

**Haines Borough
Borough Assembly Meeting #67
February 8, 2005
MINUTES**

Approved

1. **CALL TO ORDER/PLEDGE TO THE FLAG**: Mayor **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**: Assembly Members Scott **ROSSMAN**, Stephanie **SCOTT**, Herb **VANCLEVE**, and Jerry **LAPP**. Debra **SCHNABEL** participated via teleconference. **ABSENT**: Norm **SMITH**

Staff Present: Robert **VENABLES**/Borough Manager, Julie **COZZI**/Borough Clerk, Cynthia **JONES**/Museum Contractor, Ann **MYREN**/Library Director, and Addison **FIELD**/Museum Director.

Visitors Present: Bonnie **HEDRICK**/CVN, Don **HESS**, and Karen **HESS**, Deborah **VOGT**, Liz **HEYWOOD**, Fred **GRAY**, Jim **HEATON**, Dave **NANNEY** and others.

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

M/S **VANCLEVE/LAPP** Motion to approve the Agenda/Consent Agenda. The motion carried unanimously to approve the agenda.

4. **APPROVAL OF MINUTES**:

*January 25, 2005 Regular

5. **PUBLIC COMMENTS**:

Karen **HESS** said she and her husband are currently in the loan process of purchasing the Dan Droddy "car wash" property. They have encountered a stumbling block. She had a broker's opinion of value done, and the realtor told her a gray area needed to be defined. Therefore, she had an as-built survey done. Jim Stanford, the chairman of the Planning Commission has, refused to sign the plat...a requirement along with the mayor's signature. **LAPP** asked if Stanford gave a reason. **CASE** said he gave the reason that it is against code to permit property under less than 10,000 ft. **CASE** said he has conferred with Stanford and **VENABLES**, and the situation can be worked out administratively. He added that one of the problems is that Droddy never had the property recorded. Karen **HESS** said time is of the essence to make the transaction happen. This stumbling block may cause them to back out of the transaction. If it goes forward, they have plans to open two businesses that will generate sales tax and jobs. **CASE** stated that all parties involved want to see a good resolution and will work on it.

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

Liaisons to the advisory boards

CASE said he is working on a list of assembly members to appoint as liaisons to the advisory boards. He noted that he is trying to honor specific requests such as **SCOTT** asking to be appointed to the Parks and Recreation Advisory Board. He will confer with individual assembly members and report back.

Public Safety Commission

The mayor talked about the possibility of a new board called the "Public Safety Commission." It would be the advisory board to the police and fire departments. Including retired firemen and police officers as members would be a possibility.

Haines Public Library award

CASE offered congratulations to the Haines Public Library for being awarded the *Best Small Library in America 2005*.

Ferry system

The mayor distributed copies of a letter he sent to the governor regarding the need for a predictable ferry schedule. Additionally, he met recently in Juneau with some of the legislators as well as Tom Briggs, Deputy Commissioner of the AMHS. He asked them all for better predictability AND frequency of ferry service to and from Haines.

Conference of Mayors

CASE asked **LAPP** to report on the recent Conference of Mayors. **LAPP** said it was well attended, and he distributed a list of topics the Alaskan mayors are supporting. One of the largest conference topics was the PERS/TRS system and how much the state is in debt over it. Aside from the debt, the increase this year to our community alone stands to be \$101,000 (equivalent to a .58 mil rate increase). Another big topic was the gas pipeline and the benefits of temporary & permanent jobs with dividends divided among all the communities.

7. PUBLIC HEARINGS:

A. Ordinance 05-01-092 - (third hearing)

An ordinance of the Haines Borough amending Haines Borough code, Title 2, Section 2.98.050, Duties and Responsibilities of the Board of Trustees, to establish the Library Director hiring process.

Mayor **CASE** opened and closed the public hearing at 7:02pm.; there was no comment.

M/S **SCOTT/LAPP** Motion to adopt Ordinance 05-01-093.

VENABLES suggested eliminating the following text from Section 2.98.050(B): "On or before February 15th of each year,". There was no objection, and it was so ordered.

M/S **VANCLEVE/LAPP** Motion to reinsert the sentence that says the board will work with the manager..."

CASE said it may be in conflict with code. **VANCLEVE** said he wants to reinsert it to maintain the line of communication. It does not remove any authority of the board but maintains the critical need to communicate. **SCOTT** disagreed saying that language would cause confusion. To put the manager in the ordinance muddies the relationship. A possibility would be to make an adjustment elsewhere in the code that lines out the duties and responsibilities of the manager. **ROSSMAN** said finances are the main area the manager is involved in. **VANCLEVE** said the assembly is the legislative body and the manager is the administrator. In that capacity, he is responsible for protecting the borough's interests. The way he can do that with the library and the museum, is to make sure the line of communication will always be there; it is critical.

The amendment motion failed 3-2 with **SCHNABEL** and **SCOTT** opposed. The main motion carried unanimously in a roll call vote.

B. Ordinance 05-01-093 - (third hearing)

An ordinance of the Haines Borough amending Haines Borough code, Title 2, Section 2.100.050, Duties and Responsibilities of the Board of Trustees, to clarify the Museum Director hiring process.

Mayor **CASE** opened and closed the public hearing at 7:10pm.; there was no comment.

M/S **SCOTT/LAPP** Motion to adopt Ordinance 05-01-093.

VENABLES asked for elimination of the following text from Section 2.100.050(B): "On or before February 15th of each year,". There was no objection, and it was so ordered.

The motion carried unanimously in a roll call vote.

C. Ordinance 05-01-095 - (second hearing)

An ordinance of the Haines Borough amending Haines Borough code Title 3, Section 3.80.050 - exempt transactions, to change the total time period for sales tax refunds on any one construction project from four to three years.

Mayor **CASE** opened the public hearing at 7:14pm.

VOGT spoke in favor of the ordinance saying that every exemption means that someone else pays more.

The mayor closed the hearing at 7:17pm.

M/S **LAPP/SCOTT** Motion to adopt Ordinance 05-01-095.

The motion carried unanimously in a roll call vote.

D. Ordinance 05-02-097 - (introduction and first hearing)

An ordinance of the Haines Borough amending Haines Borough code Title 5 to clarify the commercial tour permitting process.

M/S **SCOTT/LAPP** Motion to introduce Ordinance 05-02-097 and hold the first public hearing at this meeting (it was properly noticed).

The motion carried unanimously.

Mayor **CASE** opened and closed the public hearing at 7:19pm; there was no comment.

M/S **SCOTT/LAPP** Motion to move Ordinance 05-02-097 to its second public hearing on February 22, 2005.

SCOTT explained that the ordinance was developed with the assistance of the Borough Attorney and includes only the points the attorney deemed most important to have in place for the 2005 tourist season while Title 5 undergoes wholesale formatting.

The motion carried unanimously.

8. STAFF REPORTS:

A. Manager - VENABLES summarized his written report that covered the following subjects:

1. Harbor Expansion Project
2. University Land Selections
3. Ferry Terminal Repairs
4. Current Contractual Discussions including
 - a. Pool Memorandum-of-Understanding
 - b. Chilkat Center conveyance document
 - c. Chilkat Center management contract
 - d. Possible leasing of offices in the Public Safety Building
5. Marine Transportation
6. Chief Fiscal Officer Search.

VENABLES encouraged the community to keep writing letters regarding the ferry situation. He said he is prepared to submit the school agreement if there is no assembly objection. **SCOTT** pointed out that the agreement states the borough is responsible for "planning, design, and construction of the Project." She asked if we are delegating some of that responsibility. The manager and mayor both answered, "No." She said, "The borough needs to be more involved and, if we are going to take responsibility, we need to get with it." **CASE** said he told Woody Wilson that the

borough will own the school when it is built and will control it. He told Wilson not to incur any costs that they were expecting reimbursement for unless the borough first authorized it. The borough has not authorized any expenditures, and if the school district has already entered into any contracts, they may have to be paid for out of district funds.

SCOTT asked if the manager could provide the budget impact of the wage increases authorized at the previous meeting. She would like to be able to answer to the community, so she asked the manager to clarify it at the next meeting.

- *B. Borough Clerk
- *C. Chief Fiscal Officer
- *D. Chief of Police
- *E. Museum
- *F. Library

9. COMMITTEE/COMMISSION REPORTS:

- A. Commerce Committee - None
- B. Finance & Budget - None
- C. Personnel & Labor Relations - None
- D. Government Services/Affairs - Written
- E. Planning Commission - None
- F. School Board - 1/10/05 Minutes

10. OLD BUSINESS: None

11. NEW BUSINESS:

A. Resolutions

1. Resolution 05-02-057

A resolution of the Haines Borough Assembly supporting the Southeast Senior Services' grant application to the Alaska Department of Transportation and Public Facilities for a new wheelchair-accessible van for the Haines Senior Center as well as funds to establish a voucher system that would allow transportation services to be provided to persons under 60 years of age who have disabilities.

M/S VANCLEVE/LAPP Motion to adopt Resolution 05-02-057.

The motion carried unanimously with a roll call vote.

B. Ordinances for Introduction

1. Ordinance 05-01-094

An ordinance of the Haines Borough amending Haines Borough code Title 5, to stipulate the conditions required to obtain a permit to conduct heliski commercial tours by amending Section 5.04.020, definitions; Section 5.18.030 application process;

adding Sections 5.18.080 general standards and specific stipulations for heliski operations and commercial helicopter tours; and Section 5.18.090 annual use and wildlife reports for heliski tours and commercial helicopter tours.

LAPP declared a possible conflict of interest based on emails received by some citizens. He is trying to do the right thing. **CASE** said the borough attorney previously gave an opinion that it is not a conflict of interest. He is not inclined to rule against the attorney, so he chose not to recuse **LAPP**.

M/S **SCOTT/SCHNABEL** Motion to challenge the mayor's decision to not accept **LAPP'S** recusion.

SCOTT said the attorney's opinion was made back in 2002. She also believes **LAPP** has a business interest in the helisking issue. **SCHNABEL** said she supports **LAPP** in his willingness to recuse himself. **CASE** said he was asked to get an attorney's opinion, and he wants to support that opinion. **LAPP** said he has been previously told by an attorney that if there is a public perception that a conflict of interest exists the best thing to do, to protect himself, is to declare a conflict. The perception is because the helicopters land at his wife's restaurant, 33-mile. However, there is no contract in place with any of the heliski or helicopter businesses.

The motion failed 2-2 with **ROSSMAN** and **VANCLEVE** opposed and **LAPP** abstaining.

M/S **SCOTT/SCHNABEL** Motion to introduce Ordinance 05-01-94 and to set it for its first public hearing on 2/22/05.

M/S **SCOTT/SCHNABEL** Motion to amend the ordinance text in the meeting packet, as follows: Page 3, section 6 - eliminate "and wildlife" and "and time and location of wildlife sightings" and "and available upon 24-hours notice, if requested by the borough."

SCOTT explained that the BLM requires reporting anyway and if the borough requires reporting, too, it may contaminate the data. The borough does not have the capacity to truly interpret these reports, and it would be an ineffective regulation by a local municipality.

The amendment motion carried unanimously.

M/S **SCOTT/VANCLEVE** Motion to amend item (C)4 as follows: "operations are authorized only from Feb 1 through May 3 unless

a different period is noted on the map", and delete all of items (C)4 (a) and (b) going straight to item 5.

SCOTT said it seems like a lot of regulation for 3 days, so she suggests just saying it is May 3 unless the map says differently. **SCHNABEL** agreed that it makes a lot of administrative sense.

The amendment motion carried unanimously.

M/S **SCOTT/VANCLEVE** An amendment to item (C)5 changing April 30th to May 3rd and eliminating "and wildlife." There was no objection and the amendments were administratively so ordered by the mayor because the same changes had been previously approved.

ROSSMAN asked why the borough persists in trying to regulate the mountains that belong to the state and federal government when they have already permitted them. He added that there is already a 1,000 skier day limitation, so the impact would be small. **SCOTT** said one of the issues is that of trying to share public land. "If there was no impact on people, we would not be here. She added that the BLM does have some areas where they are studying the goat population and don't want helicopters. **ROSSMAN** agreed with **SCOTT** about impacts on the neighborhoods with take-offs and landings. His issue is the mountains since no one is there. **SCOTT** said this ordinance would be a compromise; there are people in this community that don't want helicopters dotting the mountains, at all. "Let's see what happens and reassess after we get some data." **LAPP** agreed with **ROSSMAN**. "If areas are compressed, it will show up as too much activity and that may be shut down, too." He added that snow and weather conditions dictate the take-off and landing sites. **ROSSMAN** said the existing permit code already asks for the needed information. **SCOTT** said Takhin Ridge, Mt. Jonathan, etc. are considered sensitive goat areas. **ROSSMAN** said the mountains belong to the state and federal governments, and they said the helicopters can be there. **SCHNABEL** agreed with **SCOTT**'s comments regarding sharing public lands and referred to the long term community "battle" over this issue. She believes this ordinance is a good gesture to the community and does not believe it sets incredible restrictions on an industry. She added that none of the other industries in this community are able to operate without some type of restriction. **SCHNABEL** also agreed with **ROSSMAN** that when the helicopters are up in the mountains the public doesn't really know they are there, but it is important for the community to see that the assembly is trying to address

concerns. "To say that this particular industry shouldn't be responsible to the public is an antiquated idea." **ROSSMAN** said by virtue of the fact that at the last meeting the assembly said the helicopter businesses have to get a tour permit, they are now regulated. **SCOTT** said the permitting process is relatively arbitrary, so she would like something in the code that provides criteria for allocating the permits. The heliski industry shouldn't have to worry about whether they will be given a permit from year to year. **VANCLEVE** noted that all of the tour operators in Haines are subject to the tour permit process. He does not believe any of them worry that the regulations are going to change from one year to the next. He agreed with **ROSSMAN** that the requirement to get a tour permit satisfies the need to manage the industry. "Giving the heliski businesses timeframe restrictions makes as much sense as saying a cruise ship with a certain capacity cannot operate after a certain date. If they have a banner year or Mother Nature cooperates weather-wise, the businesses should be able to take advantage of it."

M/S **ROSSMAN/SCOTT** Motion to allow heliski use of any land not prohibited by the state or federal governments west and south of the Chilkat and Klehini Rivers.

SCHNABEL asked if that amendment essentially deletes 5.18.080(A) Items 1 & 2 in the ordinance. **ROSSMAN** said, "Yes. It should be replaced with *areas west and south of the Chilkat and Klehini Rivers.*" **LAPP** pointed out that it would also make a difference in Item (C)4. **VANCLEVE** pointed out a reference to the map and said it should probably say something like "in the area designated in (B)1" rather than referencing the map. **SCHNABEL** said the ordinance needs to have a point of reference, so the amendment being proposed might be better with a little more study so it isn't just a blanket statement that eliminates the reference points. It is being proposed now to eliminate the map, but the ordinance has so many references to it that there needs to be a stronger look at it. **SCOTT** said she would like to see the ordinance moved and set for a public hearing so the public may comment.

The amendment motion carried unanimously.

SCHNABEL said she understood the amendment meant no off-limit physical land areas, and the time restrictions still hold. **ROSSMAN** confirmed that. **CASE** wondered what time restrictions would apply if a person may heliski anywhere they want to.

COZZI read the following statement received from Assembly Member **SMITH**: "I encourage Jerry, Stephanie, Herb, Debra, and Scott to introduce this ordinance, and let the governmental process move forward to the mandate of the voters...to manage heliskiing in the Haines Borough."

SCHNABEL's teleconference call was disconnected.

The mayor called a recess at 8:32pm.

The meeting reconvened at 8:38pm.

SCOTT said item (C)4 shows the ordinance relied too heavily on the map that shows where skiing cannot take place after March 31. There are areas that are closed. For example, the BLM will not allow any helicopter landings over Davidson and Rainbow glaciers. She said in Part 7 - General Standards, the amendment has opened the area to heliski operations, but she does not believe it is the intention to open the area to helicopter tours.

CASE suggested to the maker of the main motion that it is possibly going to fail, and if it does fail then it may only be reconsidered by someone from the prevailing side. If it is instead withdrawn and smoothed up, it may very well get a more favorable vote later. **SCOTT** disagreed saying she really believes the introduction question needs to be voted on at this meeting. She asked **COZZI** to read the exact wording of **ROSSMAN**'s amendment motion that passed. **COZZI** stated the following: "Motion to allow the use of any land not prohibited by the state or federal governments west and south of the Chilkat and Klehini Rivers." There was no objection to the wording of record.

M/S **SCOTT/ROSSMAN** Motion to change section 5.18.080(A)1 by eliminating "and helicopter tours" and adding another number with the text "commercial helicopter tours are permitted only within the Takhin and Tsirku river drainages."

The amendment motion carried unanimously.

M/S **LAPP/SCOTT** Motion to completely eliminate item 5.18.080(A)2 that refers to a map being on file with the borough clerk.

The amendment motion carried unanimously.

SCOTT said she received a letter from Dan Wackerman saying there are areas he believes should be closed to heliskiing because they are used locally for view sheds or recreation. His attitude is that the borough should specify where the helicopters cannot go as opposed to where they can go. "There may be other areas that would be excluded, and I would hope that that would come up in

the public hearing and then we could amend in response. I'm still struggling with this idea that there are areas that were recommended by the State Wildlife Biologist that we close because they are sensitive habitats and should be closed after March 31st. **CASE** responded saying that the Department of Natural Resources has officially said none of those areas should be closed. They were very specific in that, and the state wildlife biologist works for, ultimately, the director of that department.

CASE said he is concerned that the meaning of **ROSSMAN's** amendment that was passed is confusing and the ordinance needs to be cleaned up before it is offered to the public." **LAPP** said if the ordinance is introduced tonight, he would like it to go back to committee for revision. **CASE** said, "If it passes, I will send it back to committee."

The motion to introduce the ordinance, as amended, failed 3-1 with **VANCLEVE** opposed and **SCOTT, LAPP** and **ROSSMAN** voting for it.

C. Other New Business

1. Pool Memorandum of Understanding

M/S **SCOTT/LAPP** Motion to authorize the manager to execute the Pool Memorandum-of-Understanding with the School District.

SCOTT said there is no timeline for the installation of the utility meters and asked if it is problematic. **VENABLES** said the school will attend to it as soon as they can and see it as a priority. They are researching the meter options. "They believe the borough is taking advantage of them right now and when the meters are installed, their costs will be reduced."

The motion carried unanimously in a roll call vote.

2. Sales Tax Exemption Request - Takshanuk Watershed Council

M/S **SCOTT/LAPP** Motion to grant the sales tax exemption contingent upon the organization having an IRS 501(c)3 nonprofit designation.

The motion carried unanimously in a roll call vote.

Patrolman Frierson interrupted the meeting to inform the mayor that **SCHNABEL** was attempting to phone in after being disconnected and was getting nothing but a busy signal. **CASE** cleared the line and **SCHNABEL** rejoined the meeting. **CASE** ruled that **SCHNABEL** was erroneously disenfranchised from the meeting by losing the phone connection and not

being able to call back in. Therefore, he declared the Ordinance 05-01-094 introduction vote to be null and void. The motion to introduce that ordinance will be placed again before the assembly at the next meeting.

12. SET COMMITTEE MEETING DATES

The Government Affairs & Services Committee scheduled a meeting for Monday, February 14 at 9:00 a.m. A Finance Committee meeting will take place on Tuesday, February 15 at 4:00 p.m. The Committee-of-the-Whole meeting to discuss the Economic Development Director position will be rescheduled.

13. ANNOUNCEMENTS/ASSEMBLY COMMENTS

SCOTT commended **COZZI** for her ability to attend to borough business when she is out-of-town. **LAPP** thanked the clerk for keeping the website up-to-date; when he cannot get to town, it is helpful to be able get needed information. **SCHNABEL** also thanked the clerk for her work to keep the assembly and the community informed via the website.

VENABLES asked for approval to administratively change Section 2.105.050(B) in the Parks and Recreation Board code in the same way as the Section 2.098.050(B) and 2.100.050(B) administrative amendments approved earlier in the meeting. There was no objection.

14. ADJOURNMENT - 9:20 pm

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

The motion carried unanimously.

Mike Case, Mayor

ATTEST:

Julie Cozzi, Borough Clerk