

Haines Borough
Borough Assembly Meeting #40
April 7, 2004
MINUTES

1. **CALL TO ORDER/PLEDGE TO FLAG:** Mayor Mike **CASE** called the meeting to order at 6:30 p.m. in the Assembly Chambers of the Municipal Building and led the pledge to the flag.
2. **ROLL CALL Present:** Mayor Mike **CASE**, Assembly Members Stephanie **SCOTT**, Lucy **HARRELL**, Norm **SMITH**, Jerry **LAPP**, Douglas **OLERUD**, and Debra **SCHNABEL**.

Staff Present: Julie **COZZI**/Borough Clerk, Keith **BETTRIDGE**/Borough Manager, Lori **STEPANSKI**/Tourism Director, Cynthia "CJ" **JONES**/Museum Director, Bob **KLING**/CFO, and Robert **VENABLES**/Economic Development Director.

Visitors Present: Dawne **THOMSEN**/Planning Commission Chair, Kristen **BIGSBY**/CVN; Dan **COLEMAN**/KHNS; Patricia **BLANK**; Vince **HANSEN**; Chip **LENDE**, Heather **LENDE**, Faith **LORENTZ**, Liz **MARANTZ-FALVEY**; Phillip **WILDE**, Robert **LOOMIS**, Don **TURNER**, Jr., Woody **WILSON**/School Superintendent, Fred **GRAY**, Ponda **DENNIS**, and a few others including young skateboarders Kyle and Michael.

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

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

SCHNABEL requested that the minutes be removed from the consent agenda. The following agenda amendments were requested by Mayor **CASE**:

- 1) Remove from Old Business the request from Al Gilliam, and
- 2) Add to New Business a resolution (04-04-041) to adopt school board compensation per the Charter and a resolution (04-04-042) supporting marine transportation.

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

4. **APPROVAL OF MINUTES:** *March 17, 2004, Regular Meeting

SCHNABEL asked that the minutes reflect that she joined the meeting via phone at 6:45pm and left the meeting just prior to the liquor license transfer request item on the agenda. Additionally, she asked that page 3 of the minutes be amended to state that "the motion carried with **HARRELL** opposed."

M/S **SCHNABEL/OLERUD** Motion to approve the minutes as amended.
The motion carried unanimously.

5. **PUBLIC COMMENTS:** None

6. **MAYOR'S COMMENTS/REPORT:**

The mayor introduced **STEPANSKY** as the new tourism director. He also informed the assembly that, concerning the strategic planning

session, Eric McDowell has agreed to modify his proposal to two days with a small increase in cost. He pointed out that a workshop session with Vince Hansen regarding the manager-form of government still needs to be scheduled. Finally, Mayor **CASE** said that he has received a request from the Chamber of Commerce to consider excluding RVs from the borough's *bed* tax collection.

7. PUBLIC HEARINGS:

A. Ordinance 04-02-046 - (second hearing)

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.

The mayor opened and closed the public hearing at 6:40pm; there was no comment.

M/S **OLERUD/LAPP** Motion to adopt Ordinance 04-02-046.

There was no discussion.

The motion carried unanimously in a roll call vote.

B. Ordinance 04-03-047 - (second hearing)

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.

The mayor opened and closed the public hearing at 6:42pm; there was no comment.

M/S **OLERUD/LAPP** Motion to adopt Ordinance 04-02-046.

There was no discussion.

The motion carried unanimously in a roll call vote.

C. Ordinance 04-03-048 - (first hearing)

An Ordinance of the Haines Borough adopting Haines Borough Code Titles 18 - Land Use and Development, and setting an effective date pursuant to Haines Borough Charter requirements.

Mayor **CASE** opened the public hearing at 6:43pm.

HANSEN pointed out the following amendments including changing the effective date of the ordinance to 4/21/04:

1. Page 75 under General Use Zone 18.70.030(D)(5) is still the old language that includes heliports as a conditional use. Since the "sunset clause" expired, the language should be removed.
2. Delete the words "of the Haines City Code" and "of that code" in the second paragraph of 18.70.030(D)(5) as this no longer applies. Also, delete 18.70.030(D)(6) because with

adoption of this Title, platting will be provided by the Borough.

The mayor closed the public hearing at 6:45pm.

M/S **OLERUD/SCOTT** Motion to move Ordinance 04-03-048 to its second public hearing on 04-21-04.

M/S **HARRELL/OLERUD** Motion to amend the ordinance per the 4/07/04 suggestions by **HANSEN**.

SCHNABEL spoke against the amendment, specifically **HANSEN's** item #1 regarding removing the conditional use for heliports.

The mayor called for, with no objection, a division of **HARRELL's** motion. **HANSEN's** item #2 was addressed first, and there was no discussion.

The part of the motion to amend Ordinance 04-03-048 to incorporate the minor changes referred to in **HANSEN's** item #2 carried unanimously.

SCOTT spoke against item #1 saying it would be questionable to allow heliports without a higher level of permitting and oversight due to the impact of that use in a region. **SMITH** recalled the planning commission requesting that heliports be included as a conditional use. **HARRELL** asked **THOMSEN** to state the planning commission's recommendation. **THOMSEN** said that the commission recommended two areas to be zoned as "use-by-right" and are hopeful that they soon will be. "A conditional use designation will bog down the commission's efforts." **LAPP** expressed concern that all heliports are being put into a high-impact category by **SCOTT**. "Occasional-use should not be lumped in with frequent-use." **SCOTT** asked **THOMSEN** if it is her understanding that the use-by-right zones would be subject to some mitigating measures or safeguards, specifically regarding the nature of the operation, the size of the heliport, buffers, etc. within a zone. **THOMSEN** responded that the planning commission is simply a zoning body and does not have the type of authority **SCOTT** is referring to. The FAA or the permitting process would deal with those issues. "The planning commission does not regulate safety." Mayor **CASE** clarified that under a conditional use, the commission would have the right. **SCHNABEL** read into the record the following from Ordinance 04-03-048, Section 18.50.010 Purpose: "*Conditional uses are intended to address uses and issues of community-wide importance and are therefore subject to a broader public process and higher standards than approvals by the manager. The conditional use process is intended to afford the commission and the community the flexibility necessary to make development approvals that are appropriate to specific sites, uses, designs and situations.*" She concluded saying that it is a responsible position to include

heliports in conditional use. **SCOTT** asked **LAPP** if he would feel better if "commercial" was inserted in front of heliports in the Title. **LAPP** said he still thinks that frequency of use should determine "high impact." He went on to say that he did a lot of research into other communities and found that in almost every case, the high impact ones had year-round use. "I have a hard time with seasonal or part time being designated high impact." **OLERUD** said the original conditional use designations were for landfills, power plants, and hazardous waste sites. "Even if they were closed, they would still have a lasting impact. On the contrary, if a heliport closed, the impact would cease. I don't believe a conditional use is warranted in this case. **CASE** reminded that when the planning commission came to the assembly to recommend the two heliport zones, the assembly turned it down. "It has been a divisive issue." He said that he does not have a problem with making heliports a conditional use as long as Al Gilliam's is made a use-by-right.

M/S **SCOTT/SMITH** Motion to table Ordinance 04-03-048.

The motion failed 2-4 with a roll call vote. **HARRELL**, **OLERUD**, **LAPP**, and **SCHNABEL** voted against.

Mayor **CASE** stated that he would enforce the 2-times-per-person per topic speaking limit.

HARRELL said there is no definition that can be found for "high impact." She believes the borough will be on much better footing if the land is zoned as opposed to conditional use.

M/S **SMITH/** Motion to appeal the mayor's ruling to enforce the two-times per assembly member speaking limit. The motion died for lack of a second.

The motion to amend Ordinance 04-03-048 by incorporating **HANSEN's** item #1 carried 4-3 with **SMITH**, **SCHNABEL**, and **SCOTT** opposed and **CASE** breaking the tie with a "yes" vote.

The main motion to move the ordinance to its second public hearing on 4/21/04 carried 5-1 with **SCOTT** opposed.

D. Ordinance 04-03-049 - (first hearing)

An Ordinance of the Haines Borough adopting Haines Borough Code Title 10 - Vehicles and Traffic; and Title 14 - Acquisition and Disposal of Borough Lands, and setting an effective date pursuant to Haines Borough Charter Requirements.

Mayor **CASE** opened and closed the public hearing at 7:18pm; there was no comment.

M/S **LAPP/SMITH** Motion to move Ordinance 04-03-049 to its second public hearing on 4/21/04.

The motion carried unanimously.

E. Ordinance 04-03-051 - (first hearing)

An Ordinance of the Haines Borough, appropriating \$7,004.05 to the Haines Borough Ports Department for a replacement rubber fender to make emergency repairs to the Port Chilkoot Dock.

Mayor **CASE** opened and closed the public hearing at 7:20pm; there were no comments.

M/S **HARRELL/LAPP** Motion to move Ordinance 04-03-051 to its second public hearing on 4/21/04.

The motion carried unanimously.

F. Ordinance 04-03-052 - (first hearing)

An Ordinance of the Haines Borough, amending Haines Borough Code Title 10, Section 10.26.300, to prohibit the use of skateboards on sidewalks in business districts or where otherwise regulated by signage, and Section 10.02.210, to allow signage placement on Borough property to regulate skateboarding.

Mayor **CASE** opened the public hearing at 7:25pm

DENNIS said she lives at the Raven House on Front Street where she has no front yard and her children play in the street. She does not agree with a regulation to prevent skateboarding on Front Street. Her children would not be able to skateboard by their own home. Front Street does not have sidewalks or rights-of-way. **CASE** explained that the assembly is proposing to prohibit skateboarding in the downtown business district.

A young citizen named Michael asked how people are being bothered by running down the hill on Main Street, something skateboarders call "bombing." He said they don't skateboard on the sidewalks and that is why they skate on the streets. **BETTRIDGE** said both state and local laws prohibit skateboarding in traffic lanes.

TURNER said that he is in favor of the kids having places to skate. However, there are places and actions that should be prohibited for safety reasons, such as steep hills and kids running through 4-way stops and stop signs. **BETTRIDGE** said that the Government Affairs Committee has recommended specific areas.

Young skateboarder, Kyle, asked for a list of places they can skate; Oslund Park is always flooded. He said that the proposed regulations are "harsh."

Chip **LENDE** said that the kids ARE going to skateboard, so the community needs to find a place for them to go. He would like to hear from the assembly where they would like to allow them to skate immediately, because there are not a lot of activity choices in town for them.

THOMSEN suggested that different streets could be blocked off certain days, certain times. This will take a while to resolve so that everyone is happy.

Heather **LENDE** said it is important to encourage kids to play outside and in a safe place. It's okay to ride a snowmobile 75mph downtown, but skateboarding is not okay. She pointed out the need to take a good look at encouraging more foot traffic, biking, skating, etc., since it is healthier and safer. "It is not a very pedestrian-friendly community."

MARANTZ-FALVEY suggested looking carefully at delineating places to skate. She would like to see consideration made to putting cement on the lot next to the Municipal Building so that the young people have a place to skate in town.

Mayor **CASE** closed the public hearing at 7:35.

M/S **SCOTT/SCHNABEL** Motion to move the ordinance to its second public hearing on 4/21/04.

SCOTT summarized the work of the Government Affairs Committee including the recommended amendments to the ordinance as introduced. The committee clarified the prohibited areas and added punitive language. She added that violations are at police officer discretion whether to warn or ticket.

M/S **SCOTT/SMITH** Motion to amend the ordinance as proposed by the Government Affairs Committee.

SCHNABEL asked the committee to reconsider allowing the skateboarders to be on the section of Second Avenue between the Bank and Howser's. **SCOTT** disagreed and said she wants it to be a limited set of restrictions at this point, however she suggested an additional amendment that would prohibit skating in front of the elementary and primary schools during school hours. She also asked for the assembly to consider closing Willard Street between 1st and 2nd Street between the Bank and the ANB Hall. Mayor **CASE** proposed allowing skating at Lookout Park for a year in exchange for their commitment to take care of the park.

Motion to amend carried 5-1 with **OLERUD** opposed.

The main motion to move it to its second public hearing carried unanimously.

SMITH said he found a skateboard park website on the Internet: dreamlandskateparks.com (out of Lincoln City, OR). They have a track record of building highly recommended parks. He was impressed and contacted a woman in Aumsville, Oregon with a population of 3,003. They had similar problems, but built a skateboard park with volunteer labor and materials. "If they can do it, we can do it. The Haines community got together and built Tlingit Park, so we can do a skateboard park."

The mayor called a short recess at 7:45pm.

The meeting reconvened at 7:55pm.

8. STAFF REPORTS:

A. Manager

BETTRIDGE summarized his written report.

The FY05 Budget - **BETTRIDGE** asked for continued input on what the assembly would like to see as they look forward to the budget meetings. **SCOTT** asked about the department heads prioritizing capital projects, maintenance logs, and inventories and whether or not that information will be available in time for the budget meetings. She added that she would like to see a comprehensive list of needed projects whether or not the financial projections are there to support them. **BETTRIDGE** confirmed that the budget is coming to them without the inclusion of borough-funded capital projects.

Water/Sewer Treatment System - **CASE** with **SCOTT**'s agreement said that the assembly should not apply for a grant unless the borough is committed. **BETTRIDGE** clarified that the grant monies could still go toward a more traditional treatment system. **SMITH** said it seemed to him that the group collectively agreed to go for the solar aquatic plant, but **CASE** said that the group just agreed to study the feasibility of it. **SMITH** pointed out that even feasibility will cost. **SCHNABEL** said the ad-hoc committee recommended that the borough move forward. "We should apply for the \$15K to accomplish two things: 1) make a rate determination and work on pulling together all necessary elements for moving forward, and 2) hire someone or use existing staff to work on a plan." She added that there is an economic development component that has not been explored: take on an infrastructure project that would include an enterprising element such as growing plants to sell for use in mitigating wetlands, etc. Currently, there is no Alaskan source. **BETTRIDGE** said that the Anchorage firm offering a more traditional approach found out about it in the paper and contacted the borough. **CASE** said a decision needs to be made.

M/S **SCHNABEL/SCOTT** Motion to apply for a \$15K USDA planning grant to conduct a rate determination and compile necessary documentation

to then apply for a grant for construction of a Solar Aquatic ® system.

The motion carried unanimously with a roll call vote.

9. COMMITTEE/COMMISSION REPORTS:

A. Government Affairs Committee - written

B. Finance Committee - **SCHNABEL** said that the committee has been meeting regarding the FY05 budget.

10. OLD BUSINESS:

1. School District - Request for Additional FY04 Funds

SCHNABEL said that the issue is that the school district has asked the borough to fund up to the limit allowable in this current school year due to increased enrollment. Mayor **CASE** asked the manager to provide for next meeting the amount of money in this year's budget that could be made available for the school district. **SCHNABEL** said that it is unlikely that there are monies available to grant the school district's request, but the manager and the CFO will report back regarding fund availability.

2. Reconsideration of the 3/17/04 vote to adopt Ordinance 04-02-048 - Title 8.

M/S **HARRELL/LAPP** Motion to reconsider the vote and to amend the ordinance section 3.80.050(13).

The motion carried 5-1 with **SCHNABEL** opposed.

M/S **SCOTT/LAPP** Motion to amend Ordinance 04-02-048 to include 501(c)8 in the list of IRS-recognized non-profits exempt from paying sales tax in section 3.80.050(13).

SCHNABEL said that she could vote for a tax exemption on purchases but cannot support a tax exemption on sales, especially alcohol. **CASE** said the money that the Elks and the Legion collect go almost exclusively to the good of the community. **SMITH** suggested that perhaps the Legion should not be exempt. He asked how much money this involves. **CASE** said it is approximately \$200/per month.

The motion carried 5-0 in a roll call vote with **SMITH** abstaining.

11. NEW BUSINESS:

A. Resolutions

1. Resolution 04-04-039

Authorizing the mayor, deputy mayor, borough manager, chief fiscal officer, and borough clerk as signatories for the borough's security cash accounts and investments.

M/S **OLERUD/SMITH** Motion to adopt Resolution 04-04-039.

The motion carried unanimously with a roll call vote.

2. Resolution 04-04-040

Altering the date of the 2004 Board of Equalization.

M/S **OLERUD/SMITH** Motion to adopt Resolution 04-04-040.

M/S **OLERUD/SMITH** Motion to amend the date of the Board of Equalization to 5/26/04 because 5/24 is the date of graduation.

The motion to amend carried unanimously.

The main motion carried unanimously with a roll call vote.

3. Resolution 04-04-041

A Resolution of the Borough Assembly of the Haines Borough, Alaska, fixing and adopting the Compensation for School Board Members.

M/S **OLERUD/LAPP** Motion to adopt Resolution 04-04-041.

The motion carried unanimously with a roll call vote.

4. Resolution 04-04-042

A Resolution of the Borough Assembly of the Haines Borough, Alaska, supporting Marine Transportation.

M/S **SMITH/SCOTT** Motion to adopt Resolution 04-04-042.

SMITH read the resolution. **SCHNABEL** recommended passage of it and thanked **SMITH** for presenting it.

The motion carried unanimously with a roll call vote.

B. Ordinances for Introduction

1. Ordinance 04-04-053

An Ordinance of the Haines Borough adopting the Haines Borough Comprehensive Plan pursuant to Haines Borough Charter Requirements.

M/S **SCOTT/SCHNABEL** Motion to introduce the ordinance and set it for its first public hearing on 4/21/04.

SCOTT said that she submitted a second set of comments to the planning commission and she would like them to be addressed. **HARRELL** said that the motions made in the planning commission recommending the comprehensive plan to the assembly specified a review in a maximum of one year. **CASE** said it does not go back to the planning commission. It would go to staff to resolve, and some may be resolved by the assembly. **SCOTT** asked that the assembly consider her comments at the first public hearing. **SCHNABEL** said she is concerned that the assembly acknowledges that the comprehensive plan is a tool of the assembly and includes an economic development planning component. The planning commission is not the only body that will be responsible for the comprehensive plan. **OLERUD** said

he will not vote to adopt the plan in its current state but wants it to be introduced so that it can be worked on.

The motion carried unanimously.

C. OTHER NEW BUSINESS

1. Request for the Borough to Assume Responsibility for the Tanani Bay Marine Outfall Sewer System

TURNER summarized his concerns and said he believes that this system should have been a City of Haines facility after completion. **BETTRIDGE** said there is no formal paperwork that shows the City agreed to assume it. \$4,180 is the annual cost of tests required to keep up the system. Right now the property owners are not paying on that. He cannot recommend that the borough accept the system until a funding mechanism is in place. He would like to see it go to the Government Services Committee for further discussion with staff support. **CASE** asked if the CFO could develop what the funding mechanism would be and how that would be imposed upon the existing property owners. **TURNER** said the systems are DEC-approved secondary treatment systems, and the property owners have gotten all this for free up until now. **SCHNABEL** asked **TURNER** if he would have to pay for the tests if the borough does not take it over. **TURNER** said, "Yes" and that he would be required to do quarterly testing. **SCHNABEL** said that perhaps an LID could be formed.

2. Request for an Amendment to the Code Regarding the Sale of Fireworks

LOOMIS said that he was able to sell fireworks from his property prior to annexation. He added that he needs the revenue to help him pay his property taxes, and his sales would provide additional sales tax revenue for the borough.

SCHNABEL asked for the rationale restricting the sale of fireworks in the townsite service area. **CASE** said that there are nuisance and safety reasons. **SCHNABEL** said the laws are different between the selling and the using of fireworks. **HARRELL** said explosives age and become unstable. **WILDE** said that the rules have changed and have become much stricter since 9/11 and must be complied with. **LAPP** said he has no problem with it as long as a seller complies with laws. **SCHNABEL** added that she has no problem with making it possible to sell anywhere. **CASE** asked staff to craft for the next meeting an ordinance amending the existing code.

3. Request for Sales Tax Exemption - Haines Dolphins Swim Team

M/S **SCHNABEL/OLERUD** Motion to grant sales tax exemption to the Haines Dolphins Swim Team.

The motion carried unanimously with a roll call vote.

12. EXECUTIVE SESSION - Borough Manager's Evaluation Follow-up

Postponed to the 4/21/04 meeting by unanimous consent.

13. SET COMMITTEE MEETING DATES

A Government Services Committee meeting was scheduled for Wednesday, 4/14/04 at 4:00pm to discuss the Tanani Bay outfall issue.

The Commerce Committee will meet on Tuesday, 4/13/04 at Noon.

The assembly agreed that the Strategic Planning Session should be tentatively set for April 24 & 25 with Eric McDowell and include a session concerning the manager-form of government with Vince Hansen.

A Committee of the Whole meeting will take place on Wednesday, 4/14/04 at 6:30pm to discuss the comprehensive plan and the administration's conception and philosophy of the FY05 budget.

14. ANNOUNCEMENTS/ASSEMBLY COMMENTS

SMITH commended the clerk for her work on the borough contact lists.

SCOTT commended the clerk for the beginnings of the website redesign.

SCHNABEL said that the community has lost some very connected and important people in the last couple of weeks, and it is important that we recognize them. She thanked the mayor for representing the community at the funerals.

LAPP thanked the clerk for the website and wished Mayor **CASE** a happy birthday. He requested that the road in front of the high school be graded.

OLERUD said that two things came up during the last finance committee meeting: 1) a school should be located out of town, and the borough should sell the current school land, and 2) consideration needs to be given to a new public works shop versus doing something with the existing building.

15. ADJOURNMENT - 9:32 p.m.

Mike Case, Borough mayor

ATTEST:

Julie Cozzi, Borough Clerk