

**ASSEMBLY MEETING MINUTES**  
**AUGUST 3, 2009**

**I. Call to Order:** The regular Assembly meeting of August 3, 2009, was called to order by Assembly President Shelby Boothe at 7:30 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: Carvel Zimin, Jr. and Mayor Dan O'Hara

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

Shelby Boothe stated he would like to suspend the rules due to a guest in the audience that needs to catch a plane. J.C. TUDOR MADE THE MOTION TO MOVE ITEM A. FROM IX. NEW BUSINESS: MR. RALPH ANDERSEN FROM BBNA-PARTNERSHIP M.O.U. TO THE NEXT ITEM ON THE AGENDA AND SECONDED BY BILL HESTER. MOTION PASSED UNANIMOUSLY.

**IX. New Business**

A. Ralph Andersen BBNA – Partnership M.O.U.: Mr. Andersen stated he is the CEO of BBNA and wanted to acknowledge several people here tonight from Dillingham, Debbie McRae-Nelson, the director of the Bristol Bay Campus and Dave McClure the CEO of Bristol Bay Housing Authority. Mr. Andersen stated that among the many hats he wears, he is also on the SAVEC board of directors. Mr. Andersen went over the Memorandum of Understanding briefly. This basically formalizes a relationship between the organizations. Mr. Andersen stated that in early October they are sponsoring a regional energy summit. The staff, are currently working on an agenda. Until recently, with Rosie Fay coming to Dillingham, there has been no participation from Bristol Bay Borough. There was a short discussion. The manager was directed to come up with a formal resolution to become an associate member at the next meeting.

**III. Consent Agenda:**

A. Non-Action Agenda: SHELBY BOOTHE REVERTED THE MEETING BACK TO THE CONSENT AGENDA AND ASKED IF THERE WERE ANY QUESTIONS OR COMMENTS ON THE NON-ACTION ITEMS ON THE AGENDA. Marv Smith asked if they had read the lobbyists report concerning, bridges? There was a short discussion. Shelby Boothe wanted to make one comment; on the financial reports, you'll see that there are a few encumbrances and that's the first time we've seen those since George Castenada was here and thanked John Dixon, we are heading in the right direction.

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-Finance Department
12. Other Reports

B. Action Items

1. Minutes of May 13, 2009 – Special Assembly Meeting: BILL HESTER MADE A MOTION TO ACCEPT THE MINUTES OF MAY 13, 2009 MINUTES AND SECONDED BY J.C. TUDOR. MOTION PASSED UNANIMOUSLY.
2. Minutes of June 1, 2009 – Regular Assembly Meeting: BILL HESTER MADE A MOTION TO ACCEPT THE MINUTES OF JUNE 1, 2009 AND SECONDED BY EDDIE CLARK. MOTION PASSED UNANIMOUSLY.
3. Minutes of June 16, 2009 – Special Assembly Meeting: BILL HESTER MADE A MOTION TO ACCEPT THE MINUTES OF JUNE 16, 2009 AND SECONDED BY EDDIE CLARK. MOTION PASSED UNANIMOUSLY.

4. Finance Report – Check Register:
  - a. May 2009: J.C. TUDOR MADE A MOTION TO ACCEPT THE CHECK REGISTER OF MAY 2009 AND SECONDED BY BILL HESTER. MOTION PASSED UNANIMOUSLY.
  - b. June 2009: J.C. TUDOR MADE A MOTION TO ACCEPT THE CHECK REGISTER OF JUNE 2009 AND SECONDED BY BILL HESTER. MOTION PASSED UNANIMOUSLY.

IV. **Approval of Agenda:** Shelby Boothe asked if it was correct to add Mr. Dan Casey to V. Persons to be Heard? yes. EDDIE CLARK MADE A MOTION TO APPROVE THE AGENDA AS AMENDED AND SECONDED BY J.C. TUDOR. MOTION PASSED UNANIMOUSLY.

V. **Persons to be Heard**

Mr. Dan Casey-PVIL; gave a brief summary of the national push to bring broadband to rural areas. The project was developed by the Kodiak Kenai Cable Company. Mr. Casey described the course of the project, the funding and the capacity of the project. Dan stated what he is looking for, is support from Bristol Bay Borough in the form of a letter or resolution in support of this project. There was a brief discussion. Shelby Boothe stated we need to suspend the rules to add to New Business, item J. J.C. TUDOR MADE THE MOTION TO SUSPEND THE RULES TO ADD RESOLUTION 2009-22, UNDER NEW BUSINESS ITEM J. AND SECONDED BY BILL HESTER. MOTION PASSED UNANIMOUSLY.

VI. **Communications and Appearance Requests**

- A. Letter from Northland Attorney
- B. Letter from Jay Doland – Naknek Library
- C. Letter from Colonel Brent Johnson
- D. Letter from N.E.A.
- E. Letter from Fred Pike
- F. Letter from Senator Murkowski Office
- G. Nanci Morris-Lyon/Brian Kraft – Tax Penalty AK Sportsman’s Bear Trail Lodge: Nanci stated she has exhausted all of her resources at this point and this is an issue that needs to be heard by the Assembly. Nanci stated she is the former owner of Katmai

Fishing Adventures and is the current owner/partner of AK Sportsman's Bear Trail Lodge and what happened was, she filed the taxes on time as you can see. The problem was Katmai Fishing Adventures was no longer going to be in existence, AK Sportsman's Bear Trail Lodge bought them out and they owned the equipment. She called and verified that they needed to be combined and she was told this couldn't be done, because whatever happened on January 1<sup>st</sup>, stayed on January 1<sup>st</sup>. Nanci said she said fine, she controls both businesses and had no problem, bill however you have to, we'll get them changed for the following year, nothing changed, no deletions or additions and then a letter came in June, indicating she had some atrocious \$800, some plus penalties assigned to her tax bill even though she didn't owe any taxes yet, she hadn't, not paid any taxes yet and had never said she wasn't responsible for any of her taxes, but the penalties have been assessed. Nanci has spoken to John and Marv and they have indicated to her, that it is due to an ordinance that the Borough has in place. She did not receive a letter on March 6<sup>th</sup> that said she should re-file on a different form, then these penalties were to be assessed to her and have been assessed to her and she doesn't think she should have to pay these penalties, because she never said she didn't owe them, she was never not responsible on claiming her taxes to be paid and is looking for agreement and some consideration should be made here and an acknowledgement that this was not the intent you had for this ordinance. John Dixon the finance director was called up to speak to the Assembly. John stated that Katmai Adventures sent in personal property tax return and it was on time, they declared the value of the assets of Katmai at zero and stated they were sold to Alaskan Bear Trail Lodge. Alaskan Bear Trail did not file a return this year or last year. Nanci did get involved, per the Borough code we could not release any information to her, we had no documentation and could not. It was not until March 29<sup>th</sup>, that John got an e-mail from Brian Kraft, that he stated yes in fact Nanci did own 20% of the business and could release the information. However, the time to file was gone. By the mere fact that she was able to enter into a transaction after January 1<sup>st</sup> of this year, she was responsible for those taxes. If she had made an agreement with the people she was doing business with, that they would assume the taxes, which would be something between them. Our code is very specific, owner control as of January 1<sup>st</sup>, is what you are taxed at. There was a short discussion. Nanci stated that what she is requesting is that the penalties be removed. There was a lengthy discussion. Shelby Boothe recommended for the finance department to put together a package that gives the Assembly a chronological order of what happened and when and we will figure out what we need to do at the next meeting. Shelby also stated to the Manager to get with the finance person

and with the attorney, and find out what we can and cannot waive and we will put this on the agenda for the next meeting.

**VII. Hearings, Ordinances and Resolutions**

A. Ordinance No. 2009-08, An Ordinance Amending Section 3.16.020 "Tax Levied" of Chapter 3.16 of the Bristol Bay Borough Code, Entitled "Sales Tax on Raw Fish" Second Reading and Public Hearing: Shelby Boothe the presiding officer opened up the meeting for public comment.

Fred Pike stated he is opposed to putting this on the ballot for the upcoming election this Fall. Fred stated presently the fishermen are currently paying their fair share. If you want to look for taxes, look elsewhere. The few fishermen that are left in the community and the remainder are outside and don't have an opportunity to vote on an issue that affects them directly.

There were no other comments from the public. There was a brief discussion. J.C. TUDOR MADE A MOTION TO AMEND THE SALES TAX ON RAW FISH TO 4% WITH A SUNSET CLAUSE: FROM JANUARY 1, 2010 TO JANUARY 1, 2013 AND AT WHICH TIME IT WILL REVERT BACK TO 3%. AND SECONDED BY BILL HESTER. There was a short discussion. QUESTION WAS CALLED, 3 YES AND 1 NO VOTE. MOTION PASSED. QUESTION WAS CALLED FOR ORDINANCE NO. 2009-08 AS AMENDED MOTION CARRIED 3 TO 1. This will be on the ballot for the October election.

B. Ordinance No. 2009-09, An Ordinance Amending Chapter 3.08.170 B. Penalties and Interest of the Bristol Bay Borough Code; Introduction and First Reading: BILL HESTER MADE A MOTION TO INTRODUCE ORDINANCE NO. 2009-09 AND SECONDED BY EDDIE CLARK. There was a short discussion. QUESTION WAS CALLED, 1 YES VOTE AND 3 NO VOTES. MOTION FAILED

C. Ordinance No. 2009-10, An Ordinance Amending Chapter 3.34, Section 3.34.010 Interest on Delinquent Accounts and Section 3.34.020 Procedure for Collection of Delinquent Service Fees of the Bristol Bay Borough Code Services; Introduction and First Reading: EDDIE CLARK MADE A MOTION TO INTRODUCE ORDINANCE

NO. 2009-10 AND SECONDED BY J.C. TUDOR. There was a short discussion. J.C. TUDOR MADE A MOTION TO AMEND ORDINANCE NO. 2009-10 TO READ, A \$25.00 MONTHLY SERVICE CHARGE ON ALL DELINQUENT ACCOUNTS. AND DELETE THE \$30.00 PER MONTH LATE FEE ON ALL DELINQUENT ACCOUNTS AND THE SAME CHANGE ON 3.34.020 SECTION B. AND SECONDED BY EDDIE CLARK. MOTION PASSED UNANIMOUSLY. QUESTION WAS CALLED FOR ORDINANCE NO. 2009-10 AS AMENDED 3 YES AND 1 NO VOTE, MOTION CARRIED. SECOND READING AND PUBLIC HEARING ON SEPTEMBER 1, 2009.

D. Resolution No. 2009-18, A Resolution providing for the General Election of October 6, 2009 Prescribing Rules for the Conduct Thereof, Appointing an Election Supervisor and Providing for Public Notice: J.C. TUDOR MADE A MOTION TO APPROVE RESOLUTION NO. 2009-18 AND SECONDED BY BILL HESTER. MOTION PASSED UNANIMOUSLY.

E. Resolution No. 2009-19, A Resolution Adopting Participate in the AMLJIA Loss Control Incentive Program for the Bristol Bay Borough: BILL HESTER MADE A MOTION TO APPROVE RESOLUTION NO. 2009-19 AND SECONDED BY J.C. TUDOR. MOTION PASSED UNANIMOUSLY.

F. Resolution No. 2009-20, A Resolution Supporting a Pebble Fund Grant Submitted by the Bristol Bay Borough in Support of a Water Feasibility Study to Re-locate the Naknek River Wastewater Influent Line by Peter Pan: J.C. TUDOR MADE A MOTION TO APPROVE RESOLUTION NO. 2009-20 AND SECONDED BY BILL HESTER. MOTION PASSED UNANIMOUSLY.

#### **VIII. Old Business**

A. North Pacific Rim Housing Authority: Marv Smith stated he was told by the Assembly to renegotiate a price and Marv believes we should pay nothing. The Assembly concurred with Marv.

B. Public Relations Presentation Sample – Mark Emery: Marv stated that what we are looking for is a way to present the Bristol Bay Borough to the legislatures when we

ask for money and Marv asked Mark to come up with something for us. Mark Emery stated that he would not do this half way, if we do this or he is involved it will not be a cheap thing and not a knock off, we will shoot it well and do a good job. Mr. Emery presented a short video. There was a short discussion with Mark. Mark would like to get a shot list from the Assembly of what areas to shoot. Shelby Boothe stated what we're looking for is the cycle of things happening here, from catching to processing to shipping out, and letting people know who we are. There was more discussion. Shelby stated basically, let the audience know where we are in Alaska, what we do briefly, and what makes this place go. Mark stated he will speak to each individual on this and get something started with some ideas. Eddie was going to find the video that APL did and get it to Mark.

C. Tri-Borough/DNR Memorandum of Understanding: Marv Smith gave a brief overview. This supports onshore exploration and DNR is pushing this. J.C. TUDOR MADE A MOTION TO APPROVE THIS MEMORANDUM OF UNDERSTANDING AND SECONDED BY BILL HESTER. Shelby Boothe stated that basically anything going on in our area, we should be kept informed and doesn't see anything controversial. MOTION PASSED UNANIMOUSLY.

D. Port of Bristol Bay Expansion Phase II Design: Garth Hewlett from PND gave a brief update on the existing facility and checked out the dock last night at low water. Garth gave a short slide presentation. B.C. Construction has been on contract, they have been working since last fall. They have brought on Swalling Construction to do the bulkhead. Swalling Construction is probably one of the two most qualified firms in the world to do this type of construction. This brings a lot of credibility to BC's team. They have made some administrative changes that appear to be a significant improvement. They have more quality control folks to bolster their team. There was a lengthy discussion. Marv Smith wanted to commend Herky and his crew, they did an outstanding job this year at the dock. SHELBY BOOTHE DIRECTED THE MANAGER TO GET WITH P.N.D. AND SUBMIT A MASTER PLAN AND START WORKING ON THE PHASES. Shelby stated that on this it needs to include something for the fishermen.

E. Property Request: Shelby stated that according to the attorney this has to go out to bid either sealed or outcry. J.C. TUDOR MADE A MOTION TO SELL THE DESCRIBED PROPERTY; THE TRIANGULAR PIECE AT A PUBLIC OUTCRY

AUCTION AND WHEN PUBLISHED PUBLICALLY IT SHOULD STATE THAT IT IS TOO SMALL OR UNSUITABLE FOR BUILDING ON AND ALSO THE HIGH BIDDER WILL HAVE TO PROVIDE A SURVEY OF THE PIECE AND SECONDED BY BILL HESTER, WITH A MINIMUM BID OF THE FAIR AND MARKETABLE VALUE. MOTION PASSED UNANIMOUSLY.

F. Animal Control: Marv Smith stated that the Mayor had asked that this be put on the agenda at the request of two Assembly Members. Marv and Rosie had done some research and did a PowerPoint presentation. Marv and Rosie had had a teleconference with Dillingham and got costs and what it entails. There was a lengthy discussion. At the end of the presentation the costs were presented. \$98,000.00 for the incinerator, the person running the operation would need to be certified in three different school programs. The facts are, it would cost at least \$100,000.00 per year to run. The Assembly decided to look at this again next year. Shelby Boothe stated that at a minimum we could use other people's money to get this facility up to standard. Maybe try to get a grant. Until we get an approved facility, we can have all the trained people in the world, but we can't put one dog in jail.

**IX. New Business**

B. Appraisal Company of Alaska Contract for Tax Year 2010: J.C. TUDOR MADE A MOTION TO APPROVE THE APPRAISAL COMPANY OF ALASKA CONTRACT FOR THE SUM OF \$20,500.00 AND SECONDED BY BILL HESTER. Bill stated that the last time they came out here we felt that they appraised the canneries low and if they were given the renewed contract it was with the understanding that they would show improvements. There was a short discussion. MOTION PASSED UNANIMOUSLY.

C. Mikunda Cottrell 2009 Audit Contract: J.C. TUDOR MADE A MOTION TO APPROVE THE MIKUNDA COTTRELL AUDIT CONTRACT AND SECONDED BY EDDIE CLARK. MOTION PASSED UNANIMOUSLY.

D. Health Insurance Proposed Re-Structure: There was a brief discussion. Shelby Boothe stated this should be the subject of a workshop to get input from the employees. BILL HESTER MADE A MOTION TO POSTPONE TO DISCUSS AT A WORKSHOP

TO BE HELD ON WEDNESDAY, AUGUST 19<sup>TH</sup> AT 1:00 P.M. SO THAT EMPLOYEES CAN ATTEND.

E. Pebble Trip: Marv Smith stated that Pebble wants to give a helicopter tour to interested Assembly and Planning & Zoning members. It will be September 9<sup>th</sup>. J.C. Tudor and Shelby Boothe stated they are interested.

F. American Heroes Silver Salmon Derby Aug. 7-9<sup>th</sup>: Shelby Boothe stated that the Elks are sponsoring 10 military people plus one dependent fishing derby and are looking for a small contribution. J.C. TUDOR MADE A MOTION TO DONATE \$250.00 AND EDDIE CLARK SECONDED. MOTION PASSED UNANIMOUSLY.

G. Alaska State Legislature – Wyndham Publication: Marv showed the book to the Assembly and stated we could get two pages for \$11,000.00. The book is reserved for 10 communities. NO ACTION TAKEN

H. Naknek Electric Association Request for Waiver: Tom Deck representing N.E.A. Board members and is here to have the Assembly waive the dock fees for the materials brought across the dock for the geothermal project. The dollar amount requested is in the \$36,000.00 range. J.C. Tudor stated we are scratching for money for the dock. There was a brief discussion. Bill Hester stated he would like to see some more figures on this. EDDIE CLARK MADE A MOTION TO WAIVE IN EXCHANGE FOR THE CONCESSIONS THEY HAVE OFFERED IN THE LETTER AND SECONDED BY BILL HESTER. QUESTION WAS CALLED THREE YES AND ONE NO VOTE.

I. Amendment to Personnel Policy & Procedures Manual – 5.02 Annual Medical Physical Examination Day: Shelby Boothe made a recommendation to include this at the workshop on August 19<sup>th</sup> so the employees can have input.

J. Fiber Optic Resolution for Kodiak Kenai Cable Company: BILL HESTER MADE A MOTION TO APPROVE RESOLUTION NO. 2009-22 AND SECONDED BY J.C. TUDOR. MOTION PASSED UNANIMOUSLY.

**X. Executive Session to Discuss Legal Matters**

EDDIE CLARK MADE A MOTION TO GO INTO EXECUTIVE SESSION AT 10:39 P.M. TO DISCUSS LEGAL MATTERS.

SHELBY BOOTHE STATED THE ASSEMBLY CAME BACK FROM EXECUTIVE SESSION AT 10:48 P.M. AND NO ACTION WAS TAKEN.

**XI. Next Meeting Date – Tuesday, September 1, 2009- Due to Holiday**

**XII. Managers Comments**

Marv stated he's working hard and thanked the Assembly for their support.

**XIII. Assembly Member Comments**

Eddie Clark stated he's glad everybody held the place together this summer.

Shelby Boothe stated we should aggressively pursue funding for the dog facility to get it up to speed.

**XIV. Adjournment**

BY GENERAL CONSENSUS THE MEETING WAS ADJOURNED AT 10:50 P.M.

---

Shelby Boothe, Assembly President

ATTEST:

---

Tami Johnson, Clerk