

**Haines Borough
Borough Assembly Meeting #50
August 4, 2004
MINUTES**

Approved

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

Staff Present: Julie **COZZI**/Borough Clerk, Connie **STASKA**/Sales Tax Clerk, Jila **HANDJANI**/Accountant, and Cynthia "CJ" **JONES**/Museum Director.

Visitors Present: Dan **COLEMAN**/KHNS, Bonnie **HEDRICK**/CVN, Jim **PUCKETT**, Carol **KELLY**, Ed **NELSON**, Woody **WILSON**, Phyllis **BYRUM**, Liz **MARANTZ-FALVEY**, Julie **LEONARD**, Stacie **TURNER**, Mr. & Mrs. John **NOWAK**, Mike **FALVEY**, Sarah **SWINTON**, Jack **WENNER**, Leonard **DUBBER**, Pam **COULTER**, and Judy **EREKSON**.

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

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

The motion to approve the consent agenda carried unanimously.

4. **APPROVAL OF MINUTES**:

*July 21, 2004 Regular Meeting

5. **PUBLIC COMMENTS**:

Skyline Estates "Modular Home" Issue

PUCKETT distributed the manufacturer's spec sheet on the home in question. The homeowners are taking the position that it is actually a mobile home and is a single-wide. They are concerned that installation of it in the Skyline Estates area will bring down property values. He asked the assembly to honor the code and disallow the permit that was issued to that property owner.

Mr. and Mrs. NOWAK each spoke to the issue, as well, saying that the petition contains signatures of 54% of the property owners. The home is considered a mobile home in Canada. Their petition is asking for a more concise definition of what a modular home is to mean. They paid a lot of money for their lot in this upscale neighborhood and are concerned that it will adversely affect their property values. If that were to happen, they would expect the borough to reassess properties, to downgrade and issue tax refunds to each property owner.

Jack **WINTER** asked about the status of the permit at this time. **CASE** said that it was approved on the basis that the approvers felt it met the criteria for a modular home as opposed to mobile

home. The borough is reviewing that decision. **WINTER** said, "The property owner bought his property and home in good faith, and I don't understand how you can shut the door after the horse has gone."

Skateboard Park Issue

Liz **MARANTZ-FALVEY** spoke on behalf of HASL. They have had to go back to the drawing board to see what they can afford because their original building increased in price beyond their ability to fund it. She asked for the assembly's approval of the change in plans. **CASE** said it will be discussed in NEW BUSINESS.

6. MAYOR'S COMMENTS/REPORT:

- Chilkat Center and KHNS Lease

CASE said that KHNS wants to continue to occupy the Chilkat Center space and are interested in negotiating a new lease before the current one expires in June of 2005.

- Acceptance of Assembly Member Harrell's resignation from the Government Services Committee.

CASE said that another member will be appointed to that committee after the election in October.

- Sales Tax Dedicated to School Activities

CASE announced plans to introduce a resolution at the 8/18 meeting that would put a question on the ballot to add one-half percent to the sales tax that would be dedicated to school activities.

7. PUBLIC HEARINGS:

A. ORDINANCE NO. 04-07-067 - (second hearing)

An ordinance of the Haines Borough amending Haines Borough Code Title 2 Section 2.92.010(B) removing the Borough's obligation to pay the health insurance premiums for the mayor and the assembly.

The mayor opened and closed the public hearing at 6:50pm; there was no comment.

M/S **OLERUD/SMITH** Motion to adopt Ordinance 04-07-067.

The motion carried unanimously with a roll call vote.

B. ORDINANCE NO. 04-07-069 - (second hearing)

An ordinance of the Haines Borough amending Haines Borough Code Title 18 Section 18.70.030(D) GU-General Use Planning/Zoning District, making heliports a conditional use.

The mayor opened and closed the public hearing at 6:51pm; there were no comments.

M/S **SCOTT/SCHNABEL** Motion to adopt ordinance 04-07-069.

M/S **SMITH/HARRELL** Motion to amend the ordinance to say that there should be two special use-by-right heliport zones as recommended by the planning commission and to require conditional use permits in the rest of the general use zone.

SMITH sees it as a compromise and a win-win for everybody. "At least it gets it on the table." **OLERUD** disagreed. He said that not everyone agrees with the two sites identified by the planning commission. He wants sites that will work for the residents AND the industry; the assembly has heard complaints from both. He believes the planning commission needs to relook at the areas. **HARRELL** said the planning commission worked very carefully and thoroughly on this for a long time. She added that the two areas (Porcupine and Upper Tsirku) work as well as anything is going to. The amended ordinance would simply designate two special use-by-right zones where it would be possible to put heliports. "The operators would still have to get tour permits." **CASE** offered a parliamentary alternative to the assembly. He said that it could be amended to eliminate the Porcupine area.

M/S **SCOTT/SMITH** Motion to amend by removing the Porcupine zone but leaving the Upper Tsirku as a special use-by-right zone.

OLERUD disagreed and said that the Upper Tsirku does nothing for the industry and use-by-right is already there. **SCOTT** agreed with **OLERUD** but said she is willing to at least go with the compromise so that there is a start to heliport planning. She added that she does not believe that the tour permitting process is going to be the most effective management tool. **CASE** clarified that the use-by-right is only at the same or reduced level as before. **OLERUD** said that the only reason Upper Tsirku was included in there is because of Al Gilliam's business and wanting to make sure that he would be able to continue. He said that the idea was to come up with a heliport zone that would be an incentive for the industry to build infrastructure away from the highway and residences. This amended ordinance will not take care of that issue. **SCOTT** agreed with him, but said there is nothing that can be done about 18-mile and 33-mile at this time.

The amendment to the amendment failed 4-2 in a roll call vote with Lapp, Olerud, Harrell, and Schnabel opposed.

SCHNABEL spoke in favor of the amendment motion still on the table but only if the zone locations and sizes would still be debatable. **SCOTT** said that the assembly's intention is to have a use-by-right zone somewhere. **SCHNABEL** said she is not supportive of the planning commission's conclusions but she

acknowledged the huge level of work that went into it. She believes there are other areas that would meet the heliport zone criteria.

The amendment motion carried 4-2 in a roll call vote with Olerud and Scott opposed

M/S **SCOTT/SMITH** to amend the main motion to set it for its third public hearing on 8/18/04 instead of adopting since it has significantly changed.

The amendment carried unanimously in a roll call vote.

The main motion carried 4-2 in a roll call vote with Olerud and Scott opposed.

C. ORDINANCE NO. 04-07-071 - (first hearing)

An ordinance of the Haines Borough, appropriating a \$23,800 grant from the USDA forest service to Alaska SuperNatural Teas for an educational program.

The mayor opened and closed the public hearing at 7:17pm; there was no comment.

M/S **OLERUD/SCOTT** Motion to set Ordinance 04-07-071 for its second public hearing on 8/18/04.

The motion carried unanimously.

D. ORDINANCE NO. 04-07-072 - (first hearing)

An ordinance of the Haines Borough amending Haines Borough code Title 2, Section 2.04.020, to add the chief of police to the list of appointed borough officers.

The mayor opened and closed the public hearing at 7:19pm; there was no comment.

M/S **OLERUD/LAPP** motion to set it for its second public hearing on 8/18/04.

The motion carried 5-1 in a roll call vote with **HARRELL** opposed.

E. ORDINANCE NO. 04-07-073 - (first hearing)

An ordinance of the Haines Borough amending Haines Borough code Title 3, Section 3.80.050(4) changing the sales tax exemption threshold back to \$5K from \$10K on sales of construction materials and services for use in each construction project paid for by any one purchaser during any twelve (12) consecutive-month period. Construction materials are defined as those items becoming a permanent part of the structure.

The mayor opened the public hearing at 7:22pm.

STASKA pointed out that word "owner" was inserted in the new borough code in addition to the existing "contractor," and

the significantly changed meaning. She wanted to make sure the assembly understands the change they made.

The mayor closed the public hearing at 7:23pm.

M/S **OLERUD/LAPP** Motion to set ordinance 04-07-073 for its second public hearing on 8/18/04.

STASKA said that back in the 1980s, the borough issued permits to individuals AND contractors like the new code now allows. It was abused because some individuals were using it for items that did not actually go into the building project. The former borough code changed after that to allow only contractors. Also, the old city code did not include "owner." **SCOTT** asked **STASKA** what she would recommend. **STASKA** said that unless the whole process in the office is to change, a hired contractor should continue to get a permit and pay up to the threshold at the beginning of the project. An owner, acting as a self-contractor should pay the sales tax and get a refund. The addition of "owner" in the current code makes it possible for an owner to get a permit.

M/S **OLERUD/LAPP** Motion to amend Haines Borough code Title 3, Section 3.80.050(4) by striking "or owner" in both places.

The amendment motion carried unanimously in a roll call vote.

The main motion carried unanimously in a roll call vote.

8. STAFF REPORTS:

A. Acting Manager - CASE summarized his written report covering the following subjects:

- 8/11/04 Board of Equalization
- Public Safety Building Repairs
- Cemetery Policy
- Public Employee Insurance
- Opting out of APOC Financial Disclosure Requirements
- Emergency Management
- Tlingit Park Right-of-Way
- Solar Aquatic System

Additionally, **CASE** said that thirty-one applicants were received for the borough manager position and the assembly has short-listed it to six for phone interviews.

Regarding the Solar Aquatic System, **SCHNABEL** said she met with Robert Venables and Gershon Cohen. Apparently Juneau has a subdivision that has some leaching problems, and the Solar Aquatic company has been asked to come in to do a study on it. Her understanding is that that particular situation won't assist the

Haines Borough in its attempts to research our waste water treatment options.

9. COMMITTEE/COMMISSION REPORTS:

A. Commerce Committee

OLERUD said the committee met with Robert Venables. They discussed the new favorable ferry schedule, and the gas pipe line--Haines is one of 3 deep water ports identified.

B. Finance & Budget

C. Personnel & Labor Relations

D. Government Services

E. Government Affairs

F. Planning Commission

Lucy requested that consideration be made to appointing a female to the PC since both members leaving are the only females.

10. OLD BUSINESS:

11. STRATEGIC PLAN UPDATES

12. NEW BUSINESS:

A. Resolutions

1. Resolution 04-08-043

A resolution of the assembly for the Haines Borough setting forth a question for the ratification of certain voters within the Haines Borough whether the sales tax dedicated to economic development and tourism should be collected borough wide.

M/S **SCOTT/LAPP** Motion to adopt Resolution 04-08-043.

SCHNABEL said she believes it should be an area-wide vote, and would like it verified by the attorney. She agreed to research this herself and get back to the assembly. **LAPP** said a lot of research was done on this issue last year and the decision was made at that time for only voters outside the townsite to vote on it.

The motion carried unanimously in a roll call vote.

2. Resolution 04-08-044

A resolution of the Haines Borough recognizing the significance of due deference in local coastal planning, and supporting amending the Haines Coastal Management Plan (HCMP) to be able to continue to participate in the Alaska Coastal Management Program.

M/S **LAPP/SCOTT** Motion to adopt Resolution 04-08-044.

The motion carried unanimously in a roll call vote.

3. Resolution 04-08-045

A resolution of the Haines Borough supporting agency permitting of Coeur Alaska's the Kensington Gold Project.

M/S **OLERUD/LAPP** Motion to adopt Resolution 04-08-045.

OLERUD explained that this resolution came out of the commerce committee meeting. The committee believes it would be good for the borough to weigh in positively on this project. **SCOTT** said she is not against the Kensington Mine but is against some of the wording in the resolution. She noted that 80% of the jobs are going to come from outside of Alaska because they are so highly technical, and the remaining 20% will largely come from Juneau. In her opinion, the resolution needs to be modified to realistically show that it is not going to be a great employment boom for the Haines Borough. She reiterated that she is not against mining but believes the resolution makes arguments that she cannot support. **SMITH** added that he would like a simplified resolution and would like to see Coeur approach the assembly directly to talk about training and transportation. He cannot endorse the resolution on the table. **OLERUD** disagreed and said that Coeur does not have to come begging to Haines for workers; it's a private business. "It is wrong and arrogant for us to demand things from Coeur." **LAPP** said he is supportive of the resolution because he believes it will be good for Haines. He said Coeur has gone through a lot of red tape to get this done, and he believes it may mean more shipping from our docks. **HARRELL** said any amount of income will be good.

M/S **SCOTT/SCHNABEL** Motion to amend the resolution to strike "**WHEREAS**, Coeur has steadfastly worked with the Haines Borough to ensure that local employment and purchase of services and supplies is maximized as part of project construction and operation."

OLERUD asked if anyone has information that he is not aware of that shows that Coeur has not steadfastly worked with the Haines Borough. **SCOTT** said that the wording implies that there are jobs attached to it. She suggested possibly tabling it for wordsmithing. **CASE** pointed out said that Coeur needs the resolution right away.

The amendment failed 4-3 in a roll call with Lapp, Olerud, and Harrell opposed. Case broke the tie with a "no" vote.

SCOTT and **SMITH** both expressed frustration that Coeur has not made any attempt to contact the Assembly directly. **SCHNABEL** said that citizens of the community, including the assembly members, have an obligation to seek out information. Coeur has been in the community numerous times for public hearings and open houses.

The main motion carried 4-2 roll call Smith and Scott opposed.

4. Resolution 04-08-046

A resolution of the Haines Borough, expressing appreciation for the Alaska Marine Highway's proposed 2004/2005 Fall/Winter/Spring ferry and advocating for the establishment of a Haines-based shuttle ferry to operate between Haines and Skagway, beginning in the Summer of 2005.

M/S **OLERUD/LAPP** Motion to adopt resolution 04-08-046.

The motion carried unanimously in a roll call vote.

B. Ordinances for Introduction

1. Ordinance 04-08-074

An ordinance of the Haines Borough amending Haines Borough Code Title 6, Section 6.08.010(c) changing the fee amounts for dog licensing and eliminating license fee prorating in the townsite service area.

M/S **SCOTT/LAPP** Motion to introduce Ordinance 04-08-074 and to set it for its first public hearing on 8/18/04.

The motion carried unanimously.

2. Ordinance 04-08-075

An ordinance of the Haines Borough establishing land use regulations to conform to requirements of the National Flood Insurance Program and providing for an effective date.

M/S **OLERUD/LAPP** Motion to introduce Ordinance 04-08-075 and to set it for its first public hearing on 8/18/04.

The motion carried unanimously.

3. Ordinance 04-08-076

An ordinance of the Haines Borough, Alaska, appropriating an additional \$23,497.50 from the FY05 budget for the Haines Harbor Study - design and engineering feasibility.

M/S **OLERUD/LAPP** Motion to introduce Ordinance 04-08-076 and to set it for its first public hearing on 8/18/04.

The motion carried unanimously roll call.

4. Ordinance 04-08-077

An ordinance of the Haines Borough, Alaska, appropriating a \$199,000.00 grant from the Alaska Division of Homeland Security to the Haines Borough for first responder preparedness for the police, fire, and public works departments.

M/S **OLERUD/SCOTT** Motion to introduce Ordinance 04-08-077 and to set it for its first public hearing on 8/18/04.

The motion carried unanimously roll call.

C. Tax Exemption Requests

1. The Hammer Museum

M/S **OLERUD/HARRELL** Motion to approve the Hammer Museum's sales tax exemption request.

OLERUD asked if the Hammer Museum has any obligation to report to the borough if their tax exempt status changes. **LAPP** said it should be a requirement. The borough needs to inform those that are exempt of their obligation to do that.

The motion carried unanimously roll call.

2. Haines Animal Rescue Kennel (H.A.R.K.)

M/S **SCOTT/OLERUD** Motion to grant the property tax exemption as requested by H.A.R.K based on their planned use of their Small Tracts property and HBC 3.70.040(D).

The motion carried unanimously in a roll call vote.

D. Other New Business

1. Policy Request - Submitting all budget amendments to the Finance & Budget Committee for Review and Recommendation prior to the whole Assembly

SCHNABEL said that the Finance & Budget Committee would like a policy that any budget amendment recommendations comes to the finance committee for review. **SCOTT** suggested that all appropriations requests should be reviewed by the committee first. **CASE** commented that it could be onerous. **SCHNABEL** is concerned about the way this year's budget process went. **OLERUD** disagreed that the finance committee needs to meet to authorize the borough to pay a bill.

M/S **SCOTT/SCHNABEL** Motion that all appropriations be funneled through the Finance & Budget Committee prior to coming before the assembly.

SCOTT said the committee is trying to become very adept at understanding the flow of revenue and expenditures in the borough. They would like to have the opportunity to understand the affect on the budget of the various appropriations as they arise. **CASE** clarified that the motion means anything dealing with appropriations would have to first come before the committee before coming before the assembly.

[Harrell left the meeting at 8:35pm due to phone system difficulties.]

The motion carried 4-1 in a roll call with OLERUD opposed.

2. Strategy for Financing Construction of a New K-12 School Facility and an Expanded Small Boat Harbor

SCHNABEL talked about the bonding capacity for the Haines community and said the State Department of Revenue believes our community could handle up to 10 million in bonds over a 30-year period with a 4-mill rate. Combining the school facility and the boat harbor, we would exceed that capacity. The school board was asked to come up with less expensive options for a school building. Options for funding have to be investigated. **KELLY** said that the percentage of state reimbursement has to do with the amount of administrative office space. Administrative space needs would mean that the borough would have to pay 40% match as opposed to the 30%. She said that to build new is cheaper than to repair the existing buildings. 5,000 square feet for an industrial arts building could be eliminated from the existing plan. Also, a new track would not be built. Those changes would significantly reduce the cost, but an exact figure cannot be given until they start working with an architect. **WILSON** said he has been told that the Haines Borough is not eligible for the 70% reimbursement; we are eligible for the 60%. He agreed to inquire into the reasons and report back. **KELLY** said that her understanding is that the 70% reimbursement is for classrooms only. Our facility would have to include restrooms and office space.

SCHNABEL agreed to draft a proposal for the 8/18 meeting that will show projected school and harbor match amounts, funding options, etc. She will include a couple of scenarios, including and excluding the permanent fund.

SCOTT said she is not convinced the community needs to face the two issues on the same ballot. The committee is very concerned that the millage rate not exceed 4-mills for the two bonds. She pointed out passage of bond questions on a ballot does not dictate the timeframe for actually purchasing the bonds. She noted that Heather Lende has volunteered to coordinate an ad-hoc committee that will work to educate the community prior to the election.

3. HASL Skateboard Structure at Oslund Park (added to the agenda by **CASE** during Public Comments)

CASE noted that normal protocol would be to take the new structure plan before the planning commission. However, if HASL waits until the 8/26 commission meeting, it may be

getting too late to construct it prior to snowfall and poor weather. **LAPP** said that it would be on borough property, so it is appropriate for the assembly to approve it as the owner. He added that Scott Hansen believes that it all looks proper. **SCHNABEL** said she has no problem with the borough as property owner giving permission for the construction and our staff making certain that the building meets all permit requirements. **MARANTZ-FALVEY** said it is basically a 3-side quonset hut-type structure.

M/S **SCHNABEL/LAPP** Motion to approve the construction of a skateboard structure within Oslund park meeting code specifications.

4. Skyline Neighborhood and "Modular Homes" (added to the agenda by **CASE** during Public Comments)

NELSON said the home has never had any wheels on it. It is sold by Millenium Homes, Whitehorse, and is brought in on a dolly from Alberta and gets set on a permanent foundation. CSA in Alaska qualifies this as a modular home. It's going to have a high pitched roof on it with a large porch on it and stucco siding. It will not have a skirt on it. He was told by Scott Hansen that it was approved, and he has spent an extreme amount of money and is very upset.

Mrs. NOWAK reiterated that she was told by Wagner that this model is considered a mobile home in Canada. She also said that it has a serial number on it. **CASE** read out of the code that modular homes do not have model or serial numbers on them. **SMITH** said he knows several homeowners in the valley who have purchased Millennium homes, and he thinks they look attractive himself. **OLERUD** clarified that the property owners don't have a problem with modular homes. Their issue is with the "single wide" dimensions of **NELSON's** home. **CASE** said it is conceivable that a staff member made an error and in such a case, the borough would be liable for damages. **BYRUM** pointed out that all of the modular homes--whether they be one-piece, two-piece, three-piece--have a serial number and a model number by the electric panel. When the Nelsons made their application to the borough, they were careful to review the code. There is an existing skyline property owner that has a modular home from this same manufacturer. **SCOTT** asked **NELSON** if his structure is removed from the steel frame before it is put on its foundation. **NELSON** said that the metal railings along the bottom are not removed.

SCHNABEL said there are irreconcilable differences in the code. The code does not say that it has to be more than 14 feet wide. **DUBBER** agreed the issue is the 14 feet

width; the homes are not constructed shoddily. Per HUD, there is no such thing as a mobile home anymore; there are only manufactured homes. **NOWAK** pointed out that the assembly can override the staff's decision to grant the permit if they so choose. He believes that the permit was granted in an honest mistake. **CASE** said he is not convinced that it was a mistake because of the conflicting code. He asked the assembly what they would like to do. **LAPP** asked if the unit was purchased before or after the permit was issued. **NELSON** said "before." **SCHNABEL** said the issue seems to be the size of the home. "Small is good for some people." She is hesitant for the assembly to start legislating the square footage people need to live in. John **NOWAK** asked the mayor to consider asking **NELSON** to cease his work on the property until the issue is settled. **CASE** said there are no grounds to do that and the borough will send this issue to the attorney tomorrow. No assembly action occurred.

14. SET COMMITTEE MEETING DATES

A Finance & Budget Committee was scheduled for August 13, at 1:00pm in the Assembly Chambers.

A meeting of the ad-hoc Friends of the Pool Committee will meet on August 13, at 11:00am in the Assembly Chambers.

On August 9, 6:00pm, a Committee-of-the-Whole will meet to conduct borough manager candidate phone interviews.

15. ANNOUNCEMENTS/ASSEMBLY COMMENTS - None

16. ADJOURNMENT - 9:53pm

Mike Case, Borough mayor

ATTEST:

Julie Cozzi, Borough Clerk