strategy

Though there are many markets we can access ,the four markets I have outlined are the ones we

are going to focus on. The fiber we will produce, lend well to these markets. These markets show the strongest opportunity for expansion. They also allow for a diverse economic base for our products. Each of these markets, when strong, can consume all of our production. However, by limiting them to a portion of the production, and delivering what is promised in a timely manner, will allow us to increase or decrease our production, as needed, depending on their current economic state. We can not be everything to all customers, but we can be a reliable partner to many.

4.3 Service Business Analysis

The Southeastern Alaska timber industry has suffered dramatically from the environmental movement in the past. The inability to supply timber by the forest service in the national forest has forced the industry to collapse. There is only one medium sized mill operating at this time. It is only producing rough green lumber and lumber cants, which are exported out of Alaska. The current sales of timber allow up to 50% export of round logs, with no further processing required from federal lands. This dramatically affects the communities in Southeast Alaska. Economically from lack of employment opportunities, and tax revenues from timber receipts.

It is well known in the industry that Alaskan fiber is some of the best in the world and is sought after for high end products from boat builders in Europe, to piano builders in Asia. The problem is, that there are very few, if any, who can manufacture and deliver on time a product that is acceptable at this time. Though only a small percentage of the fiber makes the grade, it is one of the driving sales as its value is extremely high.

The domestic market in Alaska has been forced to use out of state material and pay an extremely high price for freight. We would be able to produce a product that would cost less, and be equally, if not superior in quality, and available in a timely manner, rather than waiting on freight from the South.

In the past, the Asian markets have used huge volumes of Alaskan fiber, and still have a need for this fiber. But since many of the Canadian producers have stepped back after the crash of the Asian housing market in 1997, and because of a slow recovery since, it has left a large need for hemlock, Alaskan yellow cedar and Sitka spruce in Japan and the Philipian markets. We have strong business relationships developed over 18+ years of doing business with Asian customers. They have indicated that they will purchase all of our extra production for this market.

There is enough volume of fiber available at this time for bid, to supply the new mill and to still

supply the current mill. We also would develop the young growth harvest, and integrate it into the harvest volumes. Our customers have indicated they would welcome this material. I believe that with the young growth and a modest old growth harvest, we have the supply needed. I also believe we can integrate Canadian logs, as needed, for additional supply.

4.3.1 Competition and Buying Patterns

Competition for the mill is generally non-existent, with the exception of Viking Lumber in Craig, Alaska. They are the only medium sized mill in Southeast Alaska. They however, only export rough green at this time. Though they export a rough green product into Japan, we would send a dry product, finished to Japan's specifications, giving Japan a cheaper freight cost per meters squared.

Most of the high end products shipped to Asian and European markets are second manufacturers in the continental U.S. and then sent on, in a dry graded form. We would send this material out without the need for further manufacturing, and use the work force in Wrangell giving us a higher value return on the product.

Alaskan manufacturing in general, does not make a good statement at this time in the industry. It is commonly referred to as "Alaskan mis-manufacturing". Alaskan manufacturing is thought of as "close, but never right". Because of this, many markets have closed their door to the fiber and won't purchase it again from the same supplier's. If they do, the discount is so much, it isn't very profitable. The other comment on Alaskan fiber is, "if I order it now will I see the order next year or when it is rotten". On-time delivery is important to any industry! I have built my reputation upon on-time deliveries, with a quality product that is well manufactured and above industry standard. There is no reason that Alaska can't do the same. It only needs someone to set the standard.

If a product is well manufactured, delivered on-time, and well represented, the customers will keep coming back!

5.0 Strategy and Implementation Summary

5.1 SWOT Analysis

5.1.1 Strengths

1. Experience in manufacturing.

We have assembled a management team with over 60 years of manufacturing experience, converting raw logs into a dry, dressed and graded product for the domestic markets, as well as the overseas markets, in both metric scale and inch scale. We will be able to supply both the domestic and foreign markets with a very well manufactured, finished product, direct from the mill.

2. Well designed facility.

The key to good manufacturing is a well laid out facility. Because of the experience and the contacts we have developed over the years, we feel we have a great layout in all phases of manufacturing, using a combination of modern technology and old school manufacturing ideas. Because of the location, we have designed the equipment to be efficient, but simple to maintain.

3. Lack of competition.

There are no full lumber manufacturing facilities in Southeast Alaska .

4. Established presence in the market place.

We have had a positive presence in the world market and have an established customer base through our contacts in Japan. Because of my many years in the re-manufacturing industry, I have established a good working relationship in the industry for quality and on-time deliveries.

5.1.2 Weaknesses

1. Freight.

Freight is an expensive part of doing business in Alaska. This is why we need to ship a dry finished product.

2. Trained labor.

The industry in Alaska has never had this kind of manufacturing, so it will require training and relocation of high end personnel.

3. Raw material supply.

It is a known fact that the Federal Forest Service has not performed consistently with timber sales in the past. This is why I want a federally backed loan guarantee . There is also the potential of importing from Canada, and purchasing timber from the Indian Tribes and the State of Alaska.

4. Weather.

Winter can stretch out and this is why we need 6 months of logs in the mill by fall, in order to give us the working volumes to carry us through until the spring thaw is over. Realistically, production is figured on a 10 month year.

5.1.3 Opportunities

1. No competition currently exists in this market.
2. Location. The site has already had a mill on it and will require some work, but not as extensive, as compared to a new site.
3. Market. The market has seen a drastic reduction in facilities over the past few years. The demand far outweighs the supply at this time.
4. Raw material. Young growth is coming of age and there is no one to process it. We also have established a market for the finished material.

5.1.4 Threats

1. Federal government policy change
2. Environmental policy changes
3. Labor problems

5.2 Competitive Edge

Stekine Lumber Products, LLC has a competitive edge over all manufacturers in our area, by being the first and only finish manufacturer . We will be setting the standard for everyone who follow. We will have direct shipments to our customers, without using anyone else to finish our product as it is done now. By converting the log to finished product in one location, we save substantial costs; some of which can be passed on to our customers. This savings will also allow us to use a more expensive material up front, if needed on tough timber sales. We have the ability to change out product at any given moment, and to save time and product because everything is manufactured in one facility.

5.3 Marketing Strategy

Our marketing strategy has been to get like product to our customers, and to develop the acceptance of our product, using others in the beginning. This has been done and we now have an accepted product in both Japan and the Philippines. Our sales people have indicated that we have open orders to fill, just as soon as the mill is built.

The domestic market strategy is to be able to produce and deliver the products as needed, so as not to carry a large finished inventory.

5.4 Sales Strategy

7.1 Startup Funding

80% of the funding will come from a federally guaranteed loan, through a banking institution, while 20% of the funding will come from the State of Alaska, either through a direct loan or a loan guarantee.

In light of past history of the Forest Service' inability to perform on sales due to many different reasons and because of the changing arena from the political side, depending on who is elected, it is imperative that a guarantee is in place. That way, if there is a delay in the supply of the promised timber , a reduction of payment will result, until it is resumed. The State of

My Business Plan

Alaska is needed to participate, since there are no private investors willing to gamble on the Forest Service, as a result of their past history. Grants or no interest loans will be considered if offered for the finish of the developmental phase.

CITY & BOROUGH OF WRANGELL, ALASKA

BOROUGH ASSEMBLY AGENDA ITEM September 11, 2012

ITEM NO. 9

BOROUGH CLERK'S FILE:

Upcoming Dates to Remember

- 9/13 Planning & Zoning Public Hearing and Regular Mtg. @ 7:00 pm in the Assembly Chambers
- 9/17 First day to vote absentee in-person for the October 2, 2012 Borough Election
- 9/28 Election Workshop in the Assembly Chambers @ 1:00 p.m.
- 9/28 Deadline for Write-In Candidates @ 5:00 p.m.
- 10/1 Last day to Absentee Vote in Person @ City Hall from 9:00 – 5:00 p.m.
- 10/2 REGULAR ELECTION DAY – Come cast your vote @ the Nolan Civic Center from 8:00 a.m. to 8:00 p.m.

Regular Election – Tuesday, October 2, 2012

The deadline to file your Letter of Intent as a Write-In Candidate is Friday, September 28th at 5:00 p.m., for any of the following elected offices:

- Mayor – 2 year term
- Assembly Member Seat C – 3 year term
- Assembly Member Seat D – 3 year term
- Assembly Member Seat F – Unexpired term until October 2013
- Port Commission – 3 year term (two vacancies)
- School Board – 3 year term (two vacancies)
- Hospital Board – 4 year term (three vacancies)

Code Review Committee

The Committee will hold their next monthly meeting on October 10, 2012 at 5:00 p.m.

The Committee will meet monthly in the Assembly Chambers to thoroughly go through each title of the Wrangell Municipal Code, and begin bringing forth proposed revisions to the Borough Assembly.

UNTIL NEXT TIME...



CITY OF WRANGELL, ALASKA

BOROUGH ASSEMBLY AGENDA ITEM September 11, 2012

ITEM NO. 11

PERSONS TO BE HEARD:

INFORMATION: The Assembly has provided by Resolution an opportunity for Persons to be Heard on items not elsewhere placed on the Agenda. If the item is listed as an Agenda item, the person should be referred by the Mayor to conduct the discussion at the time when the item appears on the Agenda. If not on the Agenda, the Mayor may prescribe the time limits, require designated speakers for groups; determining redundancy and other effective meeting procedures. The Assembly is conducting the business of a major public corporation and has the right to prescribe its own methods.

The Mayor should inquire if there is anyone present who desires to address the Assembly on any item not already appearing on the Agenda.

CITY & BOROUGH OF WRANGELL, ALASKA

BOROUGH ASSEMBLY AGENDA ITEM September 11, 2012

**ITEM NO. 13a PROPOSED RESOLUTION OF THE ASSEMBLY OF
THE CITY AND BOROUGH OF WRANGELL, ALASKA,
AUTHORIZING THE CONVEYANCE OF FORCLOSED PUBLIC LAND,
PART OF LOT 4 (LOT 4A), BLOCK 17, BY QUITCLAIM DEED, TO
KEVIN AND ABIGAIL BYLOW**

INFORMATION:

Attachments:

1. Proposed Resolution
2. Ordinance #857
3. Public Notice of Over-the Counter Sale
4. Cashier Check Copy from Purchaser
5. Map of Public Land Lot

RECOMMENDED ACTION:

Move to Adopt Resolution

CITY AND BOROUGH OF WRANGELL, ALASKA

RESOLUTION NO: _____

A RESOLUTION OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, AUTHORIZING THE CONVEYANCE OF FORECLOSED PUBLIC LAND, PART OF LOT 4 (LOT 4A), BLOCK 17, BY QUITCLAIM DEED, TO GARY AND SCARLETT POOVEY, AND KEVIN AND ABIGAIL BYLOW

WHEREAS, the City and Borough of Wrangell declared foreclosed upon property not necessary for public purpose and subject to sale on July 26, 2011, passed in its final approval by Ordinance No. #857; and

WHEREAS, the City and Borough of Wrangell offered the foreclosed properties mentioned in Ordinance No. #857, in an over-the-counter sale on September 29, 2011; and

WHEREAS, the Borough Assembly has determined and accepted Gary and Scarlett Poovey, and Kevin and Abigail Bylow, P.O. Box 1584, Wrangell, Alaska 99929, to be the first-come, first-serve bidder, in the total amount of \$54,500.00, for Part of Lot 4 (Lot 4A), Block 17.

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, that:

Section 1. The Mayor and Borough Clerk are authorized to execute a quit claim deed to Gary and Scarlett Poovey, and Kevin and Abigail Bylow, to convey the following public land, when full price is paid:

Part of Lot 4 (4A), Block 17
Wrangell Recording District, Wrangell, Alaska.

ADOPTED: _____, 2012

Jeremy Maxand, Mayor

ATTEST: _____
Kim Flores, Borough Clerk

CITY AND BOROUGH OF WRANGELL, ALASKA

ORDINANCE NO. 857

A NON-CODE ORDINANCE OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, DETERMINING WHETHER FORECLOSED UPON PROPERTY SHOULD BE RETAINED FOR A PUBLIC PURPOSE OR THAT A PUBLIC NEED DOES NOT EXIST SO THAT THE PROPERTY MAY BE SOLD

BE IT ORDAINED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA:

SEC. 1. Action. The purpose of this ordinance is to comply with the Alaska Statute provisions of 29.45.460(a) & (b) regarding the retention of property foreclosed upon for a public purpose or the placing for sale of foreclosed property not needed for a public purpose with respect to the parcel deeded to the City and Borough of Wrangell in Case Number 1WR-09-36CI by the Court's Deed dated June 3, 2011 and recorded in the records of the Wrangell Recording District on June 14, 2011.

The Assembly of the City and Borough of Wrangell hereby determines that there (does) (does not) exist a public purpose for the following described property and that accordingly, the property listed below shall be (retained for a public purpose.) (sold per AS 29.45.460(c) and CBW Code provision.):

All of the Southeast portion of Lot 4, Block 17, Wrangell Townsite, according to the official plat thereof approved September 12, 1917 and on file in the office of the Commissioner of the General Land Office, Wrangell Recording District, First Judicial District, State of Alaska, more particularly described as follows: Beginning at the Southeast corner of said Lot 4 of Block 17 at the intersection of Reid and St. Michael Streets, as Corner No. 1 and extending Northward on St. Michael Street a distance of 175 feet to the property line of land formerly owned by O. R. Keeney in the northerly portion of said Lot 4 as Corner No. 2; thence Westward on the Southerly line of said Keeney land a distance of 100 feet to a point 40 feet from the Westerly line of said Lot 4, Block 17, as Corner No. 3; thence Southerly on a parallel line with the Westerly line of said Lot 4, Block 17, a distance of 125 feet to a point on Reid Street, as Corner No. 4; thence Eastward on Reid Street a distance of 100 feet to the place of beginning; Wrangell Recording District, First Judicial District, State of Alaska.

Excepting therefrom that portion conveyed to the City of Wrangell by Warranty Deed recorded July 9, 1999 in Book 0031 at Page 734.

This property is located at 209 St. Michael Street, Wrangell, AK 99929 and was formerly

owned by the Estate of Mary Gillespie, Mary E. Holland, Executor.


SEC. 2. Classification. This is a non-code ordinance.

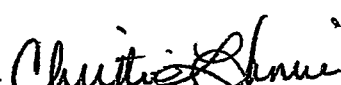
SEC. 3. Severability. If any portion of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

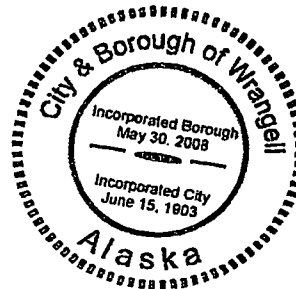
SEC. 4. Effective Date. This ordinance shall be effective upon adoption.

PASSED IN FIRST READING: June 28, 2011

PASSED IN SECOND READING: July 26, 2011


Jeremy Maxand
Mayor

ATTEST: 
Christie L. Jamieson, Borough Clerk



*****Revised as of 3/29/12*****

NOTICE OF OVER-THE-COUNTER SALE OF PUBLIC FORECLOSED PROPERTIES

The City and Borough of Wrangell is offering foreclosed properties for sale. Such properties shall be offered by the Borough Clerk, to begin immediately, over-the-counter at City Hall, on a first-come, first-serve basis and be sold for the minimum bid value, until all are sold

The properties for sale are as follows:

| <u>Property Description</u> | <u>Address</u> | <u>Mini. Bid Value</u> | <u>Zoning</u> |
|------------------------------------|-----------------------|-------------------------------|----------------------|
| Lot 4, R.A.L. Subdivision | 600 Etolin Street | \$44,300.00 | MF |
| Lot 2, R.A.L. Subdivision | 731 Hemlock Street | \$35,500.00 | MF |
| Pt. of Lot 4 (Lot 4A), BK 17 | 209 St. Michaels St. | \$54,500.00 | SF |

Payment must be made in Cash Only.

Successful purchaser will be required to obtain any necessary federal/state/local permits for development of land. These permits could include, but are not limited to Corps of Engineers wetland fill, a State water quality consistency determination, Borough building permit or other land use permits. The City and Borough of Wrangell reserves the right to reject any or all sales.

Wrangell Sentinel: Publish once a month indefinitely until notified, beginning April 5, 2012

Posted this 29th day of March, 2012.

BBVA Compass

CASHIER'S CHECK

500689321

CHEQUE DE CAJA

61-118/620

Date/Fecha: 08/20/2012

527

PAY CITY OF WRANGELL
TO THE FOR 209 SAINT MICHAELS ST. PROPERTY
ORDER OF
Paguese por este cheque a lo orden de

***** \$54,500.00 *****

*** FIFTY FOUR THOUSAND FIVE HUNDRED DOLLARS AND 00 CENTS ***

Remitter/Remitente: GARY POOVEY & THE BYLOWS
Description/Descripción:

Tuffanpa Rest

MP

Drawee:
Compass Bank
Birmingham, AL 35233

Vea Detrás del Cheque.
Details on Back.

Características de la Seguridad Incluidas.
Security Features Included.

⑈ 500689321 ⑈ ⑈ 062001186⑈ 151 5611 2⑈

PHONE 874-2381

OFFICIAL RECEIPT

P.O. BOX 531

CITY & BOROUGH OF WRANGELL

REC'D FROM Kevin & Abigail Bylow DATE 8-31-12

ADDRESS _____

| DESCRIPTION | AMOUNT | ACCOUNT |
|----------------------|-----------|---------|
| Pt. of Lot 4 | \$ | |
| (Lot 4A) Blk 17 | | |
| 209 St. Michaels St. | 54,500.00 | |

100 DOLLARS

REMARKS _____

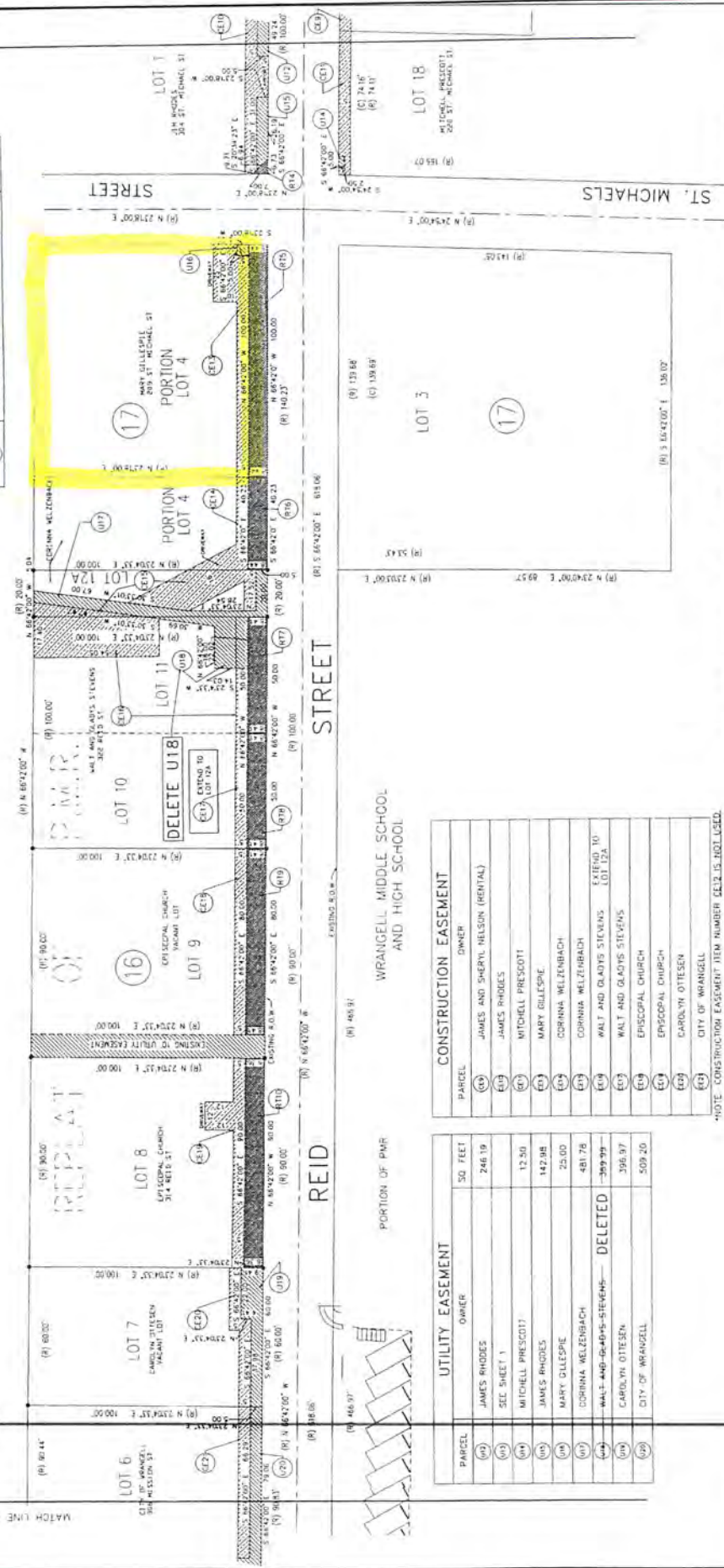
CASH ☐ CHECK ☒ CREDIT CARD ☐

15227 REC'D BY Gary Poovey



| RIGHT OF WAY TAKE | | |
|-------------------|-------------------------|---------|
| PARCEL | OWNER | SQ FEET |
| (10) | JAMES RHODES | 23.55 |
| (11) | MARY GILLESPIE | 844.16 |
| (12) | CORINNA WELZENBACH | 319.02 |
| (13) | WALT AND GLADYS STEVENS | 420.42 |
| (14) | WALT AND GLADYS STEVENS | 420.42 |
| (15) | EPISCOPAL CHURCH | 672.68 |
| (16) | EPISCOPAL CHURCH | 792.62 |

SEE SHEET 2
MATCH LINE



| CONSTRUCTION EASEMENT | | |
|-----------------------|----------------------------------|-------------------|
| PARCEL | OWNER | |
| (10) | JAMES AND SHERYL NELSON (RENTAL) | |
| (11) | JAMES RHODES | |
| (12) | MITCHELL PRESCOTT | |
| (13) | MARY GILLESPIE | |
| (14) | CORINNA WELZENBACH | |
| (15) | WALT AND GLADYS STEVENS | EXTEND TO LOT 12A |
| (16) | WALT AND GLADYS STEVENS | |
| (17) | EPISCOPAL CHURCH | |
| (18) | EPISCOPAL CHURCH | |
| (19) | CAROLYN OTTESEN | |
| (20) | CITY OF WRANGELL | |

| UTILITY EASEMENT | | |
|------------------|-------------------------|---------|
| PARCEL | OWNER | SQ FEET |
| (10) | JAMES RHODES | 246.19 |
| (11) | SEE SHEET 1 | |
| (12) | MITCHELL PRESCOTT | 12.50 |
| (13) | JAMES RHODES | 142.98 |
| (14) | MARY GILLESPIE | 25.00 |
| (15) | CORINNA WELZENBACH | 481.78 |
| (16) | WALT AND GLADYS STEVENS | DELETED |
| (17) | CAROLYN OTTESEN | 396.97 |
| (18) | CITY OF WRANGELL | 509.20 |

*NOTE: CONSTRUCTION EASEMENT ITEM NUMBER C12 IS NOT USED.

GREG SCHEFF & ASSOCIATES
LAND SURVEYORS
BOX 1131 WRANGELL, ALASKA 99929
PHONE (907) 874-2177
FAX (907) 874-2187

PROJECT: **REID ST. / MCKENNON ST. RIGHT-OF-WAY MAP**
DEPICTING RIGHT-OF-WAY TAKES, UTILITY EASEMENTS AND CONSTRUCTION EASEMENTS WITHIN WRANGELL, ALASKA

CLIENT: CITY OF WRANGELL
BOX 531
WRANGELL, ALASKA 99929

WRANGELL RECORDING DISTRICT

PROJECT: **51044-28-00**

DATE: **11/10/10**

BY: **[Signature]**

SCALE: **AS SHOWN**

DATE OF SURVEY: **2010**

DATE OF MAP: **08/22/2010**

SCALE: **1"=20'**

SURVEYOR: **GREG SCHEFF & ASSOCIATES**

02-021-183

CITY & BOROUGH OF WRANGELL, ALASKA

BOROUGH ASSEMBLY AGENDA ITEM September 11, 2012

**ITEM NO. 13b A RESOLUTION OF THE ASSEMBLY OF
THE CITY AND BOROUGH OF WRANGELL, ALASKA,
DESIGNATING CANVASS BOARD DUTIES TO THREE
ASSEMBLY MEMBERS FOR CANVASSING THE RESULTS OF
THE REGULAR ELECTION TO BE HELD OCTOBER 2, 2012
(Assembly Members Privett, Jack, and Mayor Maxand)**

INFORMATION:

Attachments:

1. Proposed Resolution

RECOMMENDED ACTION:

Move to adopt resolution.

CITY AND BOROUGH OF WRANGELL

RESOLUTION NO. _____

A RESOLUTION OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, DESIGNATING CANVASS BOARD DUTIES TO THREE ASSEMBLY MEMBERS FOR CANVASSING THE RESULTS OF THE REGULAR ELECTION TO BE HELD OCTOBER 2, 2012

WHEREAS, Wrangell Municipal Code Sec. 2.28.050 Canvass Board, provides that the Council shall, prior to the date of the election, designate three council members to serve on the Canvass Board; and

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, that Assembly Members Bill Privett, Wilma Stokes, and Mayor Jeremy Maxand be designated to serve on the Canvass Board and to attend the election, pursuant to Wrangell Municipal Code Sec. 2.28.050 to be held within six days after the election, pursuant to Wrangell Municipal Code Sec. 2.28.060 Canvass of Returns-Procedures Generally.

ADOPTED: September 11, 2012

Jeremy Maxand, Mayor

ATTEST: _____
Kim Flores, Borough Clerk

CITY & BOROUGH OF WRANGELL, ALASKA

BOROUGH ASSEMBLY AGENDA ITEM September 11, 2012

ITEM NO. 13c Discussion and possible action relating to a Letter of Support to Governor Sean Parnell supporting the Alaska Regional Development Organization Program (ARDOR)

INFORMATION:

1. Draft Letter of Support to Governor Sean Parnell

RECOMMENDED ACTION:

Move to authorize a letter of support be sent to Governor Sean Parnell, Supporting the ARDOR Program



City & Borough of Wrangell
P.O. Box 531
Wrangell, AK 99929
Ph: 907.874.2381
Fax: 907.874.3952
clerk@wrangell.com
www.wrangell.com

September 11, 2012

The Honorable Sean Parnell
Capitol Building
Juneau, AK 99811

Dear Governor Parnell

The City & Borough of Wrangell supports the Alaska Regional Development Organization (ARDOR) program. The Alaska legislature has continued to reauthorize the program since 1988 and should do so again, as it is a sound investment in the future of our state. The ARDORs provide services to stimulate economic development across the state, often in isolated and economically depressed regions and serve as a point of coordination between local, state, and federal agencies.

We also support legislation that increases ARDOR program funding to the maximum amount allowable. The ARDORs have accomplished admirable goals in business development, community planning, and infrastructure improvements and continue to do so. Increased funding will allow the ARDORs to enhance their services and increase the businesses and agencies they collaborate with.

Locally, we have collaborated with SEC on timber supply issues throughout the Tongass National Forest. Our local mill continued to operate due to the efforts of SEC to push for state sales for the industry and to vocalize the need for more supply from the Tongass. SEC is now a strong supporter in our efforts to reutilize our waterfront industrial property to create jobs. Their continued work on timber supply is assisting us in working to develop small wood manufacturing industry in Wrangell, with products such as molding, music wood, and specialty products. SEC is also working with the marine industry to strengthen training opportunities in boat works to support existing boat yards throughout the region, including Wrangell's Marine Service Center. Through SEC leadership, the Regional Solid Waste Authority was created and Wrangell and other SE communities will benefit from reduced shipping charges and opportunities to improve their own solid waste and recycling operations.

We enjoy the working relationship we have with our regional ARDOR and would like that relationship to continue and grow. The City & Borough of Wrangell fully supports the continued reauthorization of the ARDOR program, as well as an increase in base funding. We hope you will agree with us in seeing the ARDOR program as a sound investment in the future of our state.

Thank you for your time and consideration,

Jeremy M. Maxand, Borough Mayor

CITY OF WRANGELL, ALASKA

**BOROUGH ASSEMBLY
AGENDA ITEM
September 11, 2012**

ITEM NO. 14

ATTORNEY'S FILE:

None

CITY & BOROUGH OF WRANGELL, ALASKA

BOROUGH ASSEMBLY AGENDA ITEM September 11, 2012

ITEM NO. 15 EXECUTIVE SESSION

- a. Discussion of Wrangell v. Rea, et.al. 1WR-12-55

INFORMATION:

RECOMMENDED ACTION:

I move to go into executive session to discuss the pending litigation in *Discussion of Wrangell v. Rea, et.al. 1WR-12-55* involving matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity.