

**HAINES BOROUGH ASSEMBLY
REGULAR MEETING MINUTES
JULY 16, 2003**

1. **CALL TO ORDER:** Mayor **CASE** called the meeting to order at 6:31 p.m. in the Assembly Chambers of the Municipal Building.
2. **PLEDGE TO FLAG:** Led by the Mayor.
3. **ROLL CALL: Present:** Mayor Mike **CASE** and Assembly Members Chip **LENDE**, Douglas **OLERUD**, Jerry **LAPP**, Debra **SCHNABEL**, and Stephanie **SCOTT**.

Absent: Assembly Member Lucy **HARRELL**.

Staff Present: Julie **COZZI**/Borough Clerk, Tim **TROLL**/Borough Manager, Greg **RICHMOND**/Chief Financial Officer, Robert **VENABLES**/Economic Development Director, and Cynthia "CJ" **JONES**/Museum Director.

Visitors Present: Micah **TRUE**/CVN, Doug **FINE**/KHNS, Dale **MULFORD**, Dave **BUTTON**, Jane **BUTTON**, Steve **KROSCHEL**, Dave **MENAKER**, and Mary **MARKS**.

4. **APPROVAL OF AGENDA/CONSENT AGENDA:**

The Mayor made no changes to the Agenda.

M/S OLERUD/SCOTT Motion to approve the consent agenda.

SCHNABEL clarified that the Assembly was approving minutes from the July 2 meeting instead of July 4 as printed in the agenda. The Clerk noted the correction.

Motion carried unanimously.

- * 5. **MINUTES OF PREVIOUS MEETINGS:** July 2, 2003 Regular

6. **AUDIENCE PARTICIPATION/APPEARANCE REQUESTS:**

A. Dave **MENAKER**

Representing the SE Alaska State Fair Board, re. an idea to raise funds for the fair. He requested a special meeting with a small committee of the Assembly to listen to the detailed proposal and to ask questions and to help identify obstacles. Mayor **CASE** summarized the idea for the Assembly: Divide parcels of the fairgrounds in 1-inch increments, and sell them in exchange for money and a deed. **SCOTT** suggested

that the Planning Commission should be involved. **MENAKER** said he was informed that as long as the ground is not developed, there should not be any problems. He just wants the Assembly's permission and blessing. **OLERUD** said that the proposal letter was in the meeting packet for the last Planning Commission meeting. Karen **HARVEY** did some preliminary research and discovered a few problems, although they are not insurmountable. **SCOTT** said that she is interested in helping this project move forward. Mayor **CASE** asked **OLERUD** to set up a small committee, and **SCOTT** volunteered to participate. The committee will establish a meeting date.

7. MAYOR'S COMMENTS/REPORT:

Mayor **CASE** introduced his daughter, Mary Marks, visiting from Anchorage.

He quoted Mark Twain: "The rumors of my demise are greatly exaggerated." He received a clean bill of health.

8. PUBLIC HEARINGS:

PROPOSED NEW **ECO ORCA** COMMERCIAL TOUR

The Mayor opened the hearing to the public at 6:40 p.m.

Steve **KROSCHEL** identified himself as the owner of the wildlife film park. He has been doing animal education and film work for most of his life and wants to entertain and educate people, especially other film makers. It is his opinion that Eco Orca should be allowed to conduct the new tour, and he would also like to see others bring tours out there.

Mary **MARKS** asked if tours would be offered to school children after the summer tourist season is over. **KROESCHEL** said "absolutely" and that the park is opened only by appointment.

Hearing no further comments, the Mayor closed the public hearing at 6:05.

SCHNABEL asked to hear from the Manager in light of his stated position on the permit. Mayor **CASE** asked if there were any objections to suspending the rules to discuss the issue prior to a motion. Hearing no objections, he asked **TROLL** if Dave **BUTTON**, ECO ORCA owner, had seen the letter and supplemental material. **TROLL** said he had and that the stated concerns need to be cleared up.

BUTTON expressed appreciation for the Manager's response and those of the citizens. **SCHNABEL** asked him to comment on the

complaints that his mode of operation is apparently not in keeping with the standards the Haines Borough desires. If true, it would be difficult to approve the new tour without assurances. **BUTTON** said that he believes some of the comments are out of line and does not want to defend himself. **LAPP** asked if he has employees. **BUTTON** stated "no" but said that he is getting ready to "put a fella on and will be taking care of the needed requirements." He has volunteers that help him out, but no employees. **SCHNABEL** commented that she feels a little bit awkward about the new tour hearing process and is uncertain of the level of scrutiny expected by the Assembly. She also expressed concern about the volunteer aspect of ECO ORCA's business. **BUTTON** responded that the volunteers are in a training program and as soon as they become employees, he will get the necessary insurance.

SCHNABEL said that she is concerned about liabilities and asked **LENDE** to respond to the issue of making the Borough liable by approving tours. **LENDE** said that the Borough is not accepting liability by approving tours. The permitting process came about to make sure that there were standards upheld and as a way to inform the public of the activities. The City's responsibility was limited to the pickup at the dock and the transportation throughout the city. That's the basic permit information that is gathered. In this particular case, the complaints against ECO-ORCA are a separate item from this particular new tour. The complaints need to be pursued by the Administration and need to be resolved or permits revoked. **LENDE** said he believes this new tour should be scrutinized separately. He is concerned about taxes, vehicles, etc. Mayor **CASE** read 5.18.40 "Hearing for commercial tours" from the former City Code. **OLERUD** expressed disagreement with **LENDE**'s opinion. He said that if a person is operating existing tours and going outside the rules, the Assembly should not allow a new tour until the issues are cleared up and rectified to the Manager's satisfaction.

SCOTT said that the tour permit application form refers to the *Operator's Code of Conduct*, and she asked if the complaints indicate a lack of adherence to that conduct code. If so, is failure to adhere to it sufficient to withdraw a permit, and what kind of weight does the Code of Conduct have? She would like to see a review of that code. The allegations may or may not be substantiated, and she suspects that the marketplace would bear it out. She is unclear of the Assembly's responsibility here. **LENDE** said that the Code of Conduct changes; it is flexible depending on the dock atmosphere that can be different at the beginning of each year. It's a behavioral thing and cannot necessarily be enforced. If there are operators involved that do not

believe that the code is being followed, then it should be used. **SCHNABEL** said that, to date, no complaints have been received by the Assembly by the other operators regarding ECO ORCA.

Jane **BUTTON** requested permission to address the three complaints in question. She said that one happened recently, and she was the one that dealt with the situation. She had gotten a heads-up call from Eddie **HERZINGER**, President of Chilkat Cruises, saying that he was overbooked. Since ECO ORCA is "low man on the totem pole", their customer was forced to leave the fast ferry. Her money was refunded in full. The second complaint involved a misunderstanding and the individual received a full refund. Regarding the third complaint, a group that had booked the tour was adamant that the individual leave because they were not a part of the group. Dave **BUTTON** talked about the many kudos their company has received. He gives a refund to everyone that does not have a good time.

SCHNABEL pointed out that the Assembly must deal with the complaints. She stated that she personally has no complaints about ECO ORCA.

M/S **LAPP/SCOTT** motion to approve the new tour portion and issue the permit.

M/ **OLERUD** motion to table the issue. The motion died for lack of a second.

Mayor **CASE** asked for an amendment to make it subject to the review of the Chief of Police and the Harbormaster per code.

M/S **LAPP/SCOTT** motion to amend the original motion to make the approval subject to the approval of the Chief of Police and the Harbormaster per code.

The motion to amend the main motion passed four to one with **OLERUD** opposed.

LENDE asked if the Townsite area sales tax would be applicable to the whole tour. Mayor **CASE** responded that he understands it to be. **SCHNABEL** asked how the price of admission into the animal park is to be handled. Dave **BUTTON** said the plan is to include the park admission in his tour, but that **KROSCHER** is still working on getting his own permits and approvals in place. An admission price has not yet been determined. **BUTTON**'s request for tour approval is just one piece of the whole process. Jane **BUTTON** explained that she sells tour packages involving various businesses. Each individual operator is responsible for their own tour; she is

paid a commission. She believes that she would collect the sales taxes for the tour portion but that someone like **KROSCHER** would be responsible to collect the tax on his park admission price. Mayor **CASE** interjected that he believes **BUTTON** is mistaken; as the seller of the tour package she would be the one to collect all applicable sales tax to remit to the Borough. He added that while it is an important issue, it does not have a bearing on the approval of the new tour.

OLERUD said that the Code of Conduct talks about solicitation, traffic patterns, etc. **BUTTON**'s plan for the new tour is that some sales would occur inside his vehicles suggesting solicitation. **LENDE** said that solicitation can occur in specified areas of the P.C. Dock only. Jane **BUTTON** said, on the contrary, the City Council last year approved the selling of tours within the tour vehicle.

The main motion as amended---to approve the new Eco Orca tour subject to the prior approval of the Police Chief and the Harbormaster---carried four to one with **OLERUD** opposed.

LENDE asked that the sales tax question be clarified.

9. REPORTS OF CITY OFFICERS/DEPARTMENT HEADS:

A. Borough Manager

In addition to the written report, the following was discussed:

1. Former Library Remodel

TROLL said that the architect proposal came in at 12.1% of \$75,000, well below the 15% limitation. **LENDE** asked if the Assembly would have any input regarding the renovations that take place. He expressed concerns about maintaining flexibility for future building use and would like to see flexible partitions as opposed to permanent walls. He does not believe that the Assembly has been asked for input. Mayor **CASE** said that everyone except the Assembly has seen a design layout. The Mayor also said that the only structural changes will be raising one side to make it all one level and to make the restrooms truly handicapped-accessible. Input from the Assembly would certainly be welcome. **LENDE** said that the original design was cubicle offices and wants an opportunity to review the current design. **TROLL** explained that, according to the current plan, the left side of the building would be primarily offices, the middle portion open, and the right a combination of open and closed. **LENDE** reiterated that he is just concerned about future usefulness. **OLERUD** agreed that he would like to see minimal permanent walls. **SCHNABEL** expressed a desire to be involved.

- C. Borough CFO - NONE
- D. Economic Development/Tourism - NONE
- E. Police Chief - WRITTEN
- F. Library - NONE
- G. Museum - WRITTEN
- H. Public Works - NONE
- I. Water/Sewer - WRITTEN
- J. Fire/EMS - NONE
- K. Harbors - NONE

10. BIDS/PROPOSALS RECEIVED:

11. REPORTS OF STANDING COMMITTEES/COMMISSIONS:

A. Boat Harbor Project - Army Corps Meeting In Anchorage

OLERUD said that pretty much everything was resolved at the meeting. He was impressed with all of the positive comments and said that the Corps considers the Haines project a good one. He noted that, contrary to the Chilkat Valley News report August 2002 saying, "The Harbor Project is sinking," the project is definitely alive and going forward. He gave kudos to Robert **VENABLES** for doing a good job of keeping on top of the project and to Jim **STUDLEY** and Jeff **STOUT** for their involvement. He thanked local businesses, **DEJON DELIGHTS**, **SAUCY LISA'S**, and **HAINES BREWING COMPANY** for donating salmon, sauces, and beer, and **STUDLEY** for donating Dungeness crab. **OLERUD** believes it allowed more of a casual atmosphere for the boat harbor discussions and really helped.

B. Personnel Committee

LENDE said that the committee met to discuss the Controller position request. He gave a brief history of the unsuccessful efforts to find a Chief Fiscal Officer for the Borough. It is apparent that a qualified individual cannot be hired at the pay rate the Borough can afford. Therefore, the idea is to scale back to a controller position at a reduced rate to attract a wider pool of applicants. **LENDE** said the position would be advertised. Mayor **CASE** explained that the Manager had an idea to advertise for controller and advertise a request for contract services at the same time to determine the best solution for the Borough. A contractor would administratively report to the Borough Assembly. **SCOTT** expressed a concern that the Borough's financial matters be handled close to home; she wants to be able to see them face-to-face. Mayor **CASE** said that he suspects that one of the criteria would be that the contactor's representative would have to be located in Haines.

C. Government Affairs Committee

SCOTT reported that the committee looked at the area-wide sales tax issue and looked at services. She believes more discussion is needed before action can be taken and requested another committee meeting.

12. REPORTS OF SPECIAL COMMITTEES: NONE

13. CONSIDERATION OF RESOLUTIONS, PETITIONS AND MEMORIALS:

14. CONSIDERATION OF ORDINANCES PROPOSED FOR INTRODUCTION:

15. CORRESPONDENCE:

16. OLD BUSINESS:

17. NEW BUSINESS:

Mayor **CASE** asked the media to respect the confidentiality of the item he was bringing to the table. He asked the Assembly to consider his idea of naming the park at 3rd and Main "Mark's Park" in honor of George **MARK** who has voluntarily taken care of it for several years. The Mark family is moving to Idaho, and the Mayor wants to surprise him with a sign. The Assembly members had no objection but requested that the sign say "George Mark's Park."

18. SET COMMITTEE MEETING DATES:

SPECIAL FAIR COMMITTEE meeting scheduled for Thursday, July 24, at 12:00 noon to discuss the fundraising idea proposed by Dave **MENAKER**.

GOVERNMENT AFFAIRS COMMITTEE meeting scheduled for Tuesday, July 22, at 12:00 noon to continue discussions about the Charter mandate regarding area-wide sales tax.

19. ASSEMBLY MEMBER COMMENTS:

OLERUD said that he believes it is odd that a town like Hoonah can attract 33 cruise ships and everyone there seems ecstatic about them, and Haines has only eight.

SCHNABEL said that she will not be introducing an ordinance at this time to ban plastic bags. She was unable to garner interest from Haines Sanitation to participate in drafting guidelines for an ordinance, and Howsers IGA has, on their own initiative, introduced biodegradable bags. Also, given the climate of citizen reactions to a possible ban, she has decided to let the issue rest for a while.

SCOTT, referring to the latest police report, expressed concern about alcohol consumption by minors. The numbers seem high to her. She also asked for a report on what is happening with the skateboard park. **SCHNABEL** said that the park has drain problems. A next step could be to design a roof that can protect it from rainwater. **LENDE** said that he talked to Ralph Borders of Public Works and was told that another alternative would be to raise the platform and include drains in it. That combined with a roof would be great for the park. **TROLL** asked if this would make this skateboard park permanent? He understood that the Planning Commission was told it would be temporary.

Mayor **CASE** informed the Assembly that Keith Bettridge and wife are in town house hunting.

20. ADJOURNMENT

M/S OLERUD/LAPP Motion to adjourn.

Motion carried unanimously.

The meeting was adjourned at 8:21 p.m.

Mike Case, Borough Mayor

ATTEST:

Julie Cozzi, Borough Clerk

S E A L: