

Approved

Haines Borough
Borough Assembly Meeting #38
March 3, 2004
MINUTES

1. **CALL TO ORDER/PLEDGE TO FLAG**: Mayor Mike **CASE** called the meeting to order at 4:30 p.m. in the Assembly Chambers of the Municipal Building and led the pledge.

2. **ROLL CALL** **Present:** Mayor Mike **CASE** and Assembly Members, Stephanie **SCOTT**, Lucy **HARRELL**, Norm **SMITH**, and Debra **SCHNABEL**.
Absent: Assembly Members Jerry **LAPP** and Douglas **OLERUD**.

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

Visitors Present: Christa **SADLER**/CVN, Dawne **THOMSEN**, Al **GILLIAM**, Patricia **BLANK**, Gregg **RICHMOND**, Tim **JUNE**, Don **TURNER**, Jr., Vince **HANSEN**, and Carolyn **WEISHAHN**.

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

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

The following agenda amendments were requested:

- 1)by **SCOTT** - to remove the 2/4/04 joint meeting minutes;
- 2)by Mayor **CASE** - to move up the DOWL engineers' airport plan presentation from New Business to a point immediately following the approval of minutes.

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

4. **APPROVAL OF MINUTES:** *February 4, 2004, Joint Meeting, *February 18, 2004 Regular Meeting, and *February 23, 2004 Emergency Meeting.

SCOTT said that the school district's version of the joint meeting minutes contains a more extensive synopsis of Carol **KELLY**'s comments regarding the FY04 funding request. She requested inserting those comments into the borough's minutes. Mayor **CASE** also pointed out that school board member, Stacy **TURNER**, was present at the meeting but was not listed.

M/S **SCOTT/SMITH** Motion to accept the February 4, 2004 Joint Meeting minutes, as amended.

The motion carried unanimously.

5. **PUBLIC COMMENTS:**

Tom **MITTENDORF**, of DOWL Engineers, and Verne **SKEGERBERG**, of ADOT&PF, (via teleconference from Juneau due to poor flying

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conditions) gave a presentation on the completed Draft Report of the Haines Airport Master Plan. The Plan addresses maintenance and development issues related to the airport for the next 20 years. The assembly and audience were able to follow along with copies of the slide presentation that had been prepared as the plan was summarized. There was no public comment offered. **HARRELL** asked about the aircraft size the airport can currently accommodate and how large the plan would allow. **MITTENDORF** said that it could probably accommodate up to a C-130 but obviously heavier aircraft could create pavement deterioration issues that would have to be addressed. He said the mayor had inquired about the capacity for larger planes because of the potential for mining in the area and some military transports. **SCOTT** asked what the next step is. **SKEGERBERG** explained that they are already moving ahead on some of the plan and are working projects into the FY07 statewide spending plan. The engineers thanked the mayor and assembly for the opportunity to present the plan.

6. MAYOR'S COMMENTS/REPORT:

Mayor **CASE** said that the issue has been settled regarding a school district employee serving on the assembly. AS 29.20.630 clearly states that it must be allowed.

The mayor praised the new harbormaster, Bob **WENTWORTH**, for a good job of jumping in and getting started on a preventive maintenance plan.

7. PUBLIC HEARINGS:

A. Ordinance 04-01-041 - (Second 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 5:02 p.m.

Tim **JUNE** said that he finds the new code to be an excellent draft but offered a few suggestions to make it better. He provided the written suggestions to the Clerk for consideration by the assembly.

Mayor **CASE** closed the public hearing at 5:06 p.m.

M/S **SCOTT/SCHNABEL** Motion to set Ordinance 04-02-041 for a third public hearing on March 17, 2004.

SCOTT and **SCHNABEL** both stressed the importance of sending this ordinance to a third public hearing to give the assembly an opportunity to consider **JUNE**'s suggestions.

The motion to carried unanimously.

B. Ordinance 04-02-043 - (Second 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 5:12 p.m.

JUNE suggested some changes to certain sections of Title 3 prior to adopting the ordinance.

WEISHAHN expressed concern about the inconsistent funding text for different road maintenance service areas (RMSA). She would like to see them be worded the same.

Mayor **CASE** closed the public hearing at 5:20 p.m.

M/S **SCHNABEL/SCOTT** Motion to set Ordinance 04-02-043 for a third public hearing on March 17, 2004.

SCHNABEL said that the different ordinances adopted were voted on by the different RMSA boards. For example, the Chilkat State Park RMSA very clearly wanted to establish a service area that did not include revenue-sharing; they did not want to be taxed.

The motion failed with **HARRELL** opposed.

M/S **HARRELL/** Motion to adopt Ordinance 04-02-043.

The motion died for lack of a second.

M/S **HARRELL/SMITH** Motion to reconsider the vote on the motion to set the ordinance for a third public hearing on March 17, 2004.

SCOTT said she really wants the assembly to incorporate public comments into the code. **SCHNABEL** asked the public to please get their comments to the assembly ahead of time.

The motion carried unanimously.

C. Ordinance 04-02-044 - (first hearing)

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

Mayor **CASE** opened and closed the public hearing at 5:27pm; there were no public comments.

M/S **SMITH/SCOTT** Motion to move ordinance 04-02-044 to its second public hearing on March 17, 2004.

The motion carried unanimously.

D. Ordinance 04-02-045 - (first hearing)

An ordinance of the Haines Borough Assembly amending Haines Borough Code Section 18.70.030, Sub-Section M - General Use zoning district as adopted by Ordinance 04-01-038 on 1/21/04. #5-Conditional Uses would be amended to eliminate the heliport special use zone designation deadline.

Mayor **CASE** opened the public hearing at 5:36pm

WEISHAHN spoke in favor of the ordinance. "It would be responsible to remove the date since the attorney instructed that it was invalid."

Mayor **CASE** closed the public hearing at 5:39pm

M/S **SCOTT/SCHNABEL** Motion to move Ordinance 04-02-045 to its second public hearing on March 17, 2004.

SCOTT agreed with **WEISHAHN** that the date is invalid. She added that she looks at this ordinance as a needed housekeeping measure. **SMITH** said that the intention of the amendment is to ensure that the comprehensive plan is in place prior to zoning. **HARRELL** said the thing that bothers her is that "a conditional use permit would be required for areas that have an existing use. That would be a retroactive change in conditions. We would be opening ourselves up to a lawsuit by putting restrictions on existing use. That cannot be done without just compensation." **SCHNABEL** said that things change all the time. An activity will be allowable under certain conditions. The planning commission may simply say that the heliport currently in operation is allowed to exist. However, it is an important principle in our community to continually review." **HARRELL** said that a use-by-right would be better than a conditional-use permit. She does not like the idea of changing the ground rules in mainstream. Mayor **CASE** said that he is generally in favor of conditional use for heliports. However, he is not in favor of it at this time especially with respect to **GILLIAM's** business. He would like to see a use-by-right designation for him. **SCOTT** asked if the assembly actually ruled "uses that were in force at the time of consolidation in the general use zone would be grand fathered in." Mayor **CASE** said, "Yes, but the question is in the level of use." **HARRELL** said she would like the assembly to respect the planning commission's work. **SCHNABEL** said, "Through the course of a year, the assembly and the community has not wanted to interfere with the activity that **GILLIAM** has." She said that possibly text could be added to say that a current BLM permit or possibility of permit renewal would be required for a use-by-right. Otherwise, a conditional use would be required. **SMITH** asked **THOMSEN**, "Did the planning commission refer to **GILLIAM's** operation as a use-by-right and recommend

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that to the assembly?" **THOMSEN** said that the term "use-by-right" was actually coined by the attorneys at the time of consolidation. **GILLIAM's** situation is peculiar; it may not be reflected in some of the other helicopter issues that the assembly would be addressing." She said that we need some attorneys here to answer our questions. **SMITH** concurred with **THOMSEN** and said, "We cannot go any further without legal advice; we are in a gray area." **GILLIAM** said that he was permitted in writing in 2001 & 2002. "Information provided by the BLM to the assembly was erroneous, they lost my permits, and they now have an attorney on retainer." **SCHNABEL** asked **THOMSEN** what she means by **GILLIAM's** situation being peculiar. **THOMSEN** responded that every permit situation has a history, and one size does not fit all. **SCOTT** said, "This ordinance is not directed at **GILLIAM's** operation. It is directed at thousands and thousands of acres in the Haines Borough." She agreed with **SCHNABEL's** suggestion to amend the ordinance to exclude those with BLM permits.

M/S **SCHNABEL/SCOTT** Motion to insert "not allowed by a BLM or DNR permit or its renewal" between *heliports* and *shall*.

GILLIAM said that he does not have a current permit because they have been pulled while waiting for a local decision.

Mayor **CASE** suggested the following language: "Heliports, other than helicopter operations located in the upper Takhin and Tsirku, shall require a conditional use permit." **SCHNABEL** said it occurs to her that the entire issue is reflective of a fear regarding conditional use permits--that they would prevent the operation. "We have to find a way to continue the protections we need and still demonstrate our support for **GILLIAM.**" Mayor **CASE** explained that one option, at this moment, would be to withdraw the motion on the table and make a new motion tabling the ordinance. This would give time to craft language to ensure a use-by-right for a very specific area.

SCHNABEL/SCOTT withdrew the motion on the table.

M/S **SCOTT/SCHNABEL** Motion to table ordinance 04-02-045 until March 17, 2004 and to work in committee to craft language to ensure a use-by-right for a very specific area.

The motion carried unanimously.

8. STAFF REPORTS:

A. Manager

BETTRIDGE summarized his written report and asked the assembly for questions and comments.

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Regarding skateboarding, he pointed out that an ad has been put in the paper to notify the public that the nuisance code will be enforced; the police department has received a directive to patrol the business district and public property. Soon, an ordinance to add more specific skateboarding language to the code will be introduced in assembly and open for public hearing. Regarding a rubber fender for the Port Chilkoot Dock, he said the bids required by code have been solicited and received. The cost will exceed his discretion, so the assembly will be asked to approve the expenditure. He pointed out that the repair is of an emergency nature and time is of the essence to get it replaced prior to the first scheduled cruise ship docking on May 19. The fender must be ordered right away because it will take several weeks to arrive. **WENTWORTH** added that the fenders are custom-built in China. "We have to tell them what to build." **BETTRIDGE** asked the assembly to accept the low bid of \$7,004.05 and allow **WENTWORTH** to place the order immediately while staff prepares the appropriation ordinance for introduction at the next meeting.

M/S **SCHNABEL/SCOTT** Motion to accept the \$7,004 bid and to allow the harbormaster to place the order immediately prior to introduction of the appropriation ordinance at the next meeting.

SMITH asked for clarification regarding the shipping costs. **WENTWORTH** said that the bid is for FOB Seattle. One example of freight charges to Haines is AML's \$35 per 100 lbs. The fender weighs 2,500 lbs. **BETTRIDGE** added that the borough now has to pay a cost for having no preventive maintenance policy for a long time. He said that **WENTWORTH** is working on one now. **SCOTT** asked about insurance coverage. **BETTRIDGE** said there is a \$10K deductible.

The motion carried unanimously with a roll call vote and **SMITH** voting "yes" reluctantly.

9. COMMITTEE/COMMISSION REPORTS: None

10. OLD BUSINESS:

A. Restructuring the Ports & Harbors Sub-Committee

HARRELL asked for clarification about the current structure saying that the committee will be very much needed in the future regarding communication with the public, working with the harbormaster on port issues, and addressing the local match requirements of the small boat harbor expansion project. Mayor **CASE** said that it would remain as a sub-committee to the Commerce Committee.

B. Strategic Plan Facilitator

Mayor **CASE** clarified that it was not a bid situation, so logistics and costs can be negotiated. **SCHNABEL** spoke in favor of the McDowell Group because of their connection with the community. **SCOTT** said she prefers the Murray **WALSH** scenario of 3 days. Mayor **CASE** said that the low price does not have to be selected in this situation. There are other mitigating factors.

M/S **SCOTT/HARRELL** Motion to authorize the mayor to negotiate with the McDowell Group to facilitate for two days.

The Motion carried unanimously with a roll call vote.

11. NEW BUSINESS:

A. Ordinances for Introduction

1. Ordinance 04-03-046

AN ORDINANCE OF THE HAINES BOROUGH ADOPTING HAINES BOROUGH CODE TITLES 12 - STREETS, SIDEWALKS, AND PUBLIC PLACES; AND 13 - UTILITIES; AND SETTING AN EFFECTIVE DATE PURSUANT TO HAINES BOROUGH CHARTER REQUIREMENTS.

M/S **HARRELL/SMITH** Motion to introduce Ordinance 04-03-046 and move it to its first public hearing on March 17, 2004.

The motion carried unanimously.

2. Ordinance 04-03-047

AN ORDINANCE OF THE HAINES BOROUGH ADOPTING HAINES BOROUGH CODE TITLES 15 - SAFETY AND EMERGENCY RESPONSE; AND 16 - HARBORS; AND SETTING AN EFFECTIVE DATE PURSUANT TO HAINES BOROUGH CHARTER REQUIREMENTS.

M/S **SMITH/HARRELL** Motion to introduce Ordinance 04-03-047 and move it to its first public hearing on March 17, 2004.

The motion carried unanimously.

B. RESOLUTIONS

1. Resolution 04-03-038

A RESOLUTION OF THE HAINES BOROUGH ADOPTING THE STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES (ADOT&PF) AIRPORT MASTER PLAN FOR THE HAINES AIRPORT AND SEAPLANE FACILITIES.

M/S **SCOTT/SMITH** Motion to adopt Resolution 04-03-038.

The motion carried unanimously on a roll call vote.

C. BID AWARDS AND EXPENDITURE REQUESTS

1. Caterpillar 950B Loader Repair Bid - Public Works Department

Four bids were received, and the apparent low bidder is SE Road Builders, Inc. at \$2,675.00.

M/S **SCHNABEL/SCOTT** Motion to award the bid to the apparent low bidder, SE Road Builders, Inc., for \$2,675.00.

The motion carried unanimously with a roll call vote.

D. TAX EXEMPTION REQUESTS

1. Sales Tax Exemption Application - Big Brothers Big Sisters

M/S **SCOTT/SMITH** Motion to grant the request for sales tax exemption to Big Brothers Big Sisters.

The motion carried unanimously on a roll call vote.

E. OTHER NEW BUSINESS

1. Request for support from the Assembly for use of helicopters in the upper Takhin and Tsirku Valleys by Glacier Valley Wilderness Adventures

GILLIAM said, "This has nothing to do with State or BLM permits; we have had general use access for years." He also pointed out that his use is not high impact because the helicopters fly in and out of the upper Takhin -- NOT over private property, so no one hears them. He played two short videos to show what his operation is about.

The assembly meeting adjourned abruptly at 6:52 p.m., because the quorum ended when **SCOTT** had to leave for a pre-excused appointment. **GILLIAM** continued showing the videos, but no action was taken.

Mike Case, Borough Mayor

ATTEST:

Julie Cozzi, Borough Clerk