



**Haines Borough
Borough Assembly Meeting #37
February 18, 2004
MINUTES**

1. **CALL TO ORDER/PLEDGE TO FLAG**: Mayor Mike **CASE** called the meeting to order at 6:33 p.m. in the Assembly Chambers of the Municipal Building and led the pledge.
2. **ROLL CALL Present**: Mayor Mike **CASE** and Assembly Members Jerry **LAPP**, Stephanie **SCOTT**, Douglas **OLERUD**, Lucy **HARRELL**, Norm **SMITH**, and Debra **SCHNABEL**.

Staff Present: Julie **COZZI**/Borough Clerk, Keith **BETTRIDGE**/Borough Manager, CJ **JONES**/Museum Curator, and Robert **VENABLES**/Economic Development Director.

Visitors Present: Christa **SADLER**/CVN, Dawne **THOMSEN**, Blaine **THOMSEN**, Al **GILLIAM**, Patricia **BLANK**, Gregg **RICHMOND**, and Carolyn **WEISHAHN**.

3. **APPROVAL OF AGENDA & CONSENT AGENDA**:

M/S **OLERUD/SCOTT** Motion to approve the Consent Agenda.

The following agenda amendments were requested:

- 1) by **SCOTT** - remove the 2/4/04 joint meeting minutes and add to the next meeting's agenda;
- 2) by **SCHNABEL** - add under New Business a resolution to join the Southeast Alaska Coalition of Fishing Communities;
- 3) also by **SCHNABEL** - add under New Business a resolution Supporting CIA's Application for a planning grant from the Alaska Native Health Consortium to update the Haines Borough Solid Waste Management Plan;
- 4) by Mayor **CASE** - in New Business, move the discussion of Carolyn **WEISHAHN**'s issue regarding zoning and the comprehensive plan up to the spot just prior to the proposed introduction of Ordinance 04-02-045; and
- 5) also by Mayor **CASE** - move the Boat Harbor Feasibility Study Amendment #3 request up from New Business to the Mayor's Report (Robert **VENABLES** has another meeting to attend at 7:00pm).

The motion to approve the consent agenda, as amended, carried unanimously.

4. **APPROVAL OF MINUTES**: *February 11, 2004, Regular Meeting

5. **PUBLIC COMMENTS**:

Carolyn **WEISHAHN** read a statement regarding her understanding that no zoning should take place before the comprehensive plan is adopted and encouraged the assembly to look at the situation carefully.

6. MAYOR'S COMMENTS/REPORT:

• Helicopter SUD

Regarding the helicopter SUD, Mayor **CASE** said that the document is somewhere between the Attorney General's office and the Lt. Governor's office. However, DNR is treating it as though it is in place and effective.

• Boat Harbor Feasibility Study Amendment #3

A request was made by Robert **VENABLES** for approval of the contract amendment increasing the borough's portion by \$15,191 to complete the feasibility study. The Haines Navigation Improvements contract is between the Dept. of the Army and the Haines Borough. He explained that the study has taken longer than expected and additional expenses have been incurred. The monies are in the budget, but an approval motion is needed from the assembly.

M/S **OLERUD/LAPP** to approve the additional \$15,191 needed for Boat Harbor Feasibility Study Amendment #3.

The Motion carried unanimously by roll call vote.

The mayor provided the assembly an opportunity to pose additional questions to **VENABLES**. **SCOTT** asked for a status report on the ice machine. **VENABLES** responded that a pre-application is expected in 3 to 4 weeks followed by application in April and a fast track for completion by July (the peak ice month). Mayor **CASE** said that there are other ice machines in the community that are admittedly older, as well as legal issues regarding ownership of the machines. There are two 20-ton machines and 5- and 7-ton machines. **HARRELL** added that some fishermen were turned away when they needed ice, because some of the machines were not functioning.

7. PUBLIC HEARINGS:

A. Ordinance 04-01-041 - (First Hearing)

An Ordinance of the Haines Borough adopting Haines Borough Code Title 1 - General Provisions; and Title 2 - Administration and Personnel; and setting an effective date pursuant to Haines Borough Charter requirements.

Mayor **CASE** opened the public hearing at 6:45 p.m.

CJ **JONES** said that the oath of office text puzzles her and wondered why it was changed. **SCHNABEL** said it was changed to match the oath in the Charter.

WEISHAHN expressed a concern that if Section 2.96.010 (D) is followed by the letter of the law, it would limit participation. She would like to see that it be changed to allow anyone to run for office except for a borough employee

February 18, 2004

Page 3

directly hired by the assembly. Mayor **CASE** said that he takes the position that a school district employee is not a borough employee. Therefore, his ruling is that being an employee of the school district does not preclude being on the assembly. **LAPP** asked if there is any reference in the Charter (No). **OLERUD** asked how a school district employee is distinguished from a borough employee. **LAPP** said that in the former third class borough a real distinction wasn't needed because the assembly members were also school board members and that naturally meant that school district employees could not hold office. **SCHNABEL** suggested amending the language to be more clear.

Mayor **CASE** closed the public hearing at 7:07 p.m.

M/S **HARRELL/LAPP** Motion to move Ordinance 04-02-041 to its second public hearing on March 3, 2004.

M/S **SCHNABEL/SCOTT** Motion to amend Title 2 by adding changes outlined in the document dated 2/16/04 (herewith to become a part of the permanent meeting record), along with adding the following wording to Section 2.96.010(D): "except a school district employee."

OLERUD expressed a desire to appeal the mayor's ruling on a school district employee not being a borough employee.

SCHNABEL/SCOTT agreed to withdraw the motion on the table so that **OLERUD** could appeal.

M/S **OLERUD/LAPP** Motion to appeal and reverse the mayor's ruling that a school district employee is not a borough employee for purposes of serving on the assembly.

OLERUD voiced concern about the conflict of interest potential and said that there is a direct personal stake for the person involved in any vote concerning school finances. "Based on the argument that they are a separate entity, if the school district employees are not considered borough employees, then the library and the museum employees would not be considered borough employees if they were to be looked at equally." He would like to get a legal ruling on this. **SCOTT** said that the school district is the largest employer in the borough, and this would eliminate a large segment of the population from serving. She added that it could be a campaign issue. **SCHNABEL** agreed with **SCOTT** and said, "In the broad scope of issues debated annually, the school budget is a small portion." **OLERUD** said he wants to know why it's different and okay to exclude someone from the library or museum from being on the assembly and not the school district. The potential conflict of interest really concerns him. Mayor **CASE** explained that the assembly controls all of the monies that

February 18, 2004

Page 4

pay borough employees but only second-handedly controls the monies for the school district's employee wages. **SCHNABEL** said that the assembly is the policy-setting board for all of the departments so it isn't just about money. The School Board sets policy for the school district. **OLERUD** asked if it is appropriate for **SCOTT** to participate in the vote. **SCOTT** responded that she would recuse herself out of deference to **OLERUD**. **OLERUD** changed his mind and said he believed it would be appropriate for **SCOTT** to vote, and **SCOTT** said she would like to.

The Motion carried. The vote was tied with **HARRELL**, **SCHNABEL**, and **SCOTT** opposed. Mayor **CASE** broke the tie with a "yes" to reverse his own ruling, because he had not understood that there would be such strong objection to it.

M/S **SCHNABEL/SCOTT** Motion to amend Title 2 by adding changes outlined in the document dated 2/16/04 (herewith to become a part of the permanent meeting record), along with adding the following wording to Section 2.96.010(D): "except a school district employee."

The amendment motion carried with **OLERUD** opposed.

The main motion to move the ordinance to its second hearing carried with **OLERUD** opposed.

B. Ordinance 04-02-043 - (First Hearing)

An Ordinance of the Haines Borough adopting Haines Borough Code Title 3 - Revenue and Finance; and Setting an effective date pursuant to Haines Borough Charter requirements.

Mayor **CASE** opened the public hearing at 7:27 p.m.

WEISHAHN asked why the texts for the road maintenance service area funding and reserve requirements are not the same. The Dalton Trail RMSA is written differently. They should be the same or there should be a clear explanation as to why they are different.

SCOTT said that staff needs to be given an opportunity to explain the difference. **SCHNABEL** said that the assembly has to hold to the language voted on by the people in each RMSA. If there were original language differences, they should be retained. **LAPP** agreed that the appropriate text is the language that was voted on.

BLANK asked the assembly to come up with a format to offer the public an opportunity for input. Mayor **CASE** responded that there have been frequent Committee of the Whole meetings advertised where the public could be involved.

Mayor **CASE** closed the public hearing at 7:32 p.m.

M/S **LAPP/SMITH** Motion to move Ordinance 04-02-043 to its second public hearing on March 3, 2004.

M/S **SCHNABEL/LAPP** Motion to amend the ordinance pursuant to the document dated 2/16/04 (herewith to become a part of the permanent meeting record).

The Motion to amend carried unanimously.

The main motion carried unanimously.

8. STAFF REPORTS:

A. Manager

BETTRIDGE summarized his written report and asked the assembly for questions and comments regarding any of the department reports.

- Tidelands

LAPP said that he believes the former borough assessor, Dan Turner, had submitted an application for the Katzehin. **BETTRIDGE** agreed to check into it. **LAPP** said that he is supportive of the borough trying to fall under the Alaska State Statute section 38.05.820 as opposed to the more limited 38.05.825. **SCHNABEL** suggested flying Scott McClintock over from Nome if he is available, because he had already done most of the survey work. **LAPP** said that the work is done and just needs to be stamped off. He agreed that it would behoove the borough to get him to finish it.

There was no objection to pursuing the pending tideland applications under section 38.05.820. **BETTRIDGE** will proceed. **SCOTT** asked him, however, to hold off on hiring the attorneys because of a belief that borough staff could successfully make any needed arguments.

- Public Works Caterpillar 950B Loader

SMITH asked for clarification on the loader needing repair. **BETTRIDGE** said that it is one of the old loaders and repair had been anticipated at some point. There is one quote in from an out-of-town business, but quotes will be solicited from local businesses that believe they are qualified to repair it. **SMITH** said that this loader is going to be needed to plow snow. Mayor **CASE** said he asked Bruce **SMITH** if this is throwing good money after bad and he assured him it was not; it would be a great machine after the repair.

- Port Chilkoot Dock

SCOTT asked about the status of the bumpers on the Port Chilkoot dock. **BETTRIDGE** said that the bumpers will be in place before the cruise ships get in. He added that it may involve a tug service to come in to stabilize the piling and

February 18, 2004

Page 6

tie the bumper back on. **SCHNABEL** gave **BETTRIDGE** a copy of a 1998 Chilkat Valley News report of a prior problem with the dock. **SCOTT** asked about insurance covering this. **BETTRIDGE** agreed to check on it.

- **Water Meters**

LAPP asked who is in charge of checking water meters and making sure they are in working order. **BETTRIDGE** said that it is Scott **BRADFORD** or Bruce **SMITH**. Mayor **CASE** cautioned the assembly that it is important to remember that statements and discussions concerning an employee's or department's job performance must only take place in executive session.

- **Water Leaks**

SCHNABEL said she was notified that the water pressure in her trailer park was low. The borough employees have determined that there is definitely a leak in the Fourth Avenue area, but multiple attempts to determine the actual source prior to snowfall were not successful. **BETTRIDGE** agreed to talk with Scott **BRADFORD** about the status of the leaks.

9. **COMMITTEE/COMMISSION REPORTS:**

- **Finance Comittee**

SCHNABEL said that general and specific issues have been discussed at the committee's weekly meetings with borough controller, Bob **KLING**. An estimated \$320-\$420K decrease in revenue is projected due to the tax cap. Department heads are being asked to look at a 6-8% reduction in their budgets. **SCHNABEL** reported that the committee also met with the school superintendent and the chairman of the school board to give them some sense of how funding issues will be approached. She said the assembly should develop a policy so that the school district can move forward to make needed building repairs. Additionally, the committee met with Chief Greg **GOODMAN** and Leonard **DUBBER** regarding the police department budget. The committee recommends that the assembly determine what level of police protection the community wants. "Right now, **GOODMAN** is under the assumption that the community wants 24-7 coverage." At some point, the committee would like to do a survey to determine the community's desires. Regarding budget cuts, **SCOTT** said that it is important to inform the assembly that it is very difficult for the departments to reduce their budgets. She added that the committee also discussed additional sources of revenue. One idea was looking at valuation of property. "We have not had a full-time assessor on board for a few years." She asked **BETTRIDGE** to report next meeting on the progress of the contract assessment. Mayor **CASE** said that Karen **HARVEY** added a significant number of properties to the rolls while she was here. **HARRELL** suggested that an idea

might be to contract with Karen **HARVEY** to update the assessment.

10. OLD BUSINESS: None

11. NEW BUSINESS:

A. Ordinances for Introduction

1. Ordinance 04-02-044

An Ordinance of the Haines Borough adopting Haines Borough Code Titles 5 - Business Licenses, Permits, and Regulated Activities; 6 - Animals; 7 - Service Areas; 8 - Health and Safety; And 9 - Public Peace, Morals, and Welfare; and setting an effective date pursuant to Haines Borough Charter requirements.

M/S **HARRELL/LAPP** Motion to introduce this ordinance and move it to its first public hearing on 3/3/04.

HARRELL suggested amending the title by changing "scrap iron" to "scrap metal" in section 8.08.010 under the definition for "rubble." She also suggested adding "helicopters" to the list of exceptions in section 8.12.20(E). **OLERUD** said he does not understand why helicopters belong in there and asked **HARRELL** to explain her reasons. **HARRELL** said that helicopters have been the subject of complaints saying they are noisy. "This needs to be clarified. If a helicopter is allowed otherwise, it should not be prohibited because it is considered noisy." **SCOTT** said she is concerned that adding helicopters to the exception list would signal the public that a liberal approach is being taken. **SMITH** said that a person could go on for hours listing exceptions to nuisances. "In the Townsite Service Area, the people have said that they don't want helicopters, and it should be left alone. **LAPP** said he is not against adding it in as an exception. **SCHNABEL** said it might be more acceptable to drop the list altogether. "Permitting and duration are the real issues." **LAPP** said he agrees with dropping the list altogether. **HARRELL** agreed to the idea of dropping the list altogether. There was no objection to either of the amendments to the title.

The motion carried unanimously.

2. Ordinance 04-02-045

An Ordinance of the Haines Borough Assembly amending Haines Borough Code Section 18.70.030, Sub-Section M, Number 5 - General Use Zoning District, Conditional Uses, as adopted by Ordinance 03-02-007 on 2/5/2003, to remove the deadline from the Heliport Special Use Zone designation.

M/S **SCHNABEL/SMITH** Motion to introduce Ordinance 04-02-045.

February 18, 2004

Page 8

Mayor **CASE** asked if the assembly was within its legal rights to pass the zone ordinance in the first place since it was prior to the comprehensive plan. **SCOTT** spoke in favor of this ordinance. **HARRELL** said the ruling has been made that none of the zoning ordinances that have been made since the borough consolidated are valid; all must be repealed. **BETTRIDGE** said as they are considering this ordinance, they need to understand the use-by-right helicopter activity already in place. **SCHNABEL** asked what ordinances have been passed. She said her understanding is that the Charter required that the General Use Zone be passed. "So, the only ordinance questionable would be the one amending the sunset clause deadline to 2/29/04." **SCOTT** asked the mayor if he is suggesting that the most the assembly should have done was designate the general use area. Mayor **CASE** said he is just asking the question since it has now come to the Borough's attention that the former comprehensive plan was not appropriate, and a new one must be put into place prior to zoning.

A short recess was called at 8:30pm. The meeting reconvened at 8:37.

SCOTT read from the Consolidation Transition Plan, Exhibit J, Page 8. She pointed out that the Planning Commission voted 5 to 1 to include heliports as a conditional-use requirement. **OLERUD** said that the Charter does not specifically say heliports. **SCOTT** explained that it says "such as..." and only lists a few examples. **SCHNABEL** spoke in favor of the ordinance but also wanted to introduce a discussion about conditional-use permits. "Most of us are reacting to this ordinance because we have our own conception of what a conditional-use process means. It does not have to be considered negative." **SCOTT** agreed and said she has also been concerned about the negative concept of conditional-use permits. "They are useful and should not be feared. It is a mechanism for review of development. Land use affects our neighbors." **HARRELL** said, "Each property owner should be able to know what the zone will and will not allow from the get go. Investors need assurance of their long-term investment in order to be willing to commit. Conditions can be changed." **SCHNABEL** asked for an estimated time of completion for the new comprehensive plan. **THOMSEN** said the draft should be done very soon and will have the Clerk provide a copy of it to the assembly members to review. She added that the planning commission is hoping that the plan will be an asset to people that want to purchase property.

In response to hands raised in the audience, Mayor **CASE** clarified that this is a discussion regarding whether to

February 18, 2004

Page 9

introduce the ordinance or not. The public will be provided an opportunity to speak during a public hearing if it comes to that. He also added that he spoke with representatives of both the State and BLM and was told that there are no known problems with **GILLIAM's** permitting.

The motion to introduce the ordinance passed. The vote was tied with **LAPP**, **HARRELL**, and **OLERUD** opposed. Mayor **CASE** broke the tie with a "yes" to keep it alive but said that he is against the ordinance and will use whatever means available to him to suppress it if it comes to an adoption vote.

B. BID AWARDS AND EXPENDITURE REQUESTS

Patrol Vehicle - Police Department

Four bids were received, and the assembly reviewed the clerk's recommendation to award it to the apparent low bidder. The assembly asked for an opportunity to review the specifics of each vehicle because of the wide range of bid amounts. It was decided that the award would be delayed until after the executive session to give the clerk time to produce the additional information.

C. OTHER NEW BUSINESS

1. Resolution 04-02-036

A resolution of the Haines Borough Assembly supporting application for a planning grant from the Alaska Native Health Consortium to update the Haines Borough Solid Waste Management Plan.

M/S **SCHNABEL/SCOTT** Motion to adopt Resolution 04-02-036.

SMITH asked why the resolution does not show the dollar amount possible to receive from the grant. **SCHNABEL** said that the maximum amount is \$12,000. The grant monies would come to the Chilkoot Indian Association who would administer the grant. The Borough would assist.

The motion carried unanimously by a roll call vote.

2. Resolution 04-02-037

A resolution of the Haines Borough Assembly to join the Southeast Alaska Coalition of Fishing Communities.

M/S **SCHNABEL/SMITH** Motion to adopt Resolution 04-02-037.

SCHNABEL said that the borough would probably benefit from being a part of the program allowing communities to participate in the quotas for halibut and sable fish. She suggested that the assembly consider joining the SE AK Coalition of Fishing Communities. **BETRIDGE** explained that it is a program that allows communities to purchase

February 18, 2004

Page 10

IFQs (individual fishing quotas), and fishermen would be helped because they wouldn't have a big investment. The Borough would benefit from the fishermen having a bigger return. "It's a two-step hurdle." **SCHNABEL** asked for passage of the resolution and a referral of this to the Commerce Committee. Additionally, an individual should be identified to put this forward, and she suggested Bill **THOMAS** with Robert **VENABLES** as an alternate. There was no objection to those individuals.

The motion to carried unanimously by a roll call vote.

M/S **OLERUD/LAPP** Motion to go into Executive Session to discuss Union 71 Labor Negotiations.

The assembly was in executive session for 1 hour and 12 minutes [in at 8:58pm, out at 10:10 p.m.]

M/S **HARRELL/SMITH** Motion to reconvene the regular meeting.

The discussion regarding the Police Dept. Patrol Vehicle bid award was resumed.

The clerk distributed the requested copies of the vehicle specifications for each of the four bids received.

M/S **OLERUD/LAPP** Motion to purchase the new police patrol vehicle from the low bidder, Mendenhall Auto in Juneau.

The Motion carried unanimously on a roll call vote.

12.SET COMMITTEE MEETING DATES:

Finance Committee meetings will occur every Tuesday at 4:00pm until further notice. The next one is February 24.

There will be **Committee of the Whole** meetings at 6:30pm on February 23, 25, and 27 to continue the review of code titles.

13.ANNOUNCEMENTS/ASSEMBLY COMMENTS:

14.ADJOURNMENT:

M/S **OLERUD/LAPP** Motion to adjourn.

Motion carried unanimously.

The meeting was adjourned at 10:12 p.m.

Mike Case, Borough Mayor

ATTEST:

Julie Cozzi, Borough Clerk