


Haines Borough
Borough Assembly Meeting #131
April 22, 2008
MINUTES

Approved

1. CALL TO ORDER/PLEDGE TO THE FLAG Mayor **SHIELDS** called the meeting to order at 6:30 p.m. in the Assembly Chambers and led the pledge to the flag.
2. ROLL CALL **Present:** Mayor Fred **SHIELDS** and Assembly Members Jerry **LAPP**, Doug **OLERUD**, Steve **VICK**, Norm **SMITH**, Pete **LAPHAM** and Deborah **VOGT**.

Staff Present: Robert **VENABLES**/Borough Manager, Suzanne **NEWTON**/Administrative Assistant (meeting recorder in the clerk's absence), and Jila **STUART**/Chief Fiscal Officer.

Visitors Present: Jessica **EDWARDS**/CVN, Floy **MCDOWELL**, Carolyn **WEISHAHN**, Rob **POLLOCK**, Rob **GOLDBERG**, Jan **HILL**, Daymond **HOFFMAN**, David **WERNER**, Donnie **TURNER**, Joe **ORDONEZ**, Gordon **WHITERMORE**, Dave **BERRY**, George **FIGDOR**, Dave **HERBIG**, Joe **POOR**, Lee **HEINMILLER**, Sherrie **BREWINGTON**, Ralph **STRONG**, Jim **CONWAY**, and others.

3. APPROVAL OF AGENDA & CONSENT AGENDA

Motion by **LAPP**: Approve the Agenda/Consent Agenda as amended. It was seconded by **OLERUD**. The motion carried unanimously.

*4. APPROVAL OF MINUTES - 4/8/08 Regular

5. PUBLIC COMMENTS

MCDOWELL stated her opinion that Temsco should be made to pay back taxes and companies violating helicopter-use regulations should be fined.

POLLOCK agreed with **MCDOWELL**. He also spoke against Teton Gravity Research's request to use helicopters in unpermitted areas. On the topic of health insurance for the assembly, he said it was not right that the assembly voted to give themselves that benefit and he strongly expressed disappointment in them.

BREWINGTON, a resident at 27-mile Haines Highway, said she observed the SEABA gray helicopter operating in a no-fly zone. She believes the heliskiing industry has been good until this year. In her opinion, SEABA is rebelling against the rules and regulations and operating illegally. She claimed that one of that company's principles has been bragging about having the borough officials in his pocket and being able to do what he wants.

HILL announced that SEARHC came to Haines ten years ago, and she made an invitation to the anniversary BBQ celebration scheduled for Saturday, May 17, from 1:00 to 4:00pm. The mayor retroactively proclaimed March 2008 as the ten-year anniversary for SEARHC and said he will be pleased to speak at the May 17th event.

HOFFMAN said he doesn't know the borough code related to commercial tour permits and requested code citations during the discussion.

WERNER said he is a resident at 18-mile Haines Highway above the landing strip there. Multiple helicopters have been operating 13-hour periods each day during the heliski season, and it's getting to be a bit much. He's not opposed to helicopters, per se, but he'd like to see additional heliports established. He suggested 19-mile and the snow-mobile race track at 25-mile as two possibilities. **SHIELDS** suggested that the planning commission take a look at it.

WHITERMORE emphatically stated his dislike for the idea of adding those two suggested sites for helicopters. He also said a gray helicopter has been "all over" this season and is very loud. He agreed with **BREWINGTON's** comments.

WEISHAHN commented that heliports have already been designated, and new ones should not be allowed. She explained that she has been documenting flight deviations in front of her residence and will be submitting that documentation soon. There have been numerous incidents. It is very difficult for citizens to track this in a fool-proof way. She wants the borough to mandate in-flight tracking systems recorded by GPS. It is being done elsewhere.

6. MAYOR'S COMMENTS/REPORT

SHIELDS said the Bald Eagle Preserve Advisory Board met recently and sent a letter to the Governor requesting action be taken in the Chilkoot River Corridor because of conflict between man and bear. That letter got the Governor's attention and a committee of various stakeholders will be formed to look at solutions.

The Historic Klondike Trail Committee met recently. **POOR** is chairman of a local group to promote the development of the Dalton Trail.

SHIELDS asked the assembly to consider the issues raised by the retired Chief of Police, Greg Goodman, and decide if there are any that the assembly should address.

The Mayor said he has decided to appoint an ad-hoc citizen committee to review the applicants for Chief of Police. The

Public Safety Commission will also review the applications per borough code and provide a recommendation to the manager. This ad-hoc committee will be: Mike Case, Ike Lorentz, Dick Flegel, Bill Stacey, and Jerry Erny.

Motion by **OLERUD**: Approve the mayor-appointed ad-hoc committee of citizens to review the applicants for Chief of Police. It was seconded by **LAPP**. The motion carried unanimously.

7. PUBLIC HEARINGS

A. Commercial Tour Permit - Temsco Helicopters

The mayor opened the public hearing.

WEISHAHN complained that the borough website was not updated when it should have been, and the application contains incomplete information regarding flight patterns and landings. She does not want summer helicopter tours in the Haines Borough.

GOLDBERG said that the company has been operating without a permit and has not paid sales tax. The Haines voters several years ago by a significant 55-45% margin said that they don't want summer helicopter tours here. The borough should deny the permit request and seek the back taxes.

TURNER said he supports Temsco. The flight paths are not over any residential areas. He moose hunts in that area and sees them flying and has no objection. There is no impact and if we can collect some sales tax, we should let this company continue to make a living.

ORDONEZ, a tour operator, conducts walking tours out to Battery Point. He hears the helicopters on cloudy days and objects to the noise. Haines should market itself as something different. He bases his company on this idea that Haines can give people a peaceful, quiet experience. He agreed with **GOLDBERG** that the borough should seek back taxes.

POLLOCK said the former helicopter service area board worked hard to produce regulations. He asked the assembly to pay attention to the wishes of the residents that don't want helicopters.

BERRY spoke in favor of the permit. He cautioned the borough to beware of legal ramifications if the permit request is denied. The responsibility is equally shared by the borough and Temsco.

FIGDOR expressed concern about the request to transfer landings to the Meade Glacier, saying it would have a huge impact. He also said there is too much missing information in the application. The wildlife studies should be updated.

HERBIG (representing Temsco) explained that the company began its base operations in Skagway in 1985. They have always operated with required BLM and Forest Service permits throughout the years. They do more than just tours; mountain rescues, etc. Regarding the tax issue, he explained that in the late 1980s, there was a "gentleman's agreement" between Skagway and Haines regarding sales tax. Skagway has never charged any of the Haines tour operators that come over there. The agreement said that the flight itself was not taxable and that there was only a small portion of time spent on the glaciers. Temsco is trying to abide by the rules. He offered to answer questions.

WHITERMORE said he does not want the borough to give the helicopter industry a toehold for summer operations in the Chilkat Valley.

POOR, a new Haines resident, said he has had a pleasant experience with Temsco when he lived in Juneau for many years. The noise drives him nuts, but Temsco is a law-abiding company that services the Juneau community.

HEINMILLER said the planning commission took over 70 hours of public testimony. Most people did not want summer helicopter tours in Haines. The planning commission recommended use of the airport and the sites at 18-mile and 33-mile. He spoke to Haines' asset of "quiet."

Hearing no further comments, the mayor closed the public hearing.

The mayor called a brief recess at 7:21pm. The meeting reconvened at 7:29pm. Before resuming the Temsco discussion, the Mayor exercised his prerogative to allow a citizen to speak briefly on a different topic. **STRONG** thanked the mayor for the opportunity. He explained that he is a member of both the Klukwan, Inc. and Chilkat Cruises Boards of Directors. The companies have fallen on hard times and are unable to continue the fast ferry service. However, new operators have stepped in to keep it going. He thanked the community for its support. The audience applauded.

Motion by **OLERUD**: Approve the commercial tour permit as requested by Temsco Helicopters, Inc., and authorize the Clerk to process the 2008 application. It was seconded by **LAPP**.

OLERUD asked if the borough attorney has been asked about the legal ramifications of denying the permit. **BERRY** was called upon. He said this company operated on federal property for many years prior to the 1996 helicopter vote and have

continued to operate since that time. He added that there was indeed a gentleman's agreement regarding sales tax. There may be legal repercussions if we deny this company now. **VOGT** said that the BLM and USFS usually require local compliance. **OLERUD** suggested a second public hearing. **LAPP** acknowledged that the application seems to be lacking some information. He expressed amazement that Temsco has operated as long as they have with no complaints. Now that they've requested a permit, the complaints appear. **LAPHAM** wondered how the other tour operators working between Haines and other communities have their sales tax apportioned. **STUART** said part is paid to Juneau and part is paid to Haines. **VOGT** asked why the Temsco application only mentions Forest Service land and not BLM land. **HERBIG** acknowledged that the Ferrebee should be included in the permit application along with the Meade Glacier. She said the will of the community in speaking out against summer helicopters should be respected. It is interesting that there have been no complaints about Temsco until now. **VICK** said the application does not state the number of flights per day, the number of passengers, the season dates, etc. He also wondered about the borough's legal recourse to recoup back taxes. **SMITH** said when he was on the assembly two years ago when this was an issue. A letter written November 29, 2006 informed Temsco that they needed a tour permit. He has wildlife concerns and would like to see them addressed in the application. He spoke recently with the Forest Service and was forwarded a letter from them to the mayor dated July 25, 2007 asking for comments about increased Meade Glacier landings. The mayor did not recall the letter, and he finds it odd that no one seems to know anything about it. He didn't know there was a landing limit. There is not enough information on the application. Regarding sales tax, he said the good old boy agreements from yesteryear should not continue. **HERBIG** said he never saw the November 29, 2006 letter. **SMITH** said it was addressed "To Whom it May Concern" at Temsco's Juneau address. **STUART** said Juneau has a 5% sales tax, and the company pays an average of \$1.17 per person. There is a 4% sales tax in the Haines Borough area where Temsco is operating. That is why Temsco has proposed \$1.00 per person here.

Motion by **OLERUD**: Table this issue until the May 13, 2008 meeting to get more information. It was seconded by **VICK**. The motion carried unanimously.

Staff was directed to: 1)obtain additional details not included in the permit application, 2)provide a rationale for sales tax apportionment, 3)look into wildlife issues, and 4)seek a legal opinion on the ramifications of permit denial.

B. Ordinance 08-03-179 - second hearing

An ordinance of the Haines Borough placing on the October 7, 2008 Election ballot the question of exemption from the Alaska Public Official Financial Disclosure Law (AS 39.50).

The mayor opened the public hearing.

GOLDBERG spoke in favor of the ordinance and said he's been filling out the forms for many years. This year, the form requirements changed a lot, and he lost a day's work filling out the form.

Hearing no further comment, the mayor closed the public hearing.

Motion by **OLERUD**: Advance Ordinance 08-03-179 to a third public hearing on May 13, 2008. It was seconded by **VOGT**.

VOGT said some thought needs to be given to how much financial disclosure the public wants locally. **OLERUD** reminded everyone that the borough clerk is checking with other municipalities to get information that she will bring to the third public hearing.

The motion carried unanimously. The borough clerk will obtain information from other municipalities.

C. Ordinance 08-03-180 - second hearing

An ordinance of the Haines Borough amending Title 12 Chapter 12.08 and Title 18 Section 18.100.075 to establish road standards.

The mayor opened the public hearing.

GOLDBERG wanted to know if these are the same road standards that the planning commission approved. **TURNER** said the standards are the same with the addition of a change in the culvert minimum and in the through-road grades.

Hearing no further comments, the mayor closed the hearing.

Motion by **LAPP**: Adopt the Ordinance 08-03-180 as proposed by the borough manager. It was seconded by **LAPHAM**.

OLERUD said discretion is needed, not necessarily a variance.

Motion to Amend by **VOGT**: Amend the Ordinance to insert the originally recommended language in 12.08.120 related to culverts and ditch depths. It was seconded by **LAPP**. The amendment motion carried unanimously.

The main motion carried unanimously in a roll call vote.

8. STAFF REPORTS**A. Borough Manager**

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

- **Legislative and Supplemental Funding**
- **Project Updates including Chilkat Center, Road Paving, and Downtown Water Line Replacement**
- **Harbor Workshop with the Army Corps of Engineers**
- **HARK and Chilkat Center Contracts**

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

9. COMMITTEE/COMMISSION/BOARD REPORTS

- A. Commerce Committee**
- B. Finance & Budget**
- C. Personnel**
- D. Government Affairs & Services**
- E. Planning Commission**

HEINMILLER briefly explained the planning commissions Records of Action and Action Requests in the meeting packet.

- * **F. School Board**
- * **G. Chilkat Center Advisory Board**
- * **H. Parks & Recreation Advisory Board**
- * **I. Tourism Advisory Board**
- * **J. Boat Harbor Advisory Committee**
- * **K. Public Safety Commission**
- * **L. Waterfront Improvement Committee**

The mayor called a brief recess at 8:46pm. The meeting reconvened at 8:51pm.

10. OLD BUSINESS**A. Ordinance 08-02-178**

Motion by **VICK**: Remove the motion to adopt Ordinance 08-02-178 from the table. It was seconded by **VOGT**. The motion carried 5 to 1 with **OLERUD** opposed.

HEINMILLER remove Port Chilkoot Company parcel from the rezoning request. They will reapply in the future. **OLERUD** reiterated his concern that industrial and light industrial areas are limited. This area should remain commercial. **BERRY** said the CIA decided that they want to develop the subdivision correctly beginning with rezoning.

Motion by **VOGT**: Remove the Port Chilkoot Company parcel from Ordinance 08-02-178. It was seconded by **LAPHAM**. The amendment motion carried unanimously.

The main motion to adopt carried 5 to 1 with **OLERUD** opposed.

B. Assembly Health Benefits

Motion by **VOGT**: The mayor and assembly will opt completely out of the borough's health insurance program. It was seconded by **OLERUD**. The motion carried unanimously in a roll call vote.

Motion by **SMITH**: Reimburse him for the \$200 he has paid for the insurance. The motion died for lack of a second.

Motion by **SMITH**: Reimburse the mayor and assembly for the amounts deducted from their paychecks for health insurance. It was seconded by **VICK**.

OLERUD asked where the money would come from. **SHIELDS** said Local 71 has gone to bat for the borough and asking them for the money back would not do the long-term relationship any favors. The borough would have to pay the money amounting to about \$1,000.

The motion failed 1-5 in a roll call vote with **OLERUD**, **VOGT**, **LAPP**, **LAPHAM**, and **VICK** opposed.

11. NEW BUSINESS

A. Resolutions - None

B. Ordinances for Introduction - None

C. Other New Business

1. Award Contracts for D-1, Sand, and Pit-Run Gravel

Motion by **LAPP**: Authorize the manager to negotiate contracts with Southeast Road Builders to provide D-1, Sand, and Gravel. It was seconded by **LAPHAM**. The motion carried unanimously in a roll call vote.

2. Award Contract for Cruise Visitor Shuttle

VENABLES said that the low-bidder River Adventures has withdrawn their bid.

Motion by **OLERUD**: Authorize the borough manager to negotiate a contract with the other bidder, Southeast Alaska Backcountry Adventures, to provide 2008 cruise ship passenger shuttle service. It was seconded by **LAPP**. The motion carried 5 to 1 in a roll call vote with **SMITH** opposed.

3. Teton Gravity Research (TGR)

CONWAY said that TGR has withdrawn its request for a one-time exception to the helicopter map because the warming weather has cause a change to their plans. They will likely be making a similar request in the future. **WEISHAHN**

was allowed to speak, and she expressed concern that this topic even made it to the agenda. She believes even one-time exceptions would make a mockery of the map. **CONWAY** asked if the borough would prefer they make a request for a permanent change to the map. **VOGT** said she does not believe that the current code allows exceptions. **OLERUD** said he would like clarity for the future so the assembly knows how to deal with exception requests like this. The issue of allowing case-by-case exceptions to the helicopter map was referred to the Commerce Committee.

4. Chilkat Cruises & Tours

Mayor **SHIELDS** determined that the Executive Session noted on the agenda was unnecessary.

12. SET COMMITTEE MEETING DATES

May 12th, 6:00pm - Board of Equalization

May 13th, 5:15pm - FY09 Budget Committee-of-the-Whole followed by the regular assembly meeting at 6:30pm.

13. PUBLIC COMMENTS

WHITERMORE wondered if heliski accidents are reported and whether or not that affects future permit renewals.

14. ANNOUNCEMENTS/ASSEMBLY COMMENTS

SMITH asked if the dock fuel pipes were ever replaced. [Yes]

VOGT said the borough needs a way to monitor heli-skiing activities so we can know when violations occur and some sort of a penalty schedule. This issue was referred to the Commerce Committee.

LAPP said there are always a lot of negative comments about helicopters. This past weekend, there was a serious accident that involved a rescue by a heliski helicopter.

VOGT acknowledged that the heliski industry has been relatively problem-free and has brought some good commerce to town. **SHIELDS** agreed. **VICK** said the heliskiers that come to Haines are top-notch.

LAPHAM said the cruise visitor shuttle routes need to be consistent and timely.

15. ADJOURNMENT - 9:41pm

Motion by **OLERUD**: Adjourn the meeting. It was seconded by **LAPP**. The motion carried unanimously.

ATTEST:

Fred Shields, Mayor

Julie Cozzi, Borough Clerk