



MUNICIPALITY OF SKAGWAY, ALASKA
REGULAR ASSEMBLY MEETING

June 15, 2023
Page 1 of 10

1. Call to Order:

Mayor Cremata called the meeting to order at 7:00 p.m.

Mayor Cremata formally acknowledged that the Assembly is gathered on the traditional land of the Tlingit people.

The pledge of allegiance was recited.

2. Roll Call:

Present: **Mayor:** Andrew Cremata **Assembly Members:** Deb Potter, Sam Bass, Orion Hanson, Dan Henry, Jay Burnham, Alex Weddell

Absent:

3. Approval of Minutes:

- A. May 18, 2023
- B. May 25, 2023 BoE

Motion/Second: Potter/Hanson

To approve the May 18, 2023 Assembly meeting and May 25, 2023 Board of Equalization minutes.

The Motion passed by roll call vote, 6 yes, 0 no, 0 absent.

4. Approval of Agenda:

Motion/Second: Henry/Bass

To approve the agenda.

The Motion passed as amended by roll call vote, 6 yes, 0 no, 0 absent.

5. Reports of Officials and Committees:

A. Mayor's Report:

Mayor Cremata indicated that:

- His written report is in the packet.
- It seems that, per code, the mayor should be declaring a festival in order to have the 4th of July festivities.

With no objection from the table, Mayor Cremata declared a 4th of July Festival to celebrate Independence Day.

- He had some concerns regarding the Dyea Community Advisory Board having agenda items regarding Nahku Bay. He feels that Nahku Bay has its own management plan and that the Dyea Community Advisory Board should focus their attention on the Dyea Valley and leave the other management plans under the purview of the Assembly.

- He also spoke to the Chair of Dyea Community Advisory Board about not having clearly defined boundaries of Dyea. Further, after speaking with the Borough Attorney, it was recognized that during the annexation of Dyea in 1979 there were boundaries delineated, so the Manager's office has created a map and it will be brought to the next Assembly meeting.

B. Assembly Committee Reports:

A. Assemblymember Jay Burnham:

Motion/Second: Burnham/Henry to approve the check run dated June 15, 2023.

Motion passed by roll call vote, 6 yes, 0 no, 0 absent.

Assemblymember Burnham indicated that Finance met on June 14, 2023 and did the following:

- Reviewed Geo-Comm GIS Data Maintenance Renewal Contract.
 - Finance recommends Assembly approval.
- Reviewed Draft Letter Supporting Rockslide Mitigation Funding in the FY24 State Capital Budget.
 - Finance recommends Assembly approval.
- Reviewed Resolution 23-13R: Expressing Intent to Dispose of Blocks 95 and 102 Known as the Garden City RV Park.
 - After discussing the resolution, there were no further motions or recommendations. Finance will keep Garden City RV Park on their agenda to work towards offering some options to the Assembly in order to better direct staff.

Assemblymember Hanson indicated that there are two items on the agenda that were previously discussed by the Public Works committee; the AP&T franchise agreement and the Devil's Club subdivision concept.

Assemblymember Bass indicated that the Public Safety committee will schedule a meeting in July and that he is pleased to see that the Municipality is moving forward with the hiring of an additional police officer.

Assemblymember Potter indicated that there will be a Parks and Recreation committee meeting forthcoming. Among the agenda items will be developing a Seven Pastures management plan.

Assemblymember Weddell indicated that the Civic Affairs committee met and did the following:

- Reviewed Ordinance 23-11 and recommended that it go to the Assembly with some suggested amendments.
- Discussed the Senior Citizen Coordinator position, and they will continue that discussion.

C. Treasurer's Report:

D. Manager's Report :

Manager Ryan indicated that:

- He intends to begin advertising for a police officer because the last attempt at hiring a police officer took about a year to achieve. Moving forward with this hire would require the Assembly to approve the proposed budget amendment.
- Senator Jesse Kiehl visited last Friday and toured the ore facility. Remediation is a big concern and the Municipality will be getting proposals from environmental consultants to help guide the future demolition and remediation of that site.
- There is a citizen that wants to provide a firework show, and he intends to grant a temporary use permit if indemnification and liability can be arranged.
- He provided an update on the cruise ship season so far and stated that April payments for the vessel impact fee are starting to be received, but CPV funds will not be received until March of 2024.

6. Communications to the Assembly:

A. Correspondence:

Correspondence was received from:

- Bruce Weber, Dyea Community Advisory Board re: Summary of DCAB June 7th meeting
- Liz Lavoie, Ports & Harbors Advisory Board re: Board Report from June 6th, 2023 meeting

B. Hear Citizens Present

Luke Rauscher, Skagway Elks Lodge #431 indicated that:

- He would like to thank everyone that put time and work into conveying the property for the Elks Lodge #431.
- The Elks' Solstice party is this Saturday at Seven Pastures.

Darren Belisle, Alaska Power & Telephone indicated that:

- They will be laying cable over the weekend, and there will be a lot of activity near Smuggler's Cove and he would encourage that people avoid the area or watch from a distance.
- He is available to answer any questions the Assembly may have regarding the franchise agreement.

Jerry Reddick, Chief of Police indicated that:

- He gives his thanks to the Assembly, manager, mayor, and the citizens of Skagway for the continued support of the growth of the department.

7. Ordinances, Resolutions, & Proclamations:

- A. Public Hearing, Second Reading, and Adopt of Ordinance No. 23-12: Amending SMC 4.10.030 Exemption for Senior Citizen and Disabled Veteran Property Tax**

Motion/Second: Henry/Burnham for the adoption of Ordinance No. 23-12.

Public Hearing

The Public Hearing was closed with no comments.

Assemblymember Bass indicated that since he was recused from the first reading, he requests to be recused for this item.

With no objection from the table, **Assemblymember Bass** was recused.

Motion passed by roll call vote, 5 yes, 0 no, 0 absent; with **Assemblymember Bass** recused.

Assemblymember Bass returned to the table.

B. Public Hearing, Second Reading, and Adoption of Ordinance No. 23-13: Conveying Certain Properties to the Benevolent and Protective Order of Elks Lodge No. 431

Motion/Second: Henry/Potter to adopt Ordinance No. 23-13.

Public Hearing

The Public Hearing was closed with no comments.

The Motion passed by roll call vote, 6 yes, 0 no, 0 absent.

C. Public Hearing, Second Reading, and Adoption of Ordinance No. 23-14: Amending the FY23 Budget

Motion/Second: Henry/Hanson to adopt Ordinance No. 23-14.

Public Hearing

Beth Smith indicated that she would like to see downtown holiday lights added to the budget in the future.

The Public Hearing was closed.

The Motion passed by roll call vote, 6 yes, 0 no, 0 absent.

D. Introduction and First Reading of Ordinance No. 23-15: Granting a Non-Exclusive Franchise Permit to Alaska Power & Telephone

Motion/Second: Henry/Hanson for first reading of Ordinance No. 23-15.

Assemblymember Hanson indicated that this was vetted through the public works committee.

The Motion passed by roll call vote, 6 yes, 0 no, 0 absent.

E. Introduction and First Reading of Ordinance No. 23-16: Requiring Bulk Ore Shipment to be Containerized

Main Motion/Second: Henry/Potter for first reading of Ordinance No. 23-16.

Mayor Cremata indicated that he worked with municipal lobbyist John Walsh to provide some supplemental information regarding containerized bulk ore shipment. There is already contamination of the uplands and underwater. Skagway is a windy environment, and the Municipality should learn from prior mistakes and set parameters by which there can be safe and responsible ore shipment through the port. There are potential mine operations opening in the next five to ten years and they will need to know what it takes to do business in Skagway.

Secondary Motion/Second: Potter/Hanson to amend Ordinance No. 23-16 to add the following, "Be it further resolved, Bulk mineral concentrates may be shipped to or from the Port of Skagway in a manner other than sealed containers, if mining companies, transporters, and related parties involved in the shipment of bulk ore submit detailed plans outlining their chosen environmentally friendly methods for approval by the Assembly. These plans should include information on the technology, equipment, and operational procedures to be employed, as well as projected environmental impact assessments."

Assemblymember Hanson indicated that containerization has not been proven to work in a cold climate like Skagway. The Assembly and staff does not have the expertise to make a recommendation of what is the most environmentally responsible way to ship ore, and this amendment allows the Municipality to express that we are open to different possibilities.

Assemblymember Bass indicated that the Yukon government, to his knowledge, has not protested the idea of using a containerized system, but this amendment will allow for flexibility in what system our customers may want to use.

Assemblymember Henry indicated that it is reasonable for the Municipality to provide guidelines. If a company finds a more environmentally responsible way to ship ore, then they can bring that to the Municipality for approval.

The Secondary Motion passed by roll call vote, 5 yes, 1 no, 0 absent; with Assemblymember Burnham dissenting.

Secondary Motion/Second: Hanson/Potter to amend as outlined in the addendum proposed by the Vice-Mayor.

Assemblymember Hanson indicated that everything past customs is considered the port of Skagway, so one of his proposed amendments is that all ore, imported or exported, to the "port of Skagway" be changed to the "Skagway Waterfront Zone". There may come a time when ore can be shipped year-round on the train, and if containers do not fit through the existing tunnels, then we would not be able to provide that year-round service. The municipality can still require that the ore be containerized once it is transported to the waterfront. The second part of his amendment is to clarify that the percentage of revenues set aside for potential clean up response be specifically from "ore-shipment related" revenues.

Assemblymember Bass indicated that the environmental concerns should be further researched to find if it is better to require that containers of bulk ore be sealed before entering our community at all, not just on the waterfront.

Secondary Motion/Second: Weddell/Henry to refer Ordinance 23-16 to the Public Works Committee.

Assemblymember Hanson indicated that he would like to see the amendment he proposed be voted on before sending it to the Public Works committee.

Assemblymember Weddell rescinded the motion and the second concurred; with no objection from the table, the motion to “refer Ordinance 23-16 to the Public Works Committee” was rescinded.

Assemblymember Burnham indicated that he was in agreement with the portion of the amendment that specified that it is ore shipment related port revenues that would be set aside for potential clean up purposes; however, he does not agree with the portion of the amendment requiring bulk ore be containerized only when transported to the waterfront as it seems like it is moving the ore terminal from the waterfront to the 5-acres North of town.

Assemblymember Hanson indicated that it would allow more flexibility in how ore is shipped to Skagway.

Manager Ryan indicated that his discussions with the Yukon government have only pertained to a containerized shipping system, and the idea of another bulk ore facility is not something he wants to see happen in Skagway.

The Secondary Motion failed by roll call vote, 2 yes, 4 no, 0 absent, with Assemblymembers Bass, Burnham, Potter, and Henry dissenting.

Secondary Motion/Second: Burnham/Potter to add the second item from the proposed amendment from the Vice-Mayor; the additional line being “ore shipment related”.

The Secondary Motion passed by roll call vote, 5 yes, 1 no, 0 absent; with Assemblymember Henry dissenting.

Secondary Motion/Second: Weddell/Henry to refer this to the Public Works Committee.

Assemblymember Potter indicated that the ordinance has already been on the Ports & Harbors Advisory Board agenda several times, and it is unclear if it falls under the purview of public works. She would prefer to continue addressing it at the Assembly table.

The Secondary Motion failed by roll call vote, 2 yes, 4 no, 0 absent; with Assemblymembers Bass, Burnham, Hanson, and Potter dissenting.

The Main Motion passed as amended by roll call vote, 4 yes, 2 no, 0 absent; with Assemblymembers Weddell and Henry dissenting.

F. **Resolution No. 23-25R: Directing Staff to Retain a Title Search Regarding Block 95 and 102**

Motion/Second: Bass/Burnham to direct staff to retain a title search regarding block 95 and 102.

Assemblymember Bass indicated that he brought this resolution forward due to the Skagway Traditional Council's concerns about the ownership of the Garden City RV Park and he would like to make sure that proper research is complete before the Municipality gives away or sells the property.

The Motion passed by roll call vote, 6 yes, 0 no, 0 absent.

8. Unfinished Business:

9. New Business:

- A. Approval of Station Request to Close Fourth Avenue for Fourth of July Festivities

Motion/Second: Potter/Weddell to close fourth avenue for Fourth of July Festivities on July third until 9:00 a.m. on July fifth and grant a dispensation for noise regulations.

Mayor Cremata indicated that this is a responsibly executed, annual event, and that the police chief has indicated no concerns in allowing it again this year.

Assemblymember Potter indicated that she looks forward to this event every year.

Assemblymember Hanson indicated his thanks to Elizabeth Smith and her staff for throwing this event year to year.

The Motion passed by roll call vote, 6 yes, 0 no, 0 absent.

- B. Approval of FY24 Skagway School District Budget

Motion/Second: Bass/Henry to approve the FY24 school budget.

The Motion passed by roll call vote, 6 yes, 0 no, 0 absent.

- C. Authorization to Submit S'áxt' Héeni (Devil's Club River) Subdivision Application to the Planning & Zoning Commission

Main Motion/Second: Hanson/Weddell to approve phase I and II and submit the application to Planning & Zoning.

Assemblymember Hanson indicated that the boundaries of West Creek are defined in the West Creek Management Plan.

Mayor Cremata indicated that the map shows different boundaries and he would like to know which is correct.

Manager Ryan indicated that he would need to research what the boundaries are.

Assemblymember Weddell indicated that a review of this area is timely and relevant for the best interests of the community.

Mayor Cremata indicated that before this subdivision continues it should be vetted through the community, and that determining what the boundaries are should also go through the Municipal attorney. He would advise against ignoring an existing management plan, as it would set a precedent.

Assemblymember Hanson indicated that the proposed subdivision is adjacent to other residential properties.

Mayor Cremata indicated that he is also concerned that there are no costs detailed and it was not considered by the Finance Committee, and that the plan is to sell lots in a flood plain. The management plan says not to sell residential lots and he wants to make sure the Municipality is doing this the right way and understands the costs associated with it before it proceeds.

Assemblymember Hanson indicated that this subdivision has been in the works since before the West Creek management plan was adopted. If this gets sent to Planning and Zoning, then phase I and II can be completed, and then it will come back to the Assembly table to approve the cost.

Secondary Motion/Second: Potter/ to postpone until the July 6 meeting and direct staff to answer if this falls in the West Creek management plan.

The Secondary Motion fails due to lack of second.

Manager Ryan indicated that the Municipality will have to get a proposal on a site condition assessment, water table depth, and hydrology report, and that such a proposal will need to be approved before this will be moved to Planning & Zoning.

The Main Motion passed by roll call vote, 6 yes, 0 no, 0 absent.

D. Approval of Geo-Comm GIS Data Maintenance Renewal Contract

Motion/Second: Bass/Hanson to approve the Geo-Comm GIS Data Maintenance Contract.

Assemblymember Bass indicated that this a five-year contract for technical management of the mapping system used for 911 and determining addresses.

The Motion passed by roll call vote, 6 yes, 0 no, 0 absent.

E. Approval of Draft Letter Supporting Rockslide Mitigation Funding in FY24 State Capital Budget

Motion/Second: Potter/Hanson to approve the Draft Letter Supporting Rockslide Mitigation Funding.

The Motion passed by roll call vote, 6 yes, 0 no, 0 absent.

10. **Mayor and Assembly Discussion Items:**

Assemblymember Weddell indicated that:

- The Assembly needs access to the relevant documentation of Garden City RV Park so that they can make an intelligent decision based on that information. She has submitted requests for the following documents:
 - Any deed research done to date.
 - Any title research done to date.
 - Copy of the purchase agreement.
 - Amortization schedule.
 - Deed of trust or promissory note.
 - Indemnity agreements.
 - Recent financial statements showing financial obligations remaining.
 - All relevant correspondence.
- She would also like to have access to the research file that the Municipality has performed to deem what may or may not be relevant or of interest to the table, as well as a memorandum with an overview of the current document request procedures for Assemblymembers with an explanation of what documents they have privilege to review.

Assemblymember Bass indicated that:

- It would be appropriate for the Assembly to review these types of documents to aid in decision making.

Manager Ryan indicated that:

- Some requests are fairly easy to complete, but others are not. For example, correspondence is not clearly defined. It would be good for the Assembly to present a solidified list or resolution so that it can be determined how much time staff should commit to the request.

Assemblymember Bass indicated:

- He believes providing an information request via resolution would be a good way to proceed, that way the public can see what is being requested, why it is being requested, and that the Assembly is in agreement requesting it.

Assemblymember Potter indicated that:

- She believes that the Municipality should never have purchased Garden City RV park and it should be returned to the tribe. The Assembly should have access to all of the records so that an informed decision can be made.

Assemblymember Henry indicated that:

- The Assembly should address what is in front of them and not pass judgment on what has been done in the past.

Assemblymember Burnham indicated that:

- That it would be good to have a policy in place for Assembly requests for information; however, the Assembly is the ruling body and should be able to see anything they ask for, or be given a reason why they cannot.
- Like the mayor, he is also interested to know when the naming of west creek as "Devil's Club River" was made official.

Assemblymember Potter indicated that:

- She is glad that a quitclaim deed has been officially conveyed to the Benevolent and Protective Order of the Elks Lodge 431.
- The Supreme Court recently upheld the Indian Child Welfare Act going back to 1978, which set standards and requirements to prevent the unwanted removal of Indian Children from their families and tribal communities.

Assemblymember Hanson indicated that:

- The bid process for the ore redevelopment project is coming to a close.
- He is in agreement with Beth Smith regarding holiday lights downtown.
- The Bidding Review Board will be meeting on June 21, 2023. It is important to start moving forward with the transfer station project.

Mayor Cremata indicated that:

- He will reach out to the Alaska Municipal League regarding policies for Assembly requests for information.
- It would be more appropriate if the Skagway Traditional Council requested a meeting, rather than the Assembly inviting them.

11. Executive Session:

Motion/Second: Hanson/Bass to reconvene in executive session to discuss matters which by law, municipal charter, or ordinance are required to be confidential: Discussion with the Borough Attorney regarding Hosford v. Municipality of Skagway.

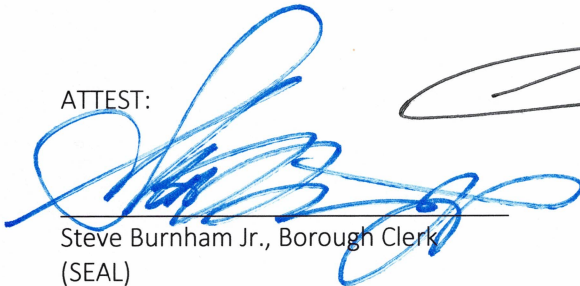
Motion passed by roll call vote, 6 yes, 0 no, 0 absent.

Executive Session lasted from 9:05 p.m. to 9:26 p.m.

12. Adjournment:

With no more business on the agenda and receiving no objection from the table, Mayor Cremata adjourned the regular Assembly meeting of June 15, 2023 at 9:27 p.m.

ATTEST:



Steve Burnham Jr., Borough Clerk
(SEAL)



Andrew Cremata, Mayor

Approved: July 20, 2023

