

Minutes of Regular Assembly Meeting Held on November 8, 2016

Mayor David L. Jack called the Regular Assembly meeting to order at 7:00 p.m., November 8, 2016, in the Borough Assembly Chambers. Assembly Members Mitchell, Gilbert, Powell, and Rooney were present. Assembly Members Decker and Prysunka were absent. Borough Manager Jeff Jabusch and Borough Clerk Kim Lane were also in attendance.

The Pledge of Allegiance was led by Assembly Member David Powell.

The Invocation was given by Donald McConachie.

Certificates of Service were presented to the following appointed members:

- **Jim Shoemaker** (to be mailed), Planning & Zoning Commission (5-2015/10-2016)
- **Bob Lippert** (to be mailed), Parks & Recreation Board (various 10-2010/10-2016)
- **James Edens** (to be mailed), Economic Development Committee (10-2013/10-2016)
- **Robert Maxand** (to be mailed), Economic Development Committee (10-2013/10-2016)
- **Donald McConachie** (received in person), Nolan Museum/Civic Center Board (10-2010/10-2016)
- **Dan Roope** (to be mailed), Nolan Museum/Civic Center Board (10-2015/10-2016)
- **Alice Rooney** (to be mailed), Nolan Museum/Civic Center Board 10-2014/10-2016)
- **Olinda White** (to be mailed), Nolan Museum/Civic Center Board (various 4-2007/10-2016)

Certificate of Service was presented to the following elected member:

- **Larry "Woody" Wilson** (to be mailed), Wrangell Medical Center Board (8-2012/10-2016)

AMENDMENTS TO THE AGENDA

M/S: Gilbert/Powell, to amend Agenda Item 13f to include the discussion of business regulations, specifically the hours of operation. Motion approved unanimously by polled vote.

CONFLICT OF INTEREST – None

CONSENT AGENDA

M/S: Powell/Rooney, to approve Consent Agenda Items marked with an (*) asterisk; Items 6a, 7a, 7b, 7c and 7d. Motion approved unanimously by polled vote.

APPROVAL OF MINUTES

The minutes of the Special Assembly meeting held October 10, 2016; Minutes of the Public Hearing & Regular Assembly meetings held October 11, 2016, were approved as presented.

COMMUNICATIONS

- a. Action from the Regular School Board mtg. held 10-17-16
- b. Wrangell Medical Center minutes from the Regular mtg. held 9-21-16
- c. Action from the WMC Special mtg. held 10-25-2016 – Attached is the letter of support for the consolidation of AICS and SEARHC into a single entity that was approved at that meeting

- d. Essential Air Service (EAS) support letter for air service in Wrangell and Southeast AK

BOROUGH MANAGER'S REPORT

Manager Jabusch's report was provided.

BOROUGH CLERK'S FILE

Clerk Lane's report was provided.

MAYOR/ASSEMBLY REPORTS AND APPOINTMENTS

10a Reports by Assembly Members

Mayor Jack stated that High School/Middle School Principal, Bill Schwan had called to invite him and all veterans to an event in the High School Commons on Friday, November 11th at 10:30 a.m.

10b City Boards and Committees Appointments

Mayor Jack appointed Brenda Schwartz-Yeager and Nancy Delpero to fill the vacancies on the Wrangell Convention & Visitors Bureau with the terms ending October 2019. As there were vacancies other various boards and committees, Mayor Jack directed the Borough Clerk to advertise. There were no objections from the Assembly.

10c SEAPA Board Appointments

M/S: Gilbert/Powell, to appoint Steve Prysunka to the voting member seat on the SEAPA Board.

M/S: Mitchell/Powell, to amend the main motion to add that Clay Hammer be appointed to the alternate voting member seat on the SEAPA Board. Amendment was approved unanimously by polled vote.

Main Motion, as amended was approved unanimously by polled vote.

PERSONS TO BE HEARD

Kelsey Martinsen, 225 S. Front Street, stated that any additional costs for the sale of marijuana would make it difficult to compete with the black market; if the Assembly is looking at adding an excise tax, please make sure that I can still compete statewide.

Don McConachie, 622 Zimovia Hwy., spoke in favor of reducing the number of members on the Economic Development Committee; no board, committee or commission should be greater than the Assembly membership.

UNFINISHED BUSINESS

12a PROPOSED ORDINANCE No. 927: AN ORDINANCE OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, AMENDING THE MINOR OFFENSE FINE SCHEDULE IN CHAPTER 1.20, GENERAL PENALTY, OF THE WRANGELL MUNICIPAL CODE (second reading)

M/S: Mitchell/Gilbert, to adopt Ordinance No. 927. Motion approved unanimously by polled vote.

NEW BUSINESS

13a PROPOSED RESOLUTION No. 11-16-1353: A RESOLUTION OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, IN SUPPORT OF FULL FUNDING FOR THE STATE OF ALASKA HARBOR FACILITY GRANT PROGRAM IN THE FY 2018 STATE CAPITAL BUDGET

M/S: Rooney/Powell, to adopt Resolution No. 11-16-1353. Motion approved unanimously by polled vote.

13b Request for a modification to a Contract Zone Agreement, amending the site plan and expanding the proposed Light Industrial use storage facility from a one building facility to a two building facility on Lot C, Torgramsen-Glasner Subdivision, zoned Single Family Residential with a Contract Zone of Light Industrial, requested by Mr. and Mrs. Donald Glasner

M/S: Gilbert/Powell, to approve a modification to a Contract Zone Agreement, amending the site plan and expansion of two buildings used as indoor storage units with the following conditions:

- 1. Site obscuring vegetated buffer of at least 25 feet maintained pursuant to WMC 20.52.200. (in current contract zone)*
- 2. Lighting at facility should be angled downward and guarded from side so as not to disturb adjacent residences. (in current contract zone)*
- 3. Operating hours should be restricted from 7:00 am to 8:00 pm. (in current contract zone)*
- 4. The driveway entrance to the storage unit will be widened and moved over 10 feet to avoid all conflict with the adjacent residential driveway (new item).*

Motion approved unanimously by polled vote.

13c Acceptance of the Resignation from Assembly Member Steve Prysunka

M/S: Powell/Gilbert, to accept the resignation from Steve Prysunka on the Borough Assembly.

Assembly Member Mitchell stated that Assembly Member Prysunka is a valued member of the Assembly.

Assembly Member Gilbert stated that this issue had come up before with past councils; perhaps we could table this item until we look at the item later in the meeting.

Clerk Lane stated that if a member submits a resignation and the Assembly choose not to accept the resignation, it would still be a resignation; this is a "rubber stamp" form of action.

Gilbert suggested again that the Assembly look at tabling the item; however it would take an ordinance to change the policy so that might not work.

Mayor Jack stated that even if the Assembly tabled the item and changed the Code, it would not change the resignation status.

Clerk Lane stated that if the Assembly tabled the item, it would need to be taken up in the same meeting; there is nothing that the Assembly could do to change the outcome or policy at this meeting; if the Assembly postponed the item, his resignation would therefore be in limbo and if the Code was amended, it would look as though the Assembly made the change for the one member; would not look good.

Assembly Member Powell questioned if we could simply not accept the resignation.

Assembly Member Rooney questioned if Mr. Prysunka could submit a letter of interest for the vacancy if we advertised.

Mayor Jack stated that there was nothing stating that he could not submit a letter; would have a "shady" look to it, but he could do it.

Clerk Lane reminded the Assembly that the appointment for the vacancy would be by a vote of the Assembly.

Motion approved unanimously by polled vote.

13d Approval of the USDA Resolution OMB No. 0572-0121

M/S: Powell/Mitchell, to approve USDA Loan Resolution OMB No. 0572-0121 for the purpose of finalizing the close-out on both the grant and the loan from USDA on the Sewer Pump Station Project. Motion approved unanimously by polled vote.

13e Approval of the Bid received for the Wrangell Courtroom Carpet Replacement project

M/S: Mitchell/Rooney, to approve a bid award to Rainbow Builders, Inc. for construction of the Wrangell Courthouse Carpet Replacement project in the amount of \$21,495.00, funded from the FY17 Capital Budget for the Public Safety Building. Motion approved unanimously by polled vote.

13f Discussion and possible action on excise tax on marijuana

M/S: Gilbert/Powell, to discuss and possibly add on business regulations and excise tax on marijuana sales.

Assembly Member Gilbert noted that in the packet, there are other communities around Alaska who are charging an excise tax on marijuana and it's all over the place; the State of Alaska has an excise tax on the marijuana by the ounce; \$50 per ounce for the bud, \$15 per ounce for the rest of the plant; Houston has a \$10 per ounce + \$2 per ounce for the rest of the plant; Ketchikan has an excise tax, in addition to the City 4% sales tax; Valdez charges 50% of the market value for marijuana; in Valdez, the price per ounce is \$420; believe that we should have

some sort of excise tax and should have regulations in our code; excise tax would go into title 5 and the business regulations would go into title 6; questioning the business hours.

Gilbert also stated that he had spoken with Mr. Martinsen and he told her that he was planning on having his hours of operation be from 8:00 a.m. to 6:00 p.m.

Gilbert said that a member of the community had voiced concern that the marijuana stores would have the same hours of operation as the bars.

Assembly Member Mitchell stated that we are paying a 10% tax on fish tax; would be in favor of imposing a 10% tax on marijuana as well; would be in addition to the regular 7% city sales tax.

Gilbert stated that one benefit to taxing per ounce is that tracing would be easier because businesses are required by the State to report their sales electronically each month by the third decimal point; would have a good concept of how much was being produced.

Mitchell stated that there are different prices for different products; a percentage tax would be easier to do.

Assembly Member Rooney stated that she was in favor of an excise tax; likes the idea of taxing based on market value and not a flat rate.

Gilbert questioned whether marijuana paraphernalia should also be taxed; could also be sold in other locations; need to begin the process.

It was the consensus to direct the Borough Clerk to begin drafting an Ordinance for an excise tax to be added to Title 5 and for regulations on hours of operations to be added to title 6.

Clerk Lane stated that once she had the basic ordinance drafted, it would be a good idea for the Code Review Committee to meet and finalize it before it came back to the Assembly.

Assembly Member Gilbert agreed to be on the Code Review Committee.

There were no objections from the Assembly.

As there was no action to vote on, Clerk Lane stated that the motion dies.

13g Discussion and possible action on changing WMC 3.04.114, Nepotism

Manager Jabusch stated that back in 2013, the Assembly adopted a revised Ordinance on Nepotism to make the policy less restrictive; understands that there have been past situations where a family member wanted to work at the Movie Theatre or be a Life Guard; need to be careful because nepotism rules are in just about every municipal code because at some time, someone abused the hiring practice; also feels that those positions are classified for kids or non-permanent positions; need to be careful though when talking about all positions and how that would impact the City; Manager is ultimately responsible for hiring and firing; there could be an unspoken pressure on the Manager if their family member is not hired for a position.

Assembly Member Mitchell stated that we are not employees; no benefits and no wages; has a hard time with this policy; we are not employees of the borough and we do not manage anyone but the Manager.

Jabusch stated that he has never had anyone come to him and say "hire my son"; stated though that the reason why it's in there is because someone did it at some time; everyone on the Assembly is honorable right now but in 10 years, it could be different; there is a reason why it's in there; there could definitely be an unspoken pressure.

Assembly Member Gilbert stated that we are an Assembly-Manager form of Government and as Assembly Members; we have absolutely no power for the hiring and firing of employees; we only have power as a Body; City Manager should feel protected against any undue pressure.

Gilbert stated that her idea was to allow the hiring of a relative of the Assembly if that person was seeking employment as an hourly non-salaried part-time or temporary position.

Manager Jabusch also stated that a situation could arise where there were two candidates for a position and if the Manager chooses the Assembly's relative, the public perception could be mistrust and suspicion that that person was hired because their relative is on the Assembly.

Assembly Member Powell questioned if the relative were to be hired in on a part-time or temporary basis and they moved up the ranks; in 10 years, they were in a top position; what would public perception be for that?

Assembly Member Rooney stated that this policy protected the Borough Manager; should think about that since we are currently looking for a new Borough Manager.

Powell stated that the outgoing member could put his letter of interest in and the Assembly could approve it or not approve it; that would be the best way around it without changing anything; agrees that it doesn't make sense since that a 20 hour a week position cannot be filled by a relative of an Assembly Member but also agrees that the policy is in place for a reason.

Mayor Jack stated that there are a lot of kids in the community who cannot find a job here in town; the policy limits those from getting a job with the City; believes that it's a form of discrimination.

After more discussion, the consensus of the Assembly was to not make any changes to the existing code.

13h Approval to reduce the number of members on the Economic Development Committee from seven (7) to five (5)

M/S: Mitchell/Rooney, to approve the reduction of members on the Economic Development Committee from seven (7) to five (5) and to provide for a transition provision to be updated in the Committee By-Laws.

Assembly Member Mitchell stated that he is on this Committee and he believes that the reduction in necessary.

Motion approved unanimously by polled vote.

ATTORNEY'S FILE – Summary Report was provided to the Assembly.

EXECUTIVE SESSION

15a Executive Session: Options regarding the Corrective Statutory Warranty Deed for Lot A, dated May 25, 2012, according to Plat 2010-6 between the City and Alaska Island Community Services (AICS)

M/S: Powell/Gilbert, to move, pursuant to AS 44.62.310 (c), (1), that we recess into executive session to discuss matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the Borough, specifically the City's options regarding the Corrective Statutory Warranty Deed for Lot A, dated May 25, 2012, according to Plat 2010-6 between the City and Alaska Island Community Services (AICS). Motion approved unanimously by polled vote.

It was the consensus to include the Borough Manager in the Executive Session.

Regular Assembly Meeting recessed at 8:10 p.m.

Regular Assembly Meeting reconvened back into regular session at 8:35 p.m.

Mayor Jack stated that the Borough Manager had been given direction by the Borough Assembly.

Regular Assembly Meeting adjourned at 8:35 p.m.

ATTEST:


Kim Lane, MMC, Borough Clerk


David L. Jack, Mayor

