

ASSEMBLY MEETING MINUTES
APRIL 7, 2008

- I. **Call to Order:** The regular Assembly Meeting of April 7, 2008 was called to order by Mayor Daniel J. O'Hara at 7:30 p.m. The meeting was held in the Assembly Chambers of the Borough Building, Naknek, Alaska.
- II. **Roll Call:** Mayor Daniel J. O'Hara stated that all members of the Assembly were here in attendance. Shelby Boothe, Eddie Clark, J.C. Tudor, Bill Hester and Carvel Zimin, Jr.

Also Present: Borough Manager David Soulak and Clerk, Tami Johnson

- III. **Consent Agenda:** CARVEL ZIMIN, JR. MADE A MOTION TO APPROVE THE CONSENT AGENDA AND SECONDED BY BILL HESTER. MOTION PASSED UNANIMOUSLY.

A. **Non-Action Agenda**

1. Mayor
2. Manager
3. Police Department
4. Fire Department
5. Lobbyist
6. Pool
7. Library
8. Public Works Department
9. Port Department
10. Planning & Zoning
11. Treasurer
12. Other Reports

B. **Action Items**

1. **Minutes of March 3, 2008 – Regular Assembly Meeting:**
CARVEL ZIMIN, JR. MADE A MOTION TO APPROVE THE MINUTES OF MARCH 3, 2008 REGULAR ASSEMBLY MINUTES SECONDED BY BILL HESTER. MOTION PASSED UNANIMOUSLY.

2. Minutes of March 27, 2008 – Special Assembly Meeting:
BILL HESTER MADE A MOTION TO APPROVE THE MINUTES OF THE SPECIAL ASSEMBLY MEETING OF MARCH 27, 2008. CARVEL ZIMIN, JR. SECONDED AND THE MOTION PASSED UNANIMOUSLY.

3. Finance Report – Check Register – March 2008: SHELBY BOOTHE MADE A MOTION TO APPROVE THE MARCH 2008 CHECK REGISTER. CARVEL ZIMIN, JR. SECONDED THE MOTION AND IT PASSED UNANIMOUSLY.

IV. **Approval of Agenda:** Dan J. O’Hara wanted to add under New Business item I, BBEDC – Ice Barge – information. J.C. TUDOR MADE A MOTION TO ACCEPT THE AGENDA AS AMENDED. SHELBY BOOTHE SECONDED THE MOTION AND IT PASSED UNANIMOUSLY.

V. **Persons to be Heard:**

Harold Allen – Stated he lives in Donna G II Subdivision. There was a problem on zoning previously and had been presented to the Planning & Zoning Committee, but the problem has never been resolved and was left in status quo as unrestricted. With the ability to have it unrestricted, you’re allowed to put anything you want in your backyard. I know that at this time of year, that permits will be coming forward for construction and one thing I would like to bring forward is the ability to slow down some of this zoning problems. One is a processing plant, not one place in this Borough, but there are two other places that are coming forward. This is going to create a problem with the local residents. At the present time there is no commercial activity in Donna G subdivision, everything is still designed and falls under residential. It went through public hearings; there was only one party that was in disfavor of the moving towards a residential ant that was C-Fab, which has a piece of property on the far side of the sand pit towards Leader Creek. The reason I’m coming forward is that during this whole process time, everyone who went through this subdivision thought everything was going to go forward and then it came to a point to go through a vote and the vote was to leave it as status quo. At that time I didn’t realize that there was a process of appealing the situation. I was sort of dumbfounded at the time and didn’t know what to do and I’m coming forward asking for an appeal for the time frame, asking for this to be zoned residential, and the Assembly has the power to go forward with the motion and grant it. J.C. was there in the beginning, back on August 14, where everyone was up against it. Shelby Boothe was acting as the interim manager at the time that was supposed to find out about zoning and platting and that was a problem that was an issue.

Yvonne Kopy was supposed to come back with the BIA resolving and asking for help too. All we're asking for is zoning of the fee simple lots in the community. It's not going after BIA native allotments, it's just the free land that the Borough is receiving tax on right now. We are asking for it to be zoned residential. There was a brief question and answer session. Dan O'Hara asked Harold Allen, "So your wanting us tonight to zone it?" Harold stated, "Look at and think about it, I'm not asking for a decision right now, you guys can do it, but look at what you guys can do. I'm coming to you guys just asking for some help because it's getting into the building season and the only way the whole community, all the homeowners are for a residential area. J.C. Tudor asked if Mr. Papetti had been contacted? Harold Allen replied that Mr. Papetti had been contacted originally throughout this whole process, back in August and has not responded at all. Carvel Zimin, Jr. stated he would like to see a map of the area and zoning of the area before moving on to the next step. Shelby Boothe stated Donna G 1 & 2 is not zoned. Shelby Boothe stated that the Borough for the past two years has defined processing fish as an industrial activity, not a commercial activity and there is a difference between the two. Dan O'Hara asked if it was more restrictive to be industrial? Shelby Boothe replied, yes. Dan O'Hara asked if any permits have come in for putting in processing plants? Dave Soulak stated that there are three small mom & pop operations on the agenda for tomorrow nights P & Z meeting. Shelby Boothe stated that Mr. Papetti submitted a site development permit that was kind of vague, about what his intentions were. The final analysis, Planning & Zoning basically threw out his site development permit because it was incomplete and he was requesting to do activity on a lot that he didn't even own, got the blocks and lots mixed up, so they denied his site development permit. Mr. Papetti is back at square one with his operation. Shelby Boothe stated that anytime a site development permit comes to the Borough, the Borough has the responsibility to make sure that development is compatible with what's going on around it, and the neighbors are aware of it. Shelby Boothe stated his understanding is that we can re-zone the lots that are out of restricted status. The Borough has the right to re-zone out of restricted property. Tom Ferrazzi was asked to come before the Assembly to speak. Tom Ferrazzi stated, "The Planning & Zoning has no power to zone a native allotment or even over-lay a native allotment, so that when it changes hands or sold we don't have the right to zone it before it's sold. One example is this one here, another example is Smiley, right across from Adams Enterprises. There is fish processing right alongside a house on Ralph's Road. There is boat fabrication going on right next to residential, this is only the tip of the iceberg, we need some kind of power to zone and prevent problems. The only ones that can be zoned, are the unrestricted lots. Tom stated we can sub-zone and there is a provision in commercial zoning, a conditional use permit where you can do up to 75,000 pounds per day in a commercial zone. The other things that need to be looked at are, in the case of Papetti or anyone else that

is land locked and are going to process fish, what are you going to do with the guts? Well I think most of them go down to the city dock and the grinder isn't really for commercial, it's for residential. Dan O'Hara stated that the Assembly needs to give some direction to the Planning & Zoning Commission, the planner is out of town on a family emergency right now and we may need to call a special meeting. Carvel Zimin, Jr. stated we need to get some legal advise to see if we can re-zone or not. Tom stated we should check with other places on how their handling this problem. Tom Ferrazzi stated that there are a lot of mom & pop operations starting up and would like to see the Southside opened up, with a bridge, there are no areas to do fish. If a person wants to do fish, there is no provision. Dan O'Hara stated that with the new dock there will be set-up to bring fish over the top of that on smaller volume. It will be part of the new dock extension because it is needed, and the other thing is that with a projection of 35 million fish we are going to need processors. We have to somehow balance this out with residential and processing because we don't have the processing capabilities anymore and that's needed as well. This needs to be put into motion and the first issue will be the legal issue and how long does that take? Dan asked Tom Ferrazzi to reassess this issue at tomorrow nights Planning & Zoning meeting. Shelby Boothe stated that the Assembly needs to give management direction not to approve any site development permits that include fish processing until we get this issue resolved, so we don't have miscommunications. My point is that we have declared, defined fish processing as an industrial activity and I think all of our zoning and all of our site development should lean towards the industrial side of it. It was decided that under Borough Ordinance, a commercial property is allowed up to 75,000 pounds per day, over that is industrial. The Borough encourages mom & pop operations. Harold Allen stated he appreciated the Assemblies time and wants zoning to be made appropriately. There is commercial property available within the Borough. There is a commercial lot that has been for sale for eighteen years. Joe Harris pointed out that 75,000 pounds of fish results in 25,000 pounds of guts. Dan O'Hara stated to Harold Allen the first issue at hand is the legal issue.

VI. Communications and Appearance Requests:

- A. Letter from Mr. Fred Pike – *entered as an attachment to the Minutes
- B. Letter from Violet Willson: Carvel Zimin, Jr. stated he wanted to raise this as an issue for the Assembly to consider. He understands what the Treasurer and the Borough Manager and what the Borough has done in the past and consider all waste water bills the same as if they are available or not. A brief discussion followed. Shelby Boothe stated maybe this could be solved with a

senior exemption extension. SHELBY BOOTHE MADE A MOTION TO EXTEND THE SENIOR EXEMPTION FOR WASTEWATER FEES FOR THE PRINCIPLE PLACE OF RESIDENCE AND ONE ADDITIONAL ERU. MOTION WAS SECONDED BY CARVEL ZIMIN, JR AND MOTION PASSED UNANIMOUSLY.

VII. Hearings, Ordinances and Resolutions:

A. Ordinance No. 2008-03, An Ordinance of Bristol Bay Borough Providing for the Establishment and Adoption of the Budget for Fiscal Year 2008-2009. Dave Soulak stated that he had laid on the table before you costs of health insurance from other communities. The costs could go up from 15%-35%. We have applied to two other agencies, but have not hear back from them yet. We do have a Budget hearing next Monday in South Naknek. CARVEL ZIMIN, JR. MADE INTENT TO INTRODUCE ORDINANCE NO. 2008-03, FIRST READING APRIL 7, 2008, SECOND READING AND PUBLIC HEARING APRIL 14, 2008 IN SOUTH NAKNEK, THIRD AND FINAL PUBLIC HEARING MAY 5, 2008. J.C. TUDOR SECONDED AND MOTION PASSED UNANIMOUSLY.

VIII. Executive Session – Personnel Matters

CARVEL ZIMIN, JR. MADE A MOTION TO GO INTO EXECUTIVE SESSION AT 8:20 P.M. TO DISCUSS PERSONNEL SECONDED BY J.C. TUDOR AND MOTION PASSED UNANIMOUSLY.

MAYOR DANIEL J. O’HARA RECONVENED THE ASSEMBLY AT 8:35 P.M. FROM EXECUTIVE SESSION WITH THE SAME MEMBERS IN ATTENDANCE WITH NO ACTION TAKEN.

IX. Old Business:

A. Center of Attention: Dave Soulak stated he would like to know the wishes of the Assembly as to whether they want to sell or keep it. There was a light discussion. Shelby Boothe stated that it’s not costing us much money and is providing a service for that end of town.

B. Budget Hearing Dates – Special Meeting in South Naknek – 4-14-08 & Special Board of Equalization meeting 4-24-08: Shelby Boothe wanted to add to the agenda for the South Naknek meeting Ted Petersen on Internet Connectivity. Shelby Boothe informed the Assembly that he will not be here for the BOE meeting and J.C. Tudor stated he will be late.

C. Community Service Leave: Dave Soulak stated we do have a Community Service Leave Policy but needs some direction from the Assembly on clarification. SHELBY BOOTHE MADE A MOTION TO AMEND THE PERSONNEL POLICY TO DEFINE THAT COMMUNITY SERVICE LEAVE ELIGIBILITY IS FOR PERMANENT AND PERMANENT PART-TIME EMPLOYEES. SECONDED BY J.C. TUDOR MOTION PASSED UNANIMOUSLY.

D. Municipal Lease Proposal: Dave Soulak the Borough Manager stated that this is the proposal for buying a new lift truck for the dock. We have received two quotes, one from Wells Fargo in Dillingham and one from Northrim Bank. The interest rate from Wells Fargo is 3.98 and the interest rate for the Northrim Bank is 3.7% fixed rate for 5 years. My recommendation is that we take the proposal from Northrim Bank. CARVEL ZIMIN, JR. MADE A MOTION TO ACCEPT THE NORTHRIM BANK PROPOSAL SECONDED BY J.C. TUDOR MOTION PASSED UNANIMOUSLY.

X. New Business

A. Code of Ethics Board: Dan O'Hara stated that Patricia Coghill, George Wilson and Marv Smith will be appointed to the Code of Ethics Board. Shelby Boothe stated that the point of order requires length of terms to be appointed. Dan O'Hara appointed Marv Smith one year term, George Wilson two year term and Patricia Coghill three year term.

B. Jerry Castleberry – Requesting Ethics Board Meeting: Jerry Castleberry requested a meeting with the Ethics Board as soon as possible.

C. Fish Grinder: Dave Soulak informed the Assembly that at the last workshop talked about if the fish grinder was in compliance with the E.P.A. and the discharge line had to be dropped. He has passed out information from Joe Harris from the Dock and also from Roylene Gottschalk of Public works. This is a hard one to call. Everything on it is from back in the 90's. Shelby Boothe stated that he thinks your supposed to submit an annual report of the harvest that goes across there. That there is an EPA requirement and also maybe a DEC permit. I was Public Works director when we installed that and the reason that fish grinder was installed was because DEC says you cannot dispose of fish waste at a landfill. So we put in a fish grinder to take care of the subsistence fishermen and the sports fishermen and the personal use fishermen. The fish grinder was never designed for commercial or industrial use. There have been a couple of processors who have used it over the years by disposing of their fish waste there, but has never been designed for that. It has grown beyond it's intended use. We spend lots of

money on it because people dump bolts, nuts, brake shoes and wrenches. Joe Harris can tell you. There has to be a port attendant there to supervise the operation of the fish grinder. Shelby Boothe stated that in the packet there is a letter from the EPA in the packet where they are going to fine Leader Creek Fisheries \$54,000.00 for violating the clean water act. Joe Harris was called to approach the Assembly to speak about the fish grinder. Joe Harris stated that there is a usage report that is supposed to be sent to the EPA in January each year which he just found out in researching information on the fish grinder. The report to them in 1997 said we ground approximately 30,000 pounds, in a season and it said it was hard to tell because it is a community grinder and there are no scales to weigh or determine how much is being ground, however over the years it has grown. There are processors that bring 30,000 pounds of guts to the fish grinder now, over the season. We can do that in two days now at the grinder. For instance: Great Ruby has a one ton flatbed that brings in totes and it has to do with how much they process. If you take a fish and take the two fillets off then basically a third of it is waste. If mom & pop processors process 100,000 pounds, there's 30,000 pounds in that season that's going to run through that fish grinder. This year we will extend the outfall pipe so we make sure we're in the water and will do that after dredging. The faceplate should be 1/2", I've been running 5/8" the past few years. I have told Dave that the 1/2" faceplate will be in before we open up the grinder for this year and I will extend the outfall pipe. So if the EPA comes out to inspect this year we will be in compliance. A short discussion followed. Shelby Boothe, Bill Hester, Dan O'Hara and Joe Harris will sit down and come up with some solutions, prior to the May meeting and have a recommendation for this Assembly. There was a short discussion.

D. Investment Committee: Dave Soulak, the Borough Manager informed the Assembly that originally Shelby Boothe had been appointed to the Investment Committee and now with summertime approaching, he does not have time, so he would like you to name another individual in his place. J.C. Tudor was appointed as Shelby Boothe's replacement on the Investment Committee.

E. Borough Manager Position: Dave Soulak stated that this will wait until after the 15th of April.

F. Paug-Vik Dock Lease: Dave Soulak stated that the lease has gone up \$500.00 a year and his signature is needed, but thought the Assembly needed to give him direction first. The lease is for one year only. A short discussion followed. Dan O'Hara and Eddie Clark excused themselves from the conversation because they are shareholders at Paug-Vik. Shelby Boothe recommended that we approve the annual lease of \$6500.00 between now and May of 2009. CARVEL ZIMIN, JR. MADE A MOTION TO APPROVE THE

LEASE BETWEEN PAUG-VIK AND BRISTOL BAY BOROUGH COMMENCING MAY 2008 UNTIL MAY 2009 FOR \$6500.00 FOR ONE YEAR. SECONDED BY J.C. TUDOR MOTION PASSED UNANIMOUSLY WITH MAYOR DANIEL J. O'HARA AND MR. EDDIE CLARK ABSTAINING FROM ANY PARTICIPATION.

G. Job Descriptions: Dave Soulak stated that in the packet are some job descriptions to be more reflective of current times. The job descriptions for pool lifeguard, water plant operator, public works lead person and park maintenance have been updated. Shelby Boothe abstained from voting and any conversation on job descriptions. BILL HESTER MADE A MOTION TO APPROVE ALL THE NEW JOB DESCRIPTIONS THAT THE MANAGER HAS PUT FORTH FOR CHIEF WASTE- WATER OPERATOR, PUBLIC WORKS FOREMAN, PARK MAINTENANCE AND POOL MANAGER/HEAD LIFEGUARD SECONDED BY CARVEL ZIMIN, JR. MOTION PASSED UNANIMOUSLY.

H. 2010 Census: Dave Soulak stated that in his report, that the Bureau of Census had called him wanting to know if the Borough wanted to undertake the 2010 census and his thoughts were that it was a Federal program and was a Federal responsibility and they should perform the function.

I. BBEDC – Ice Barge – Information: Dan O'Hara stated that this will be a great inconvenience to the drifters, if they come in, they will have to tie up to the dock or a shore plant somewhere and use well water, they cannot use water from the Naknek River. A short discussion followed. Carvel Zimin, Jr. had a comment, "I know it's a Federal regulation and that's why they have to do it, but it just doesn't make sense. Before you catch them in the net they are swimming in the same water. If you take the same water and make it ice, what's wrong with that?"

XI. Assembly Member Comments

Dan O'Hara – Tom Ferrazzi has a huge issue out there concerning zoning with the Donna G subdivision. Any suggestions that the Assembly may have, to give to Tom concerning zoning issues, would be greatly appreciated.

Shelby Boothe stated that in his mind if the Planning and Zoning would've voted, if one person had voted the other way, that issue would have been put to bed. There is a 20 day appeal process and I think what Mr. Allen was asking us tonight, was if the Borough would give him a 20 day waiver period. Planning & Zoning should revisit that particular issue. Dave Soulak stated that there are bigger problems within the Naknek River Subdivision. The zoning that's been

placed upon that is not compatible with the zoning map. It's up to the Planning & Zoning Commission to straighten out. There is a covenant, but what's on the zoning map is not the same as what the covenants say. It needs to be re-zoned to reflect what the covenants say.

J.C. Tudor made comment that the general Borough zoning is slightly different, specific to those of Wolverine and Lynx Loop, which has a special covenant. The subdivision zonings are stricter than the general Borough zoning.

Dan O'Hara stated we have a legal issue, send a message to the Planning & Zoning commission to re-visit to get something started to resolve some of these things Tom. If we have a conflict between zoning and the subdivision up there, lets get it resolved. Dave can do that.

Shelby Boothe asked if this is going to impact the Learning Center's lot? Dave informed Shelby, that talking with the attorney, that the Planning & Zoning will have to make a conditional use.

XII. Adjournment:

MEETING WAS ADJOURNED BY GENERAL CONSENSUS AT 9:30 P.M.

Daniel J. O'Hara, Mayor

Tami M. Johnson, Clerk