

CITY AND BOROUGH OF WRANGELL, ALASKA

ORDINANCE NO. 891

AN ORDINANCE OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, AMENDING CHAPTER 3.40 OF THE WRANGELL MUNICIPAL CODE TO ESTABLISH THE THOMAS BAY POWER **ADVISORY** COMMITTEE, MAKING THE COMMITTEE ADVISORY TO THE WRANGELL AND PETERSBURG BOROUGH ASSEMBLIES, AND ACKNOWLEDGING THE CHANGE IN THE FORM OF GOVERNMENT OF EACH OF THE COMMUNITIES

WHEREAS, on May 30, 2008 the Election Division for the State of Alaska certified the election results of the May 6, 2008 incorporation election for the City and Borough of Wrangell, and

WHEREAS, on January 3, 2013 the Election Division for the State of Alaska certified the election results of the December 18, 2012 incorporation election for the Petersburg Borough, and

WHEREAS, the certified elections confirmed the incorporation of the City and Borough of Wrangell and the Petersburg Borough and dissolved the City of Petersburg, and

WHEREAS, the former City of Wrangell and former City of Petersburg had adopted ordinances substantially identical to provide for the establishment, membership, powers and duties of the Thomas Bay Power Commission (TBPC), and

WHEREAS, the duties of the Thomas Bay Power Commission have changed as a result of the formal transfer of the operation and maintenance of the Tyee Lake Hydroelectric Project to the Southeast Alaska Power Agency (SEAPA) pursuant to the Assignment and Assumption Agreement dated July 24, 2014 between SEAPA, the Petersburg Borough, City and Borough of Wrangell and the Thomas Bay Power Authority. The TBPC is no longer required or needed to supervise, manage or control the design, construction, maintenance or operations of the Tyee Lake Hydroelectric Project. However, it is the desire of the governing bodies of both the Wrangell and Petersburg boroughs to retain a committee (to be known as the Thomas Bay Power **Advisory** Committee) to serve in an advisory capacity to assist the communities in the investigation, review, evaluation, planning and development of future joint energy needs and projects when assigned by both assemblies; and

WHEREAS, the Assembly of the Petersburg Borough intends to introduce and adopt an ordinance, substantially identical to this ordinance, amending Chapter 3.68 of the Petersburg municipal code.

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA:

[The changes to the existing code are shown as follows: the words that are underlined are to be added and the words that are **[bolded and in brackets are to be deleted]**.

Section 1. Classification: This ordinance is of a permanent nature and shall be codified in the Wrangell Municipal Code.

Section 2. Action. The purpose of this ordinance is to amend Chapter 3.40 of the Wrangell Municipal Code to rename the Thomas Bay Power Commission to be the Thomas Bay Power **Advisory** Committee, and establish the purpose and duties of the Thomas Bay Power **Advisory** Committee.

Section 3. Amendment. Chapter 3.40 of the Wrangell Municipal Code is amended to read:

Chapter 3.40

THOMAS BAY POWER [COMMISSION] **ADVISORY** COMMITTEE

Sections:

3.40.010 Created-Membership-Officers.

3.40.020 Terms – Vacancies – Compensation.

3.40.030 Meetings.

3.40.040 Quorum – Recordkeeping.

3.40.050 Powers and duties.

[3.40.060 Operation and maintenance of Lake Tyee hydroelectric project.]

3.40.010 Created – Membership – Officers.

A. There is created **[by the ordinance codified in this chapter,]** substantially identical ordinances by the Borough Assemblies of Wrangell and Petersburg, ~~[to an ordinance introduced by the council of the city of Wrangell,]~~ Alaska, a Thomas Bay Power **Advisory** Committee, which shall consist of seven members.

B. Members to the committee will only be appointed and the committee will only become active when and if the assemblies for both boroughs believe there is need for the committee. It is understood that there will not be a “standing” Thomas Bay Power **Advisory** Committee. Three of the members shall be appointed by the ~~[council of the city of]~~ Petersburg borough assembly, three of the members shall be appointed by the ~~[council of the city of]~~ Wrangell borough assembly and one member shall be appointed by the six members heretofore designated. One of the appointments from each of the municipalities shall be the superintendents of the Wrangell and Petersburg Electric Utilities.

C. A **[president, vice-president] chairman, vice chairman and a secretary [and treasurer]** of the [Thomas Bay Power Commission] committee shall be selected from and by the appointed members at the first convened meeting. The chairman shall preside at committee meetings, set meeting agendas and attest to approved minutes. The chairperson shall vote in the same manner and with the same restrictions as other committee members and shall be counted for quorum purposes. In the absence of the chairperson,

the vice-chairperson shall assume the chairperson's duties. The secretary shall give notice of commission meetings to each member and to the general public of both municipalities, assure minutes of the meeting are prepared and approved minutes are provided to the borough clerks.

3.40.020 Terms-Vacancies-Compensation.

A. **[The term of a commission member of the Thomas Bay Power Commission shall be for a period of three years; provided, however, that the terms of the first members shall be as follows: one member from each city borough for a term of two years, one member from each city for a term of three years, and one member selected by the other members for a term of one year.]** There is no designated term length for committee members. Members are expected to serve until a final recommendation on any specific issue that has been referred to the committee has been provided to the governing borough assemblies, or until the borough assemblies jointly conclude that the committee is no longer needed for a particular matter. Once an issue is completed, either by providing a final recommendation or concluded jointly by the assemblies, the committee will be dissolved. A new committee may be appointed for any future new matter. The new committee may include appointment of new members or reappointment of prior appointed members or a combination of prior and new members.

B. Vacancies on the committee, by death, resignation, removal or other cause, shall be filled by the appointment by the respective **[city council or]** borough assembly or by the other **[commission]committee** members depending on the position that has been vacated. **[A member may be removed for cause upon a majority vote of the members present at a regularly scheduled meeting.]**

C. Members shall serve without compensation, except that travel and miscellaneous out-of-pocket expenses **[previously authorized or subsequently ratified]** shall be reimbursed by each borough to their respective committee members. The expenses of the member that is appointed by the six other members will have expenses paid by the community of which the member resides. The committee shall not be assigned any duties or authorities that require an independent budget for the committee.

3.40.030 Meetings.

A. The **[commission shall]** committee may establish rules of procedure and, in the absence of any such rules, meetings shall be conducted pursuant to the most recent edition of Robert's Rules of Order[, Revised 1972] . **[There shall be meetings held monthly at a place and time to be determined by the commission.]** Meetings shall be held at the call of the chairman, or a majority of the members, on an "as needed" basis and only on matters assigned jointly by both borough assemblies. All meetings shall be open to the public and the meeting agenda shall afford an opportunity for the public to address the committee. Notice of the time and place of meetings shall be posted as designated by each borough's policy.

B. ~~Funding for~~ The general meeting requirements of the committee such as public noticing, telephone, meeting space and any necessary clerical aid expenses, will be funded through the budget of the borough hosting a meeting. Meetings will be held alternately between each community to help even the costs.

[The president, in his discretion, is authorized to call special meetings, or a majority of the members may require a special meeting to be called. Notice of special meetings must be given 24 hours in advance by posting in three public places in each municipality. Notice of the time and place of regular meetings shall be posted in the same manner as special meetings. Notice shall be given at least five days prior to such meeting.]

3.40.040 Quorum-Recordkeeping.

A. A majority of the [commission] committee shall constitute a quorum for the transaction of business, and a minimum majority of four affirmative votes shall be necessary to carry any question[.], [including removal of a member from office for cause.]

B. Permanent [records, or] minutes, shall record [the vote of every member of each question] actions taken and recommendations made by the committee. All approved minutes shall be filed with both borough clerks' offices and [Every decision or finding shall be promptly filed in the office of the commission and shall] be open to inspection by any person.

3.40.050 Powers and duties.

The [commission] committee shall have the following powers and duties:

[A. Generally, to have full and complete supervision, management and control of the] Only when assigned jointly by the Wrangell and Petersburg assemblies: study and make recommendations to the borough assemblies and SEAPA on design, reconstruction, [maintenance, operation] or improvement [plans] of the hydroelectric project known as the "[Lake]Tyee Lake Hydroelectric Project[.],"; [together with] study and make recommendations to the borough assemblies and SEAPA on acquisition, design, construction or improvement of any other hydroelectric project proposed [by the commission] within the area of Petersburg/Wrangell or such area which can reasonably and feasibly serve the hydroelectric power needs of the Petersburg and Wrangell communities; and also investigate and make recommendations herein on any other joint energy projects, electric or otherwise, that may be contemplated between or within the Wrangell and Petersburg communities to SEAPA, the borough assemblies of Petersburg and Wrangell, or to federal or state law makers or agencies.

[B. To prepare and file with the borough assembly copies of all budget estimates, including any budget amendment which may subsequently be proposed to be made upon final adoption by the commission, and upon request of the assembly to furnish such further details as may be necessary to a reasonable understanding of any such budget estimate or proposed budget amendment; the commission shall adopt the annual budget estimate no later than April 1st in each year and shall immediately forward the estimate to the borough manager for inclusion in the annual budget estimate of the borough;

C. To file with the borough assembly copies of all audits and all monthly financial and operating reports

and such other reports as may come up from time to time and requested by the borough, the state, the federal government or such other agencies or institutions that may fund the commission;

D. The annual budget for operation of the authority shall, if necessary, make provision for payments to become due on account of interest and principal for any bonds, issued by the borough to pay the costs of economically sound hydroelectric generation, transmission and distribution improvements;

E. To employ consulting engineers, auditors, environmental specialists, financial specialists, attorneys or other special, professional or skilled services;

F. To employ a general manager in the discretion of the commission who shall serve at the pleasure of the commission at a salary to be fixed by the commission;

G. To act in its own name or in the name of the borough in any revenue bond ordinance for the purpose of financing all, or in part, the construction, acquisition or improvement of the Lake Tyee Hydroelectric Project, or such other hydroelectric project, or transmission facility, as is feasible to be operated by the commission from the revenues derived from the consumers of electric power;

H. To account for all of the commission's accounts arising out of operations in the manner and form known as the Uniform System of Accounts prescribed by the Federal Energy Regulatory Commission together with the accounting for all disbursements or expenditures; the commission shall select a depository bank at which the accounts of the Thomas Bay Power Authority shall be maintained, and by resolution designate signatures authorized for disbursements; and

I. To review and fix from time to time all of the rates, and charges for use of services and facilities furnished, and policies for the generation, distribution, transmission and consumption of electric power and when deemed necessary and proper, to prepare new or adjusted rates, charges and policies such as are fair and nondiscriminatory and sufficient to meet the obligations of the commission.

3.40.060 Operation and maintenance of Lake Tyee hydroelectric project.

On approval by resolution of the borough assembly, the commission may enter into an agreement as an agent of the borough to maintain and operate the Lake Tyee hydroelectric project owned by the state. Under such agreement, the commission shall have the following powers and duties:

A. Prepare and approve an annual budget for the operation and maintenance of the project and any such other costs that the commission will have. Said budget shall be submitted to the borough assembly for approval in sufficient time to allow assembly action prior to submittal to the state and the project management committee, as established pursuant to Section 7 of that certain Long-Term Power Sales Agreement Four Dam Pool — Initial Project of the Alaska Power Authority effective October 28, 1985.

B. There shall be no costs incurred above the budget approved in subsection A of this section without prior approval of the borough assembly and, when appropriate, the project management committee. If, in the opinion of the general manager, an emergency exists that threatens or endangers life or property, costs in excess of the approved budget may be obligated only insofar as is necessary to halt the emergency that exists, provided he notified the city within six hours of commencement of the emergency.

C. To employ consulting engineers, environmental specialists, attorneys or other special, professional or skilled services, the costs of which have prior budget approval.

D. To employ a general manager who shall have the active management of the project, subject to the supervision and control of the commission; and to delegate to such manager authority to hire and discharge such subordinate employees as it may deem advisable.

E. To determine all salaries, wages and benefits to be paid to each classification of labor employed.

F. To submit an operating and financial report to the assembly for each quarter calendar year, which report will be submitted not later than thirty days after the close of each quarter calendar year.

G. To adopt procedures governing purchases of materials, supplies, equipment, improvements and contractual services, including procedures for competitive bidding. Said procedures shall set forth the employee authorized to contract for such purchases and establish an amount which shall require the prior approval of the commission. A copy of the procedures shall be filed with the borough. Purchases of supplies, materials, equipment, improvements, or contractual services whose cost does not exceed \$5000, excluding freight or shipping costs, may be made without competitive bidding. "Contractual services" means services performed for the project by persons not in the employment of the commission, and may include the use of equipment or the furnishing of commodities in connection with the services under express or implied contract. Contractual services include travel; telephone, telegraph, utilities; rents; printing and binding; improvements, repairs, alterations, and maintenance of buildings, equipment, and other physical facilities of the project; and other services performed for the commission by persons not in the employment of the commission. Contractual services of a professional nature such as legal, engineering, architectural, and placement of insurance coverage are exempt from competitive bidding. The commission may exempt the following purchases from competitive bidding:

1. Supplies, materials, equipment or contractual services which must be purchased from a specific source in order to prevent incompatibility with previously purchased supplies, materials, equipment, or contractual services. For purposes of this subsection the term "incompatibility" is defined as the inability to (a) interconnect, combine, interchange, or join, or (b) that which causes or necessitates maintenance expertise or training where such acquisition would result in substantial duplication. The commission must approve by motion or resolution any purchase where cost exceeds \$5,000 which is to be excluded from competitive bidding by the authority of this subsection;

2. Supplies, materials, equipment, contractual services, or improvements which the commission declares to be required on an emergency basis or which the commission declares is impractical or impossible;

3. When competitive bidding has been followed, but no bids or quotations are received or the bids or quotations are rejected. In such a case, after commission approval, the general manager may proceed to have the services performed or the supplies purchased without further competitive bidding or quotation.

H. To provide for an independent annual audit of the accounts of the commission in accordance with accepted standards and procedures determined by the project management committee.

I. To follow such procedures as required by the project management committee as they exercise their duties under that certain Long-Term Power Sales Agreement Four Dam Pool - Initial Project of the Alaska Power Authority effective October 28, 1986.]

Section 4. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 5. Effective Date. This ordinance shall become effective immediately upon adoption.

PASSED IN FIRST READING: _____, 2015.

PASSED IN SECOND READING: _____, 2015.

David L. Jack, Mayor

ATTEST:

Kim Lane, Borough Clerk

(SEAL)