



Meeting Minutes Borough Assembly

Monday, December 2, 2013

12:00 PM

Assembly Chambers

1. Call To Order/Roll Call

Mayor Jensen called the meeting to order at twelve noon.

Present: 5 - Mayor Mark Jensen, Assembly Member John Hoag, Assembly Member John Havrilek, Assembly Member Cindi Lagoudakis and Assembly Member Nancy Strand

Excused: 1 - Assembly Member Kurt Wohlhueter

2. Voluntary Pledge

The Pledge was recited.

3. Approval of Minutes

A. [13-364](#) Regular Meeting Minutes for November

Attachments: [11-04-2013 Minutes.pdf](#)
[11-25-2013 Minutes.pdf](#)

The minutes for the November 4 and November 25 regular meetings were approved, as submitted.

4. Amendment and Approval of Meeting Agenda

The meeting agenda, as submitted, was approved.

5. Public Hearings and Bid Awards

A. [13-358](#) Noncompliance Hearing on Dangerous Building at 1011 Wrangell Avenue

The assembly conducted a non-compliance hearing on the building located at 1011 Wrangell Avenue. To begin the hearing, the Building Official's report that the building was deemed dangerous was read into the record by Borough Manager Giesbrecht, followed by property owner Mr. Fred Triem making a presentation that the building was not dangerous and that he planned to make repairs. Mr. Triem proposed to extend the time for bringing the building into compliance to Labor Day (no year specified) and for the Assembly to provide opportunity for his spouse, Karen Ellingstad, who was absent from the community, to provide testimony. During the hearing the assembly posed various questions to Mr. Triem and his contractor who had accompanied him to the hearing. Also during the hearing, letters received from

surrounding property owners were read into the record.

Mayor Jensen advised the assembly would consider the issuance of an order to repair, vacate or demolish the building at the end of the meeting.

- B.** [13-365](#) Public Hearing on Proposed Ordinances: 1)#2013-18: Littering; 2)#2013-19: Harbors & Ports Department and Elected Advisory Board; 3)#2013-20: Public Safety Departments and Elected Advisory Board; and 4)#2013-21: Parks & Recreation Department and Elected Advisory Board

There were no public comments voiced to any of the ordinances.

6. Visitors' Views Related to Agenda

1. Matt Lichtenstein, reporter for KFSK radio, pointed out that it was the media's belief that the public was entitled to obtain a copy of the document to be addressed in agenda item 14E and that the Open Meetings Act did not appear to allow the assembly to conduct an Executive Session to discuss the release of the document.

2. Petersburg Vessel Owner's Association Director Brian Lynch urged the assembly to support being a sponsor of the letter addressed in agenda item 13G.

3. Resident Eric Lee expressed his concerns that the recent increase in salvaging fees at the landfill area will discourage recycling.

7. Visitors' Views Unrelated to Agenda

Resident and past city council member Dave Isrealson urged the assembly to consider conducting all of their meetings in the evening time. He believed the conduct of meetings at noon discouraged public participation.

8. Board, Commission and Committee Reports

No items.

9. Consent Agenda

- A.** [13-349](#) Local Approval of Gaming Permits for 2014

Gaming permits for 2014 have been filed by the following entities: Swainson's Vending for Sons of Norway, Kito's Cave and Viking Swim Club; Petersburg Little League; Nenana Ice Classic and Alaska State Elks Association.

All applications were unanimously approved.

10. Report of Other Officers

- A.** [13-354](#) Review of Fiscal Year 2013 Audit Report

Kristi Thiel, Senior Manager of BDO, the borough's auditing firm, provided a

summary of the borough's financial status by phone. The audit was the borough's first audit and was the first audit for Petersburg that included reference to the hospital. References to the hospital were made similarly as those to the school.

The audit was "clean" with no misstatement or misrepresentation. Only a few adjusting journal entries were necessary and there were no internal control concerns. Both the general and assisted living funds have improved their financial status.

B. [13-351](#)

Presentation of 2013 Power & Light Revenue Requirement Study

Attachments: [Rate Study Memo from Power Superintendent.pdf](#)
 [RateReport-Final-112213.pdf](#)

Mayor Jenson called a recess at 1:20 p.m.

The meeting was reconvened at 1:25 p.m. with the same assembly members in attendance.

Electric Department Superintendent Nelson and Consultant John Heberling explained the study results. The study showed a downward trend in revenues that will prompt the utility to begin to eliminate the declining block rates that were established over 25 years ago. A twelve page handout was used in the presentation. Substantial capital expenses have been made in recent years that will not need to be addressed in the new rates for the next two years. Also, additional debt is not anticipated in the upcoming rates. The proposed rates would be based on two energy use blocks versus the current three block structure, creating an approximate 2% increase in revenues for each of the next two years. The average residential consumer will see a very small increase over the next two years while larger residential and commercial users will see more of an increase. A question and answer period was held regarding future generation, capital needs and conservation programs. During discussion it was pointed out that the borough should not depend on annual rebates coming from SEAPA each year. Also noted was the proposed rates do not provide for total depreciation of the utility nor for any future utility move/relocation expenses.

No formal action on the rates was requested or taken at this time.

11. Mayor's Report

A. [13-361](#)

Report for December 2, 2013

Attachments: [Land Auction Notice.pdf](#)

A. Appointment of Deputy Mayor:

B. Work Session Reminder:

Thursday, December 5 at 9:00 a.m. the Assembly and Hospital Board will conduct a Work Session. Items to be discussed are: finances, budgeting and development of Municipal Code provisions for the Board.

C. Land Sale Reminder:

The Borough will be auctioning off four real property lots at the December 16, 2013 meeting. The lots are located on the undeveloped portion of Valkyrie Street. The minimum acceptable purchase price is \$6,000 for each lot. Further information on the land sale is available from the Clerk's office.

Assembly Member Lagoudakis was appointed Deputy Mayor.

12. Manager's Report

No report.

13. Unfinished Business

Ordinances for Third and Final Reading

- A. [ORD#13-018](#) Ordinance # 2013-17: An Ordinance Providing for Chapter 14.12, Entitled Sanitation, of the Municipal Code, Updating Current Language to Reflect Borough Incorporation; and Providing Incentive For Recycling.

Attachments: [Ord. 2013-17, as amended.pdf](#)

The ordinance had been revised by Attorney Heideman since its second reading to provide for fines for violations in Chapter 1.16. (Proposed Ordinance #2012-22 under new business). The ordinance had also been amended to clarify that open burning within the borough applies to only Service Area 1 until formally addressed in the future by chapter 9.24. Eliminating commercial salvaging at the baler facility was discussed. Consensus was the assembly will hold further discussion, and possible public hearing, on changing the borough's salvaging program to prohibit commercial salvaging.

The Ordinance, as amended, was unanimously approved in third and final reading by Roll Call Vote.

Ordinances for Second Reading

- B. [ORD#13-18](#) Ordinance # 2013-18, An Ordinance Providing for Chapter 9.12 of the Municipal Code, Entitled Littering, Updating Current Language to Reflect Borough Incorporation.

Attachments: [Ord 2013-18 LITTERING - revision.pdf](#)

Attorney Heideman had made administrative amendments to the ordinance since its introduction. Those changes consisted of addressing fines in Section 9.12.200 as well as added language in Section 9.12.130 clarifying that costs for clean-up could be recovered in a civil action or placed on the refuse bill. Clerk O'Rear informed of one additional amendment that is required to the ordinance prior to final reading. The attorney had provided new wording for Section 9.12.190 that would address concerns expressed about the ordinance preventing the borough from posting public notice on borough owned structures.

The ordinance, as amended to address the needed changes, was unanimously approved in second reading by Roll Call Vote.

- C. [ORD#13-19](#) Ordinance # 2013-19, An Ordinance Providing for the Harbors and Ports Department and Advisory Board (short title).

Attachments: [Ord. #2013-19.pdf](#)

The Ordinance has been amended in section 3.46.020 to designate that a vacancy on the Board is created in the same manner as vacancies on the assembly as set out in borough charter.

By a vote of 4-1 (Assembly Member Hoag opposed) Ordinance #2013-19 was approved. Member Hoag was opposed to the Advisory Board being elected.

- D. [ORD#13-20](#) Ordinance # 2013-20, An Ordinance Providing for a Borough Health Officer, Fire Department, Police Department and Retention of a Five Member Elected Advisory Board (short title).

Attachments: [Ord. #2013-20.pdf](#)

The Ordinance had been amended to include that vacancies on the board are created the same as on the assembly as expressed in borough charter.

By a vote of 4-1 (Member Hoag opposed) ordinance #2013-20 was approved in second reading. Member Hoag believed the Public Safety Advisory Board should not be retained for borough government.

- E. [ORD#13-21](#) Ordinance #2013-21, An Ordinance Providing for Borough Parks and Recreation and Retention of a Five Person Elected Advisory Board .

Attachments: [Ord. #2013-21.pdf](#)

By a Roll Call Vote of 3-2 (Members Havrilek and Hoag opposed) the ordinance failed in second reading. Members Hoag and Havrilek were opposed to retaining the Parks & Rec Advisory Board for borough government.

- F. [13-000](#) Juneau Appeal of Petersburg Borough Boundaries

No new information.

- G. [13-350](#) Consideration to be a signatory on a letter to our federal representatives asking that the federal government take more action to ensure that downstream Alaska water quality and fisheries will not be adversely affected by industrial development in British Columbia .

Attachments: [Proposed Letter.pdf](#)

The assembly voted unanimously to become a signatory to the letter.

14. New Business

- A. [ORD#13-22](#) Ordinance #2013-22: An Ordinance Providing for a Fine Schedule for the Municipal Code and Including a Section Addressing Injunctive and Civil Relief.

Attachments: [Ord. # 2013-22.pdf](#)

The ordinance would establish fine amounts for violations of provisions in titles 4, 6 and 14. It also would provide for a unified fine schedule for violations of the Code as to facilitate enforcement and collection of such fines; and provide for injunctive and

civil relief for Code violations.

By unanimous Roll Call Vote, the ordinance was approved in first reading.

- B. [RES#13-026](#) Resolution # 2013-26: FY 2014 Shared Fisheries Business Tax Program Alternative Method Resolution

Attachments: [Res. #2013-26 Shared Fisheries.pdf](#)
[Shared Fisheries Info.pdf](#)

Resolution # 2013-26 was unanimously approved by Roll Call Vote.

- C. [13-355](#) Authorization to enter into a Professional Services Agreement with PND Engineers in the amount not to exceed \$21,000 for engineering services for the permitting and design work of a new fish cleaning float at South Harbor.

Attachments: [Harbormaster Recommendation.pdf](#)
[PND Proposal.pdf](#)

The borough had received a Chinook Salmon Mitigation Infrastructure Grant in the amount of \$225,800 for the project.

By unanimous Roll Call Vote, the professional Services Agreement was approved.

- D. [13-356](#) Authorization to enter into a Professional Services Agreement with MRV Architects per their November 25 and 26, 2013 Proposal in the amount of \$91,560 to provide the conceptual and schematic building design processes for the Police Station and Municipal Building Renovation Projects.

Attachments: [Manager Recommendation.pdf](#)
[MRV Proposal.pdf](#)

The proposal expense was broken into two portions; \$65,444 for the design work of the Police Department and \$26,116 for Municipal Building functions. Funding for the Municipal Building portion of the work will come from the budgeted contingency line-item.

A brief discussion was held on the possibilities of the municipal building area not being an ideal location for the improved police/jail facility. Consideration should again be given to placing the facility with the new fire hall. Consensus of the assembly was to move forward with plans to retain the police/jail facility in the downtown area at its current location. The current plan would rehab two essential borough buildings.

By unanimous Roll Call Vote, the Professional Services Agreement was approved.

- E. [13-366](#) Consideration to release attorney-client privilege information

Attorney Brennan had requested the Assembly, not staff, determine if the document in question should be released. Prior to the Assembly taking a vote on whether to release a privileged document that addressed organizational and legal relationships between the Borough and Petersburg Medical Center, Attorney Brennan wanted to

meet with the assembly in Executive Session. (See agenda item 17A1).

In response to KFSK reporter Matt Lichtenstein's earlier inquiry on why the document was eligible for discussion in executive session, Mayor Jensen advised that Attorney Brennan deems "attorney-client privileged" as a legitimate executive session matter that has been upheld by the courts.

This Action Item was postponed until the end of the meeting.

15. Communications

None.

16. Assembly Discussion Items

A. [13-002](#) Recognitions

This agenda item is reserved to acknowledge individuals, groups, departments, agencies or anyone for their contributions toward the betterment of the Petersburg community.

Parks & Rec Director Hayes extended a thank you to the Public Works and Electric Departments for assisting in the placement of the community Christmas Tree. He also expressed his gratitude to resident Matt Bryner for taking charge of decorating the tree and to the various area businesses that donated added lighting for the tree.

17. Executive Session

A. [13-359](#) The Purpose of Executive Session is for the Assembly to:

- 1. meet with Attorney Brennan to obtain his opinion as to whether release of the communication that addressed organizational and legal relationships between the Borough and Petersburg Medical Center could or would be injurious to the public interest, and*
- 2. to conduct deliberations in regard to the adjudicatory noncompliance hearing held on the Triem/Ellingstad property, 1011 Wrangell Ave.*

By a unanimous Roll Call Vote, the assembly recessed to executive session for the matters listed above.

To Executive Session at 2:37 p.m.

B. [13-360](#) Return from Executive Session

Regular Session was reconvened at 3:50 p.m.

The assembly, by unanimous Roll Call Vote, determined the building at 1011 Wrangell Avenue to be a dangerous building. Attorney Brennan and Mayor Jensen were authorized to prepare the written Findings of Fact and Order to Repair or Demolish the building. Said order to be complied within 30 days.

A motion to release the entire privileged document from Attorney Brennan regarding relationships between the Borough and Petersburg Medical Center failed by a vote of 3 to 2 (Members Strand and Havralik opposed They believed

the assembly should follow legal counsel's advice). By a unanimous Roll Call Vote, the assembly authorized the release of a redacted version of the document.

17. Adjourn

The meeting adjourned at 4:00 p.m.