

Haines Borough
Borough Assembly Meeting #77
July 26, 2005
MINUTES

Approved

1. **CALL TO ORDER/PLEDGE TO THE FLAG:** Deputy Mayor **LAPP** called the meeting to order at 6:35 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**, Debra **SCHNABEL**, Norm **SMITH**, Jerry **LAPP**, and Stephanie **SCOTT** (via teleconference). **Absent:** Mayor Mike **CASE** and Assembly Member Herb **VANCLEVE**.

Staff Present: Robert **VENABLES**/Borough Manager and Julie **COZZI**/Borough Clerk.

Visitors Present: Micah **TRUE**/CVN, Chris **SHARP**/KHNS, Carolyn **WEISHAHN**, Tim **JUNE**, Jeanne **KITAYAMA**, Carol **KELLY**, Woody **WILSON**, LaVerne **BRYANT**, Paul **NELSON**, James **STUDLEY**, Roger **SCHNABEL**, Tracy **JOHNSON**, Greg **STUCKEY**, Chip **LENDE**, Lucy **HARRELL**, Frank **HOLMES**, Rob **POLLACK**, and others.

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

M/S **ROSSMAN/SMITH** Motion to approve the Agenda/Consent Agenda.

SMITH asked to move Item 11C3 from New Business to a point following the Mayor's Comments since people are here to speak to it. **SCHNABEL** asked to remove report items 8D and 9D from the Consent Agenda. There was no objection.

The motion carried unanimously.

4. **APPROVAL OF MINUTES:** *July 12, 2005 Regular
5. **PUBLIC COMMENTS:**

NELSON distributed a draft of a letter written to Senator Ted Stevens regarding the Patriot Act and asking him to vote against it. He asked the assembly to write a similar letter.

WEISHAHN went on record opposing and being very concerned about summer helicopter tours. She understands that Alaska Mountain Guides was told they did not need permits. She believes they should have been required to get a tour permit per Title 5 and is very concerned that the yacht was given permission to conduct helicopter-assisted activities.

HOLMES said the yacht did come into Lutak Inlet and the helicopter did make several beach landings to drop off or

pick up people. Tours were being run; he observed people with skis, etc. The residents are very concerned and can only ignore it if it was an isolated event. This particular yacht's company has a website that continues to advertise helicopter-assisted tours in this area. "If this one ship can do this, what is to stop other ships from doing it?"

POLLOCK asked **VENABLES** to answer Holmes' question. **LAPP** said that would be more appropriate under the related agenda topic.

6. MAYOR'S COMMENTS/REPORT:

A. Appointments to the Public Safety Commission

M/S **SCHNABEL/LAPP** Motion to confirm the mayor's appointments of Paul Nelson, Jansy Hansen, LaVerne Bryant, Cynthia "CJ" Jones, and Sue Folletti to the Public Safety Commission per the term schedule presented by the mayor; and the first meeting is to be convened by the mayor to ensure that the purpose and mission of the Commission is clear.

The motion carried unanimously.

B. Appointments to the Boat Harbor Advisory Committee

M/S **SCHNABEL/ROSSMAN** Motion to confirm the mayor's appointments of Craig Loomis, Ike Lorentz, and Mike Saunders to the Boat Harbor Advisory Committee.

The motion carried unanimously.

C. Proclamation - "SEARHC Week - July 24-30, 2005"

Deputy Mayor **LAPP** read the proclamation honoring SEARHC for its service to the community and especially the opening of the new Klukwan Health Clinic.

D. Patriot Act Issue (brought up by **NELSON** during Public Comments)

ROSSMAN said he would like the requested letter to be written. **SCHNABEL** said she has no objection to establishing a position, but she added that the second paragraph of the draft letter is stronger than she would prefer. **LAPP** said if there was no objection, a letter could be sent with the Mayor's signature to Senator Stevens with copies to Senator Murkowski and Congressman Young. There was no objection. The letter will state the "Haines Borough Assembly" as opposed to the "people of Haines" and the language will be softened.

M/S **SCOTT/LAPP** Motion to send letters to Senators Stevens and Murkowski and to Congressman Young to ask them to vote against the Patriot Act.

SMITH said he supports the idea of a letter. **SCHNABEL** asked **NELSON** whether or not there are any ramifications specific to our area should the Patriot Act pass. **NELSON** said it is his understanding that the Act would allow the government to violate some of our constitutional rights in general. **SCHNABEL** asked if anyone knows what the Alaska delegation's position is. **NELSON** said he is unaware of the Senators' positions but he understands that Young voted against the Act in the House. **SCOTT** said the Borough should express appreciation for Young's vote if it is true. **ROSSMAN** liked that idea. **LAPP** said it could be researched.

The motion carried unanimously.

7. Discussion - Commercial Tours/Definitions (Title 5)

[New Business Item 11C3 on the agenda but moved up during the approval of the consent agenda.]

SMITH spoke of the helicopter-equipped yacht that recently visited the area. He said on July 16, he was subsistence fishing and observed the helicopter taking off twice in Lutak Inlet. He read the section from Title 5 regarding the commercial tour permit requirements for helicopter-assisted recreational activities. He asked the manager about his communications regarding the yacht. **VENABLES** said he was asked only if a private vessel traveled to a permitted landing area if a permit would be required. In that case, a permit would not be required. However, from comments received since then, it appears the activities may have been different and in violation of borough code. **LAPP** said it would be in the borough's best interest to contact the yacht company to inform them that they must make application to the borough for a commercial tour permit if they plan to continue conducting the helicopter-assisted tours/activities. **VENABLES** said that he will continue to gather facts. **SCHNABEL** said the borough needs to encourage a permit application to find out what it is the applicants want to do and to consider whether or not a conditional use would be acceptable to the public. The company should be given an opportunity to present what they want and then the borough can react to that information. **SCOTT** said it seems that this is a group doing business in Haines and would need a business license along with a commercial tour permit. She said she spoke with one of the owners of Alaska Mountain Guides and

was told that his company had a relationship with a client on the yacht and took them kayaking. "They were not involved with helicopter-assisted tours." **JUNE** said there is court precedence that would allow the Borough to regulate this kind of activity provided the same people take off from and return to the same location, contrary to claims that it is only an FAA or Coast Guard jurisdiction. **LAPP** asked the manager to make a report to the assembly at the next meeting. He will contact the yacht company as well as Alaska Mountain Guides to gather facts and determine who, if any, needs to have licenses or permits.

8. PUBLIC HEARINGS:

A. Ordinance 05-06-112 (second hearing)

An ordinance of the Haines Borough amending Article VIII Sections 8.06 and 8.07 of the Haines Borough Charter pursuant to a vote of the people at the October 4, 2005 regular election.

Deputy Mayor **LAPP** opened the public hearing at 7:15pm.

WEISHAHN said she believes the ordinance is poorly written. She disagrees with the filing of a protest petition AFTER the assembly acts. She has not found any other local government on the Internet that does it that way. She acknowledged that there is a problem with the Borough Charter and this ordinance is an attempt to correct it. The current wording is very strong, but it is illegal. She believes this proposed solution is very weak. "If we are going to have a protest procedure, it should have some power." She asked the assembly to look at the ordinance further before it goes to the voters.

The deputy mayor closed the public hearing at 7:20pm

M/S **SCOTT/LAPP** Motion to advance Ordinance 05-06-112 to a third public hearing on August 9, 2005.

SCHNABEL referred to on Deborah Vogt's written comments regarding the ordinance, and she expressed appreciation for the time Vogt spent preparing her comments and suggesting replacement ordinance language. **SCOTT** asked the assembly to review Vogt's language options in preparation for the next meeting.

The motion carried unanimously.

B. Ordinance 05-06-113 (second hearing)

An ordinance of the Haines Borough placing on the October 4,

2005 election ballot the question of exemption from the Alaska Public Official Financial Disclosure law.

Deputy Mayor **LAPP** opened the public hearing at 7:25pm.

HARRELL spoke in favor of the ordinance saying she believes the financial reporting requirements are a waste of time. **JUNE** spoke in opposition saying that this reporting requirement is a great equalizer. He asked the assembly to take the high ground and keep the checks and balances in place. He believes it is even more important on the local level even though it is an inconvenience. **LENDE** agreed that it is an inconvenience, but it is a good check and balance. **WILSON** said Alaska has more stringent reporting requirements, and he does not believe it is necessary in our community. **NELSON** encouraged the assembly to keep it in place and agreed that it is an important check and balance.

The deputy mayor closed the public hearing at 7:30pm.

M/S **ROSSMAN/LAPP** Motion to adopt Ordinance 05-06-113.

ROSSMAN noted that it is not the assembly that decides whether it will stay or go. The ordinance is just to put it on the ballot to ask the public to make the decision. **SCHNABEL** wondered if the Haines Borough could selectively opt out of only certain portions of the financial disclosure reporting requirements. She said that the regulation requires not just reporting assets but also debts. It also requires father, mother, spouse, and offspring debt/asset information. **LAPP** suggested that the Borough could adopt its own financial reporting requirements. **SCOTT** said when the assembly chooses to put something on the ballot, it signals an endorsement by the assembly. She believes the Haines Borough needs some level of financial disclosure but is interested in **SCHNABEL**'s idea. She would not like it to go on the ballot, but would consider adopting some type of local financial disclosure law in the future.

The motion failed 3-2 in a roll call vote with **SCOTT** and **SMITH** opposed.

C. Ordinance 05-06-115 (second hearing)

An ordinance of the Haines Borough amending Article XVIII Section 18.08 of the Haines Borough Charter pursuant to a vote of the people at the October 4, 2005 regular election.

Deputy Mayor **LAPP** opened the public hearing at 7:40pm.

WEISHAHN questioned the need for different severability wording, and said the standard language used for code ordinances should be used.

The deputy mayor closed the public hearing at 7:41pm.

M/S **SCOTT/LAPP** Motion to adopt Ordinance 05-06-115.

ROSSMAN asked if the ballot will explain what severability means. **SCHNABEL** asked if it would be satisfactory to add to the proposition the severability language. The Clerk agreed, and there was no objection to the addition.

The motion carried unanimously in a roll call vote.

D. Ordinance 05-07-116 (first hearing)

An ordinance of the Haines Borough, Alaska, authorizing the issuance of general obligation bonds of the borough in the principal amount of not to exceed \$17,500,000 to fund the construction and equipping of school facilities, as authorized by Ordinance No. 04-08-079 of the borough and ratified by the borough's voters at an election held on December 14, 2004; providing for the date, form and terms of the bonds and authorizing unlimited tax levies to pay principal of and interest on the bonds; and providing for the sale of the bonds to the Alaska Municipal Bond Bank.

Deputy Mayor **LAPP** opened and closed the public hearing at 7:45pm; there were no comments.

M/S **SCHNABEL/SMITH** Motion to advance Ordinance 05-07-116 to a second public hearing to be held on August 9, 2005.

The motion carried unanimously.

E. Ordinance 05-07-117 (introduction and first hearing)

An ordinance of the Haines Borough, appropriating a \$42,000 grant from the State of Alaska, Department of Transportation, to the FY06 budget to establish a corridor management plan, interpretive plan, and marketing plan for the Haines Highway.

M/S **LAPP/SMITH** Motion to introduce Ordinance 05-07-117 and hold the first public hearing during this meeting since it was properly advertised.

SCHNABEL said the meeting packet provided more information than she was presented at the Finance Committee meeting when the idea was brought up and she gave initial approval. She apologized to the manager that she now has

reservations. She's concerned about the 300 hours (two months) of time that would be devoted to this project and is concerned that the Borough does not have the manpower to handle it. **VENABLES** said the plan is to have a staff person come from the State's Scenic Byways Program to assist. He noted that this grant proposal was written two years ago under a former Tourism Director. **SMITH** said does not believe it will do any good if Haines doesn't get the ferry situation corrected between Skagway and Haines. It doesn't work without highway maintenance, a ferry connection, and the borough's match. He would like the state to fund the whole thing. **ROSSMAN** asked where the match would come from. **VENABLES** said it is only \$1,000 cash, and the rest is an allocation of staff time. He said he would like the RFP process to be done by fall. **SCHNABEL** encouraged the acceptance of the project, but she has strong reservations about the description and would like it to be reworked. She added that a section of Lutak Road should be included with Haines Highway.

The motion carried unanimously.

Deputy Mayor **LAPP** opened the public hearing at 7:58pm.

NELSON asked what this project would do for the Haines Borough. **LAPP** said he believes it would provide more recognition and bring more people to the area.

LAPP closed the public hearing at 7:59pm.

M/S **SCHNABEL/LAPP** Motion to advance Ordinance 05-07-117 to a second public hearing to be held on August 9, 2005.

SCOTT asked the manager to inform the assembly by the next meeting what the criteria is for getting the international/national scenic byways designation so the assembly can understand more. **SMITH** reiterated **SCHNABEL's** point that the description needs to be rewritten, and added that the Haines Borough is not even mentioned and should be.

The motion carried unanimously.

The deputy mayor called a brief recess at 8:02pm.

The meeting reconvened at 8:09pm.

8. STAFF REPORTS:

A. Manager

The manager summarized his written report which included the following topics:

- Natural Gas Pipeline

- Swimming Pool Update
- School Construction
- Road Project Update
- Eco Orca Appeal
- Harbor Design Workshop

Additionally, he explained the status of the Letnikof gangway failure that happened because of the extreme low tide. State engineers are looking at options. He also updated the assembly on the Lookout Park renovation project. He noted the FAA Road project change being recommended by SE Road Builders. He also announced that not all of Dalton Street would need repairing because Turner Construction discovered the sub-base in one section is actually in good shape. (Most of Dalton will be done, but not the section from 2nd Avenue down to Front Street.) He sought the assembly's approval to make both changes.

SMITH said he is pleased with Southeast Road Builder's FAA Road recommendations. He added that when the State topped the road in 1999, he took videos of it. He would like to entertain the idea of revisiting the road repair with the current Department of Transportation and request their assistance in repairing the state's "inferior" road work. If the borough can demonstrate the problem, perhaps the state will pay the cost of the improvement. **SCOTT** asked where the additional funds would come from, and **VENABLES** explained that it would come out of the C.I.P. fund. **SCOTT** said she does not see what the Borough has to lose in trying to get funds from the State. **ROSSMAN** disagreed saying that the borough has time to lose and he doesn't believe the state would do it. **VENABLES** said it might be worth pursuing, but the state is more likely to trade paving consideration as opposed to upfront cash to compensate for the previous "poor work." **SCHNABEL** requested an assembly recap of the CIP funds very soon.

M/S **ROSSMAN/SCHNABEL** Motion to accept the manager's proposals to change the Dalton Street and FAA Road Improvement projects, provided the sub-base condition is verified.

The motion carried unanimously in a roll call vote.

- *B. Borough Clerk
- *C. Chief Fiscal Officer
- D. Chief of Police

SCHNABEL referenced the Chief's recommendation that the issue of "vagabond campers" be addressed by an arm of the

government. **LAPP** said he sees it as an appropriate for the new Public Safety Commission to discuss. **SCOTT** asked if it would be a planning commission issue. **SCHNABEL** agreed saying it is dealt with in Title 18. The assembly agreed that it should be referred to the Planning Commission along with a copy of the Police Report as part of the rationale.

M/S **SCOTT/SMITH** Motion that the manager send a memo to the Planning Commission along with rationale requesting they discuss the issue of vagabond camping and then make a recommendation to the Assembly.

The motion carried unanimously.

*E. Museum

*F. Library

9. COMMITTEE/COMMISSION/BOARD REPORTS:

A. Commerce Committee

LAPP said the Commerce Committee met earlier in the day and will have a report for the assembly at the next meeting regarding conditional uses.

B. Finance & Budget

C. Personnel & Labor Relations

D. Government Services/Affairs

E. Planning Commission

SCHNABEL, referring to the Planning Commission's minutes, said the community needs to have a standard understanding of what a conditional use permit is and the process should be consistent. **LAPP** noted that the Commerce Committee discussed this topic at its meeting and the committee believes it may have a solution. It will be presented as part of the committee report at the next assembly meeting.

F. School Board

G. Chilkat Center Advisory Board

H. Parks & Recreation Advisory Board

I. CVB Advisory Board

10. OLD BUSINESS: - None

11. NEW BUSINESS:

A. Resolutions - None

B. Ordinances for Introduction

C. Ordinance 05-07-118

An ordinance of the Haines Borough amending Haines Borough code 3.70.040(d) to include the St. Vincent de Paul, St. Lucy Conference property in the list of tax-exempted properties.

M/S **ROSSMAN/LAPP** Motion to introduce Ordinance 05-07-118 and to advance it to its first public hearing on 8/9/05.

LENDE spoke on behalf of the request. **SCHNABEL** asked the timeframe for the property transfer. **HARRELL** said she expects it to be completed by mid-August. **SCHNABEL** suggested that public hearings could be held on this ordinance until such time as the transfer has been finalized. At that point, it could be adopted.

The motion carried unanimously.

C. Other New Business

1. School Design/Site Recommendation from the School Board

KELLY provided some background information to explain the school board's position. She said the committee met over six days and had diverse community representation. There has been absolute concurrence on the things that have transpired. The primary goal is to bring this project in budget, and through the process it became apparent that one way to trim costs was to avoid duplicating facilities. For example, the library could be shared between the high school and the elementary. She announced that the School Board voted to present a particular school design and site to the Assembly. **SMITH** asked if the School Board had discussed options for the old school property. **KELLY** said they have not since it is an assembly purview. **SCHNABEL** publicly commended the committee members for all of the work that has gone into the process.

M/S **LAPP/ROSSMAN** Motion to go into Executive Session to consider the possible acquisition of the Shafer property for use as a school site. An Executive Session is warranted pursuant AS 44.62.310(c) and because premature disclosures of information would prejudice the bargaining position of the Haines Borough.

SCOTT said it seems that the assembly should first decide whether or not they endorse the School Board's recommendation prior to going into Executive Session. **SCHNABEL** said she does not have a problem going into Executive Session if there are members that really believe there is information that would jeopardize the borough's position. She said the only position the Assembly can really take at this point is to endorse the recommendation PROVIDED the property price is not prohibitive. **VENABLES** advised the assembly to go into Executive Session to discuss acceptable price

parameters. He added that he has information to provide to the assembly for their consideration that should not be divulged in open session.

The motion carried unanimously.

The executive session began at 9:07pm and ended at 9:30pm.
The regular session reconvened at 9:32pm.

M/S **SCHNABEL/SCOTT** Motion to authorize the manager to negotiate a purchase agreement for Lots 1-11 of Block 3 and Lots 4-6 of Block 4 of the Mission Subdivision, Haines; and the Assembly to postpone endorsement of any proposed school design and site recommendation.

The motion carried unanimously in a roll call vote.

2. Discussion - Sales Tax Reform Ballot Options

SCHNABEL distributed information showing the total gross taxable sales in the Haines Borough area-wide and in the townsite service area. She summarized the problems with the current sales tax system, her proposed solutions, and options for putting questions on the ballot. The manager was asked to refer the proposals to the attorney for a legal opinion, and the clerk was asked to work on the language to simplify it and make it as clear as possible. The assembly thanked **SCHNABEL** for her work on the issue.

12. SET COMMITTEE MEETING DATES

Finance Committee on August 2 at 4:00pm.

13. ANNOUNCEMENTS/ASSEMBLY COMMENTS

VENABLES said the Excursion Inlet assessment work will be taking place soon. Additionally, staff will get travel cost information to assist the assembly in a decision to have a meeting there possibly in late August.

14. ADJOURNMENT - 9:52 pm

M/S **ROSSMAN/LAPP** Motion to adjourn.
The motion carried unanimously.

ATTEST:

Jerry Lapp, Deputy Mayor

Julie Cozzi, Borough Clerk