

# **ASSEMBLY MEETING MINUTES**

## **MAY 4, 2009**

**I. Call to Order:** The regular Assembly meeting of May 4, 2009, was called to order by Shelby Boothe the presiding officer at 7:32 p.m. The meeting was held in the Assembly Chambers of the Borough Building, Naknek, Alaska.

**II. Roll Call:** Present: Eddie Clark, J.C. Tudor, Bill Hester and Shelby Boothe

Excused Absence: Mayor Daniel J. O'Hara and Carvel Zimin, Jr.

Also Present: Marv Smith, Borough Manager and Tami Johnson, Clerk

**III. Consent Agenda:**

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 April 6, 2009 – Regular Assembly Meeting: J.C. TUDOR MADE A MOTION TO APPROVE THE MINUTES OF APRIL 6, 2009 AND SECONDED BY EDDIE CLARK. MOTION PASSED UNANIMOUSLY.

2. Minutes of April 8, 2009 – Special Assembly Meeting in South Naknek: J.C. TUDOR MADE A MOTION TO APPROVE THE MINUTES OF APRIL 8, 2009 AND SECONDED BY EDDIE CLARK. MOTION PASSED UNANIMOUSLY.

3. Minutes of April 17, 2009 – Special Assembly Meeting: J.C. TUDOR MADE A MOTION TO APPROVE THE MINUTES OF APRIL 17, 2009 AND SECONDED BY BILL HESTER. MOTION PASSED UNANIMOUSLY.

4. Minutes of April 23, 2009 – Board of Equalization Meeting: J.C. TUDOR MADE A MOTION TO APPROVE THE MINUTES OF APRIL 23, 2009 AND SECONDED BY BILL HESTER. MOTION PASSED UNANIMOUSLY.

5. Finance Report – Check Register – April-2009: J.C. TUDOR MADE A MOTION TO APPROVE THE CHECK REGISTER OF APRIL 2009 AND SECONDED BY BILL HESTER. Eddie Clark had a question concerning dog pound heating fuel. Shelby informed Eddie that yes we heat the building that the dog pound is located in. MOTION PASSED UNANIMOUSLY.

**IV. Approval of Agenda**

Shelby Boothe wanted to add, after Executive Session, XI. B. Borough Managers Contract. J.C. TUDOR MADE A MOTION TO APPROVE THE AGENDA AS AMENDED AND SECONDED BY BILL HESTER. MOTION PASSED UNANIMOUSLY.

**V. Board Reconvenes as Board of Equalization to discuss Outpouring Ministries Appeal of Lot 20.026.618**

Shelby Boothe stated that at 7:38 p.m. the Assembly reconvened as the Board of Equalization and have only one item for the BOE. There was a short discussion. Shelby stated that the issue for the BOE tonight is to whether to allow or not the second lot, lot 5 of block 2 the lot on Wolverine to be exempt along with the other lot owned by them. J.C. TUDOR MADE A MOTION TO DENY THE APPEAL OF THE AFOREMENTIONED LOT SINCE THE ASSESSMENT WAS FAIR, JUST AND

NON DISCRIMINATORY BY ALL THREE OF THE LEGAL MINDS AND DID NOT QUALIFY AS TAX EXEMPT. Motion dies for lack of second. BILL HESTER MADE A MOTION TO APPROVE OUTPOURING MINISTRIES REQUEST FOR EXEMPTION ON THIS LOT 2.026.618 AND SECONDED BY EDDIE CLARK. Bill Hester stated his reason is, even though the state assessor Steve Van Sant, wrote in his letter that in order for this lot to be tax exempt, it must be used exclusively for religious purposes and looking through the state requirements it says so. Bill stated that they are using the lot for educational purposes, there have been improvements made on the land, they have documented activities they have done on the land. Eddie Clark stated he believes they have received a raw deal on the first go around, and he believes they are trying to do good and likes the direction they are going. There was a short discussion. Marv Smith stated that we have had 3 experts look at this and they have given us their expert advice. Marv also stated that he respects what Outpouring Ministries is trying to do, but we need to listen to the experts. The Borough Assessor, the Borough Attorney and the State Assessor recommend this property not be exempted. Marv recommended the BOE listen to the experts in this case. Bill Hester wanted to make one last comment and addressed it to the Borough Manager, to rebut his comment, we do have three experts, the main expert being Steve Van Sant omitted some important information, and Bill thinks it was deliberate and he feels he's hostile to this, Bill stated he could be wrong and stands here to be corrected, Steve Van Sant deliberately omitted; exclusively for charitable, cemetery, hospital or educational purposes, he only quoted religious, and he is not doing this because they are do gooders, or do gooders for the community, Bill stated he's looking at this from a technical aspect. They have done all they can to prove that they are tax exempt, and feels they have met all the requirements, even though there isn't a building there, and have no intention of putting a building there. That is an educational science trail and the land is to be used for the science part of that educational process. Shelby Boothe stated that we tax no other religious entity or educational entities in the Borough. If one lots okay then two lots should be okay with him and he believes it falls within the States Statutes. QUESTION WAS CALLED THREE YES VOTES AND ONE NO VOTE. MOTION PASSED 3-1. J.C. TUDOR MADE A MOTION TO ADJOURN THE BOARD OF EQUALIZATION MEETING AT 7:47 P.M. AND SECONDED BY BILL HESTER. MOTION PASSED UNANIMOUSLY.

Shelby called to order and reconvened the regular assembly meeting at 7:47 p.m.

**VI. Persons to be Heard**

Susan Cox wanted to explain to everyone about what has been done so far for the community concerning the H1N1 virus. As well as many of you know this didn't really start to be an issue until about a week ago. It grew very quickly last week. Nate Skinner is here and has worked the hardest on this over the past two years, establishing an emergency preparedness plan, that we have worked on well over two years to be ready for something like this. Right now and still today as of 11:00 there were no probable or confirmed cases of H1N1 influenza, anywhere in Alaska and never had been. What that means is, probable cases are those which the first layer of lab testing, test positive and requires a second type of test. Those are still being done at the CDC in Atlanta, Georgia, only when that second test comes back does it move from probable to confirmed, so there are none. There is influenza in the state of Alaska, there's influenza here in town, but it is not H1N1. There are a lot of similarities between all types of influenza and it's very difficult to differentiate without the lab work. We do have a specific set of symptoms that we have to be looking for as determined by the state epidemiology and public health department. Susan stated she is in touch with them on a daily basis and participate in a morning conference call **every single day including Saturday and Sunday**. We had a meeting with the canneries that are on the ground here last Friday, in this room. There were six invited, and of the six, five were here. It was a very positive meeting. We made it very clear that it is a community effort. We also put notices on the reader board. The first one is directly from the CDC and is a description of the type of symptoms and if you have them, then Camai will put them in contact with a provider, who will discuss with them as to whether they need to come into the clinic or not. We have protocols in place, if someone comes to the clinic with the symptoms, so as to not spread it everywhere. In addition to that there's a notice on the reader board with good basic health habits. Susan stressed, if you're ill, stay home. Number two be very sure that you're washing your hands repeatedly with soap and water. That is the key to absolutely everything, the more you wash your hands with soap and water, the better off you are. In addition to that, if you're going to sneeze, sneeze into your sleeve or arm. We want to calm fears. There is no reason for alarm at this point, everything is ok and we are working closely with the processors as they bring people in. Bill Hester asked what the incubation period is for this flu? Susan stated it can be as little as 24 hours. Susan stated to use common sense right now.

**VII. Communications and Appearance Requests**

- A. Letter from Lisa Murkowski
- B. Letter from Jennifer Witt – State of AK Planning & Admin.
- C. Letter from Lyman Hoffman & Bryce Edgmon – Port of BB Funding: Shelby Boothe stated that the letter from Lyman and Bryce but it was a good letter going to the Denali Commission it explained the situation requesting the additional \$700,000.00 for the dock.

**VIII. Hearings, Ordinances and Resolutions**

A. Ordinance No. 2008-09, An Ordinance of the Bristol Bay Borough Amending Title 3, Sections 3.08.100, and 3.08.110 Providing Increased Exemptions for the Real Property Taxes for Full Time Citizens of the Borough; Second Reading and Public Hearing: Shelby Boothe opened up the floor for public comment. Marv Smith gave a brief overview, stating that the state law allows for \$20,000 in exemptions for property taxes and this would allow full time residents of the Borough a \$20,000.00 exemption instead of \$10,000.00. The intent of this is for residents who live here 12 months. J.C. TUDOR MADE A MOTION TO APPROVE ORDINANCE NO. 2008-09 AND PUT THIS ON THE BALLOT FOR THE OCTOBER ELECTION AND SECONDED BY BILL HESTER. MOTION PASSED UNANIMOUSLY.

B. Ordinance No. 2009-04, An Ordinance of the Bristol Bay Borough Providing for the Establishment and Adoption of the Budget for Fiscal Year 2009/2010, Third Reading and Final Public Hearing. Shelby Boothe opened up the hearing to the public.

Jack Walsh introduced himself, stating he was the superintendent for the Bristol Bay Borough School District. He stated he came here tonight after turning in their budget last week just to let them know that we as a school district recognize that this is a tough time for everybody and also recognize that we have always appreciated and benefited from the support of the Assembly and the Borough. We believe we offer good programs at our school and the budget he turned in this year to the Mayor and the Assembly and Manager asked for a little over \$1.2 million dollars. It's an increase of almost \$200,000.00 over what we received last year. We recognize in doing that that we have also cut two teaching positions for next year. Jack had hoped through the legislative session that he'd be able to tell you that they had been given more money in different areas, there is still a lot out there in terms of a wild card which is the stimulus package. He has seen different charts and different numbers, we may or may not receive. He is not confident at this

point in time that anybody has the exact number. We do know that some of the education money is being deferred to the revenue sharing that has been lacking in the state and we appreciate the fact the money is going to communities and that helps us in the long run too. With a lot of unknowns he has given you a budget that asks for over \$1.2 million dollars and projects that at the end of next school year, we would have a zero fund balance. Jack stated his work is still within his budget and to go ahead and find a way to cut about \$90,000.00 as this year progresses because at the end of every year he is required by statute to have no less than 3% of their budget in reserve and as much as 10%. Jack stated that over the last couple of years at different times he has talked to you about shooting for \$150,000.00 in the reserve which is what it was when he came here. We may not get up that high but if we do it will be because we get money from the stimulus package and other things and we use our money a little bit differently than projected right at this moment. In closing Jack wanted to thank the Borough Assembly and the Manager and the Finance Director and others who have taken a look at their numbers and worked with them on this and have been supportive in the things they are trying to do and he recognizes that in cutting two staff members this year, there's a high likelihood that next year he will be cutting one or two more because if their numbers don't turn around, and they come in just at the 140 students they project for next year, that's still a reduction of about 42 students from when he got here a year and a half, two years ago. We are hopeful that we will see a few more kids next year, but right at this point and time, this was the budget he felt he needed to present. There was a lengthy discussion. Shelby Boothe stated they had just seen a spreadsheet from the lobbyist that indicated that the school district had gotten an increase of about \$103,000.00 more than you had projected in state support. If that is accurate, the only thing we're looking at is that our dock project costs have escalated dramatically. We did not give any employee cost of living allowance in this upcoming budget. There was a short discussion concerning pupil transportation. Jack stated that they are anticipating for next year their transportation budget will be \$46,000.00 short of what the state gives them. Shelby Boothe stated that hopefully more optimistic figures will prevail. We can't continue to increase the local contributions in the amount which we gave last year and this year. Our assessed value did go up and helps but your going to be over or close to \$1.3 million next year, money is going to be real tight next year. As enrollment goes down the state support decreases but we're going to have to find ways to save money. We're keeping the South Naknek school warm and spending around \$50,000.00-\$60,000.00 a year to do that and subsidizing the transportation. Jack stated that transportation will be a major

issue for next year. We are the only district in America that flies kids in a plane and that's because no one can afford it. He thanked all for their time. Shelby Boothe asked if anyone else from the public had any comments, hearing none he closed the public comment period. J.C. TUDOR MADE A MOTION TO ADOPT ORDINANCE NO. 2009-04 AND SECONDED BY BILL HESTER. There was a lengthy discussion. J.C. TUDOR MADE A MOTION UNDER PUBLIC WORKS, SOUTH NAKNEK UNDER OTHER CONTRACTUAL SERVICES 5215 WE INCREASE IT TO \$5,000.00 FOR GRAVEL AND SECONDED BY BILL HESTER. MOTION PASSED UNANIMOUSLY. J.C. TUDOR MADE A MOTION UNDER 6035 PUBLIC WORKS, SOUTH NAKNEK OTHER UTILITIES INCREASE THAT TO \$5,500 TO REFLECT THE INCREASE IN SEWER FEES AND SECONDED BY BILL HESTER. MOTION PASSED UNANIMOUSLY. J.C. TUDOR MADE A MOTION UNDER SOUTH NAKNEK 5732 HEATING SUBTRACT \$20,000.00 FROM THAT SECONDED BY BILL HESTER. MOTION PASSED UNANIMOUSLY.

J.C. TUDOR MADE A MOTION TO DELETE 5732 HEATING FUEL UNDER SOUTH NAKNEK LIBRARY TO ZERO AND SECONDED BY BILL HESTER. MOTION PASSED UNANIMOUSLY.

J.C. TUDOR MADE A MOTION UNDER PUBLIC SERVICE COMMUNITY SUPPORT MISCELLANEOUS EXPENSE 5796 SUBTRACT \$5,000.00 AND SECONDED BY BILL HESTER. QUESTION WAS CALLED 2 YES AND 2 NO VOTES. MOTION FAILED DUE TO LACK OF 3 AFFIRMATIVE VOTES.

J.C. TUDOR MADE A MOTION UNDER WASTEWATER SCADA CAPITAL OUTLAY 6500 FROM \$100,000.00 TO ZERO AND SECONDED BY BILL HESTER. MOTION PASSED UNANIMOUSLY.

J.C. TUDOR MADE A MOTION TO INCREASE UNDER GENERAL FUND FINANCE 5821 SCHOOL EFFORT TO \$981,424.00 AND SECONDED BY EDDIE CLARK. QUESTION WAS CALLED FOR 3 YES AND 1 NO.

J.C. TUDOR MADE A MOTION UNDER GENERAL FINANCE COMMUNITY SUPPORT DECREASE 5796 BY \$175,000.00 AND SECONDED BY BILL HESTER. MOTION PASSED UNANIMOUSLY.

Roylene Gottschalk spoke to the Assembly regarding public works, vehicles, maintenance, buildings and summer hires.

Rodney Enevoldsen spoke to the Assembly concerning summer seasonal employees.

J.C. TUDOR MADE A MOTION UNDER GENERAL FUND REVENUE PERSONAL PROPERTY TAX \$1,202,209.00. NOW ASSEMBLY ADOPTED REAL PROPERTY TAX \$1,366,302.00 AND SECONDED BY BILL HESTER. MOTION PASSED UNANIMOUSLY.

SHELBY BOOTHE CALLED FOR THE QUESTION TO VOTE ON ORDINANCE NO. 2009-04 AS AMENDED. MOTION PASSED UNANIMOUSLY.

C. Ordinance No. 2009-06, An Ordinance of the Bristol Bay Borough Amending Chapter 2.12, Section 2.12.010 and Section 2.12.040 to add; in Person or by Teleconference: Introduction and First Reading: J.C. TUDOR MADE A MOTION TO INTRODUCE ORDINANCE NO. 2009-06 AND SECONDED BY BILL HESTER. There was a brief discussion. J.C. TUDOR ALSO INCLUDED IN HIS MOTION SET FOR SECOND READING AND PUBLIC HEARING ON JUNE 1, 2009 AND SECONDED BY BILL HESTER. MOTION PASSED UNANIMOUSLY.

D. Ordinance No. 2009-07, An Ordinance of the Bristol Bay Borough Amending Chapter 18, Section 18.08.80, Section 18.11.20, Section 18.11.30 and Section 18.11.40, proposed changes to Naknek River Subdivision Development Ordinances; Introduction and First Reading. BILL HESTER MADE A MOTION TO INTRODUCE ORDINANCE NO. 2009-07 AND SET FOR PUBLIC HEARING AND SECOND READING ON JUNE 1, 2009 AND SECONDED BY EDDIE CLARK. Marv Smith pointed out a clarification to add Tract 0 to category D. and gave a brief overview of the changes. There was a brief discussion. BILL HESTER MADE A MOTION TO AMEND PARAGRAPH D. BLOCK 11 LOT 1 AND TRACT 0 AND TO EXTRACT LOT 2 AND PUT INTO CATEGORY A. AND SECONDED BY EDDIE CLARK. QUESTION WAS CALLED 3 YES VOTES 1 NO VOTE. PASSES QUESTION WAS CALLED FOR A VOTE ON THE AMENDED VERSION AND SECOND READING AND PUBLIC HEARING ON JUNE 1, 2009. 3 YES AND 1 NO VOTE. MOTION PASSES

E. Resolution No. 2009-14, A Resolution Establishing the Bristol Bay Borough Property Tax Mill Rate for Tax Year 2009: BILL HESTER MADE A MOTION TO SET THE TAX LEVY MILL RATE FOR TAX YEAR 2009 AT 12 MILLS AND SECONDED BY EDDIE CLARK. J.C. Tudor stated we should leave it at 13, we will be giving the residents a tax break on the increased residential exemption. Shelby Boothe stated he thinks that we should put on the ballot for the October election an increase of 1% in the raw fish tax and then he would support Mr. Hesters reduction in the mill rate. There was a short discussion. Eddie Clark stated he loves the concept but we're running on a tight budget and have so much going on. QUESTION WAS CALLED 2 YES AND 2 NO VOTES. FAILED DUE TO LACK OF 3 AFFIRMATIVE VOTES. J.C. TUDOR MADE A MOTION TO SET THE MILL RATE AT 13 AND SECONDED BY EDDIE CLARK. 3 YES AND 1 NO VOTE. MOTION CARRIES 3 TO 1.

**IX. Old Business**

A. Restoration Advisory Board Meeting report of 4-21-09: Marv Smith stated he had gone to the meeting and the clean-up is ongoing. Their plan seems to be good. Attendance was good. Colonel Brent Johnson was there and Marv expressed the concern of the citizens with the water. Marv will be sending a letter to the Air Force. Eddie Clark stated he has asked the Air Force and it would be nice if they gave us a letter saying the water is not contaminated, so people can take it to the bank for lending purposes. Marv stated that Matt Niedermeyer was at that meeting and asked the Colonel if the Air Force would favor putting in a water system and the Colonel stated that the cost was too high and he wasn't sure he could get a good source. There was a short discussion.

B. Port of Bristol Bay Update: Marv Smith stated that a change order has been put in and in the process of getting permits for the down river side. Hoping for an extension, on permitting until 5-21-09. PND is getting someone here to inspect. The U.S. Army Corp. of Engineers and Fish & Game are very supportive. Bill Hester stated he appreciates Marv Smith's aggressiveness on this and keeping the Assembly informed with e-mails. There was a short discussion. We have a second bid out and are not making a final decision until 5-12-09. Marv stated he's going in to a Denali Commission meeting on May 11, 2009 trying to get an additional \$700,00.00. Also Marv stated he had received an e-mail from MARAD concerning phase II of the dock and they have approved to be the management consultants for phase II.

**X. New Business**

A. Disposal of Building on Lot 21.003.301: Marv Smith stated that this will be put out to bid and will include successful bidder to move it with a timeline included. J.C. TUDOR MADE A MOTION TO DIRECT THE MANAGER TO DISPOSE OF THE BUILDING ON LOT 21.003.301 AND SECONDED BY BILL HESTER. MOTION PASSED UNANIMOUSLY.

B. Coastal Impact Assistance Program Funding: Marv Smith stated that in previous years we did not get any money. We need to write up a coastal impact plan and can get \$10,000.00 and can put to good use on the barges at Leader Creek, to cut up in sizeable pieces and get hauled away. There was a short discussion.

C. Medical Insurance Coverage: Marv Smith stated this is informational only. We are looking for some better prices for insurance coverage right now and will get back to you at a later date.

**XI. Executive Session to discuss Personnel**

J.C. TUDOR MADE A MOTION TO GO INTO EXECUTIVE SESSION TO DISCUSS MATTERS THAT MAY BE PREJUDICIAL TO THE CHARACTER OF ANYONE AND SECONDED BY BILL HESTER AT 9:48 P.M. MOTION PASSED UNANIMOUSLY.

SHELBY BOOTHE CALLED THE MEETING BACK TO ORDER FROM EXECUTIVE SESSION AT 9:59 P.M. WITH THE SAME MEMBERS IN ATTENDANCE. NO ACTION TAKEN.

B. Manager's Contract: Shelby Boothe stated that previously the Assembly had done an evaluation and the consensus was he was due a pay raise. J.C. TUDOR MADE A MOTION TO RAISE THE MANAGER'S SALARY TO \$104,000.00 EFFECTIVE APRIL 1, 2009 AND SECONDED BY BILL HESTER. MOTION PASSED UNANIMOUSLY.

J.C. TUDOR MADE A MOTION TO HIRE A PART TIME EMPLOYEE AT THE POOL AT THE MANAGER'S DISCRETION AND SECONDED BY BILL HESTER. MOTION PASSED UNANIMOUSLY.

**XII. Manager's Comments**

Marv Smith stated he will be travelling next week to the Denali Commission meeting.

**XIII. Assembly Member Comments**

Eddie Clark stated this has been a challenging year and thanked Marv for all his hard work. Thanked John for all the reports he gave the Assembly, so much better than previously.

Bill Hester stated he thinks we gave the school \$70,000.00 too much, we should have kept that back and given it to our employees. He is sorry the Assembly didn't vote with him to lower the taxes. Good job to Marv and John on the budget.

Shelby Boothe welcomed Rosie Fay as the new Planner. Shelby also stated we should really consider adding 1% to the raw fish tax on the October ballot along with the property tax exemption increase. Perhaps at the June meeting we can introduce the increase. Don't forget the Special Meeting on May 13, 2009. Remind PND that they need to have the onsite inspector here.

**XIV. Adjournment**

BY GENERAL CONSENSUS THE MEETING WAS ADJOURNED AT 10:08 P.M.

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Daniel J. O'Hara, Mayor

ATTEST:

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Tami Johnson, Clerk