



MUNICIPALITY OF SKAGWAY, ALASKA
REGULAR ASSEMBLY MEETING

March 21, 2024
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1. **Call to Order:**

Vice-Mayor Potter called the meeting to order at 7:00 p.m.

Vice-Mayor Potter acknowledged that the Assembly is gathered on the traditional land of the Chilkoot Tlingit people.

The pledge of allegiance was recited.

Vice-Mayor Potter read the preamble of the Alaska State Constitution.

2. **Roll Call:**

Present: Mayor: Sam Bass (via telephone) **Assembly Members:** Jay Burnham, Dan Henry (via telephone), Alex Weddell (via telephone), Deb Potter, Kate Kolodi, Orion Hanson

Absent:

3. **Approval of Minutes:**

A. February 15, 2024

Motion/Second: Hanson/Burnham

To approve the February 15, 2024, meeting minutes.

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

4. **Approval of Agenda:**

Motion/Second: Hanson/Burnham

To approve the agenda.

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

5. **Board of Appeals**

Motion/Second: Hanson/Burnham to adjourn as a regular assembly and reconvene as the Board of Appeals.

Assemblymember Kolodi indicated that she was absent from the March 5, 2024, Appeal Hearing, but that she has listened to the recording of the hearing and is prepared to participate in full.

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

A. Declarations:

1. Conflict of Interest

2. Statement of Contact by Assemblymembers

Vice-Mayor Potter indicated that this item is where the Assembly can indicate any recent contact made with the appellant that was not previously disclosed at the March 5, 2024, meeting.

Assemblymember Kolodi indicated that she met with Mr. Hillis in his capacity as the Skagway Development Corporation Director to discuss funding and resources for potential trail projects. Additionally, she lives in the same building where the Skagway Development Corporation is located, and she periodically messages the appellant to address general facility matters.

Assemblymember Weddell indicated that the appellant attended the Civic Affairs meeting on March 14, 2024, and spoke during citizens present, which was the extent of their contact.

- B. Board of Appeals Decision on Appeal of Planning & Zoning Commission Decision re:
Conditional Use Permit Application No. 23-72 from Jonathan Hillis in the Residential General Zoning District, Request to Convert Garage to a Studio Apartment on Lot 7 Block 105, Skagway Townsite

[Clerk's Note: The active motion from the March 5, 2024, meeting is "to modify the Planning & Zoning Commission decision regarding conditional use permit application No. 23-72 and subsequent Planning & Zoning Commission Resolution 24-03R, to remove the condition that setback requirements are met."]

Secondary Motion/Second: Burnham/Weddell to amend the main motion to affirm Planning & Zoning's decision regarding conditional use permit application No. 23-72 and its subsequent Resolution 24-03R.

Assemblymember Hanson indicated that a variance was granted in 2010 with no additional conditions. He disagrees with the Planning and Zoning Chair who stated that a variance does not convey with the change of property type from a garage to an accessory housing structure.

Motion/Second: Weddell/Kolodi for a five-minute recess.

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

Assemblymember Potter indicated that the variance granted in 2010 did not have any limitations. Additionally, the code stipulates that subsequent owners of a property subject to a conditional use permit succeed to the benefits and limitations of the original permit holder. The appellant's grounds for appeal state having to move the building, which is neither possible nor practical to do. When granting a variance, the Planning and Zoning Commission must find all four of the following conditions to exist:

- There are exceptional physical circumstances or conditions applicable to the property or its intended development – in this case, she would argue that the structure was already granted a variance and that is an exceptional physical circumstance.
- The strict application of the provisions in this title would result in practical difficulties or unnecessary hardship, financial difficulty is not considered a hardship – she believes requiring the appellant to move his building is not practical.
- The granting of the variance will not result in material damage or prejudice to other properties in the vicinity, nor be detrimental to the public health, safety, and welfare – there were no

complaints received from neighboring property owners, and she would argue that a living space is safer than a garage which is sometimes used to store hazardous materials.

- The granting of the variance will not be contrary to the objectives of the comprehensive plan – the comprehensive plan also addresses the need for more housing, and allowing this garage to be converted to housing aligns with that.

Assemblymember Kolodi indicated that she believes the Assembly is being tasked with considering the standards for a conditional use permit, not a variance. The first standard for a conditional use permit is that it will protect the public health, safety, and welfare. Ignoring setbacks and having a residence so close to the lot line would not protect the safety of the individual living there.

Assemblymember Weddell indicated that the Planning and Zoning Commission cited that same standard in making their decision. Setback requirements exist to ensure public health, safety, and welfare, and in this case Chair Brena particularly noted they are necessary for fire related safety. While there is a need in the community for more housing, the way to accomplish that is not by making exceptions and spot zoning. The commission knew about the variance and still found that approving a conditional use permit could risk the public health, safety, and welfare, and they are selected to make these types of decisions.

Assemblymember Burnham indicated that the variance was granted for a garage and now it is being asked to be changed to accessory housing, so the variance would no longer apply. This is an opportunity to bring something back into compliance with code. As far as the statements being made that it is not possible or practical to move the building, the Golden North hotel was moved onto Broadway, and this is a very small building in comparison to that.

The Secondary Motion passed by roll call vote, 4 yes, 3 no, 0 absent: with Assemblymembers Hanson, Potter, and Henry dissenting and Mayor Bass breaking the tie by voting yes.

Assemblymember Weddell indicated that she read the minutes from the Planning and Zoning Commission meeting in which the variance was granted in 2010 and it is very clear that it was granted for a garage, and it would not satisfy code for an accessory housing unit.

Assemblymember Kolodi indicated that these decisions can have long term effects and if the table wants to address setback requirements there is a proper way to do that.

The Main Motion passed as amended by roll call vote, 4 yes, 3 no, 0 absent: with Assemblymembers Hanson, Potter, and Henry dissenting and Mayor Bass breaking the tie by voting yes.

Motion/Second: Hanson/Kolodi to adjourn as the Board of Appeals and reconvene as the regular Assembly.

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

6. Reports of Officials and Committees:

A. Mayor's Report:

Mayor Bass indicated his thanks to Vice-Mayor Potter for chairing the meeting in his absence.

B. Assembly Committee Reports:

- A. **Assemblymember Jay Burnham** indicated that there is a check run dated March 21, 2024, in the amount of \$5,042,582.75.

Motion/Second: Burnham/Hanson to approve the check run.

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

Assemblymember Jay Burnham indicated that the Finance Committee met on March 20, 2024, and:

- Reviewed and awarded community funding grants to KHNS for \$29,606.00 and North Words Writers Symposium for \$25,000.00.
- Reviewed and recommends the Assembly award the tour broker contract to M&M Tour Sales.
- Reviewed the Recreation Center expansion cost update proposal and asked staff to present further information at the next Finance meeting.
- Discussed a grade and wage study.

Assemblymember Kolodi indicated that the Parks and Recreation Committee met on March 19, 2024, and discussed the potential of allowing food trucks at Seven Pastures and an update to the assessment for the Recreation Center expansion. Both topics will be addressed again at the next Parks and Recreation Committee meeting.

Assemblymember Weddell indicated that Civic Affairs met on March 14, 2024, to discuss the use of plastic bags. She has asked that the Solid Waste Advisory Committee continue to work on this topic.

Assemblymember Hanson indicated that the Public Works Committee will have a meeting in April to discuss Ordinance 24-01 and review the Skagway School assessment.

C. Treasurer's Report:

D. Manager's Report:

Manager Ryan indicated that his written report is in the packet. He would like to highlight the potential removal of the cottonwood trees near the Recreation Center and the letter from the assessor explaining the increase of commercial property assessments.

Assemblymember Burnham indicated that the tree removal could be reviewed by a committee.

Assemblymember Kolodi indicated that the Parks and Recreation Committee could address it at a future meeting.

6. Communications to the Assembly:

A. **Correspondence:**

Clerk Burnham indicated that there is no correspondence.

B. **Hear Citizens Present**

7. **Ordinances, Resolutions, & Proclamations:**

8. **Unfinished Business:**

9. **New Business:**

A. Consideration of Liquor License Renewal Applications

1. Nick Manolakakis, DBA Northern Lights Pizzeria; Restaurant or Eating Place License #4557
Renewal Application

Motion/Second: Hanson/Kolodi to protest the Northern Lights Pizzeria renewal application for liquor license #4557.

Vice-Mayor Potter indicated that there is a memo from the clerk stating that all taxes, fees, assessments, utility bills, and remittance of sales tax has been paid in full.

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

2. Bites on Broadway; Restaurant or Eating Place License #6053

Main Motion/Second: Hanson/Burnham to protest Bites on Broadway liquor license #6053 renewal application.

Vice-Mayor Potter indicated that a memo from the clerk states that Bites on Broadway does not currently have a municipal business license. She invited a representative from Bites on Broadway to address the Assembly.

Nils Davis, Bites on Broadway, indicated that the municipality now requires that a food service permit is obtained before being issued a municipal business license. He is in the process of applying with ADEC, and when he receives the permit, he will obtain the business license.

Secondary Motion/Second: Hanson/Potter to postpone the motion until the April 4, 2024, Assembly meeting.

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

B. Award of Tour Broker Contract

Motion/Second: Hanson/Kolodi to award the tour broker contract to M&M Tour Sales.

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

C. Approval of Ore Peninsula Redevelopment Project Field Order No. 8

1. Executive Session

- i. Matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity, and matters which by law, municipal charter, or ordinance are required to be confidential: Discussion with the Borough Attorney regarding the Ore Peninsula Redevelopment Project

Manager Ryan indicated that this field order is for a recovery schedule to have the dock ready for the cruise ship season. Pacific Pile & Marine sent a letter claiming several reasons why they may not be able to complete the work in time. The field order would provide extra crew to allow the job to be completed on time. During the executive session the ramifications of approving the field order or not will be discussed.

Motion/Second: Hanson/Burnham to enter executive session for matters the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity and matters which by law, municipal charter or ordinance are required to be confidential: Discussion with the Borough Attorney regarding the Ore Peninsula Redevelopment Project; and that this executive session admit Manager Ryan, Port Director Jennings, Clerk Burnham, Deputy Clerk Carr, and additionally that Assemblymember's Henry and Weddell, Mayor Bass, and Attorney Blasco may attend via Zoom.

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

Executive Session lasted from 8:22 p.m. to 9:03 p.m.

Motion/Second: Hanson/Kolodi to approve Field Order No. 8 in an amount not to exceed \$360,000.00.

Vice-Mayor Potter indicated that if this is approved it is because the Assembly believes that Pacific Pile & Marine can and will complete this project in time for the 2024 season not only as a gesture of goodwill towards the community but also as an act of professionalism.

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

10. Mayor and Assembly Discussion Items:

11. Executive Session

12. Adjournment:

Motion/Second: Hanson/Weddell to adjourn at 9:07 p.m.

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

ATTEST:

Sam Bass, Mayor

Steve Burnham Jr., Borough Clerk
(SEAL)

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