

  
**Haines Borough**  
**Borough Assembly Meeting #139**  
**August 26, 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 Doug **OLERUD**, Norm **SMITH**, Pete **LAPHAM**, Deborah **VOGT**, Jerry **LAPP**, and Steve **VICK**.

**Staff Present:** Bob **WARD**/Interim Manager, Julie **COZZI**/Borough Clerk, Jila **STUART**/Chief Fiscal Officer, and Gary **LOWE**/Chief of Police.

**Visitors Present:** John **HUNT**/KHNS, Matt **HAWTHORNE**/CVN, Julie **NORTON**, Nick and Kamla **TRIMBLE**, Scott **SUNDBERG**, Mike **CASE**, Suzanne **SANDS**, Marcia **SCOTT**, Jack **WENNER**, Kelly **JESSUP**, Bob **LOWDEN**, Rod and Jane **WEAGANT**, Dan and Jan **HARRINGTON**, Marlana **MOORING**, Beckie **CHAPIN**, Pam **SLOPER**, Dr. Russell **BOWMAN**, Les **HOSTETLER**, Hannah **HOSTETLER**, Molly **WILSON**, Donnie **TURNER**, Roger **SCHNABEL**, Greg **STUCKEY**, Sarah **ROARKE**, Diane **LACOURSE**, Kathryn **HOLMES**, Jason **GAFFNEY**, Sean **GAFFNEY**, Deb **STANFORD**, Nellie **DALE**, and others.

3. APPROVAL OF AGENDA & CONSENT AGENDA

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

- \*4. APPROVAL OF MINUTES - 8/12 Regular and 8/19 Special

5. PUBLIC COMMENTS

**TRIMBLE** commented on the proposed secondhand smoke ordinance and said there are four bars in town that prohibit smoking and four that allow it. He believes this ordinance is pointless, and people should be allowed to figure things out on their own.

**CASE** disagreed that the ordinance is pointless. He applauds the intent but believes it is another attack on public freedoms. He doesn't believe it should be forced onto people even though he personally thinks "it's dumb to smoke."

**SCOTT** encouraged the assembly to adopt the clean air ordinance. There are indirect costs associated with secondhand smoke including increased illnesses, absences, and even higher health costs affecting all people. With this ordinance, the assembly has an opportunity to say it values the health of the community.

**D. HARRINGTON** spoke against the ordinance. He noted that obesity is the number one killer in this country and facetiously wondered if the next ordinance would be to prohibit being overweight. He is concerned that efforts to take away one freedom will encroach on others. He believes education is the answer rather than codes and laws. "There are enough factions in the town without passing laws that affect people's lives and livelihood."

**MOORING** said no amount of secondhand smoke is healthy. Her nonsmoker friend died of lung cancer; she worked with smokers and her spouse smoked.

**LOWDEN** said the government needs to stay out of private business even though he doesn't disagree with the health hazards of secondhand smoke. He observed that there are a lot of small businesses struggling right now, and he wondered how something like this would be enforced; "who's going to tell on who?" Individuals don't have to patronize establishments that allow smoking.

**JESSUP** runs a business that allows smoking. He is against this ordinance even though he is a nonsmoker. Juneau business owners claim shared losses of 20-50% since the smoke-free ordinance went into affect there. He believes, at the very least, the public should vote on this.

**WENNER** spoke in favor of the ordinance and said his father died of emphysema. "It's not a question of revenue but lives."

**CHAPIN**, of Lynn Canal Counseling (LCC), said persons with mental illness are twice as likely to smoke. There are many people currently trying to quit. LCC made the decision to go smoke-free because it was not fair to subject nonsmokers and those trying to quit to secondhand smoke.

**HUNT** is a musician and has been playing in bars for 35 years. Although he is a smoker, he enjoys playing his instrument where there is no smoke. Still, he is concerned about the loss of freedoms.

**ROARKE** believes it's important to maintain options and freedoms for the people in the community.

**SLOPER** understands it to be a personal rights issue. "It's everyone's right to breathe clean air." Smoke-free policies are not against the smokers themselves but the way their smoke harms others. "People should not have to choose between their job and their health."

**TRIMBLE** said there are only four bars that allow smoking and four that don't. "The community is taking care of this on its own. We don't need to lose anymore freedoms."

**TURNER** voiced concern that this ordinance goes beyond public establishments. His private construction business would also be affected. An employee would not be allowed to smoke even in work areas where the public is not permitted, including within the cab of a dump truck.

**SHIELDS** took a straw poll and it appeared that the audience contained an equal number of those in favor and those against.

**ROARK** said the public should be allowed to vote on this issue.

#### 6. MAYOR'S COMMENTS/REPORT

**SHIELDS** said the new borough manager missed a flight connection so was unable to attend this meeting. He will be in Haines tomorrow.

#### 7. PUBLIC HEARINGS

##### A. Board of Equalization - Mt. Riley Electrification LID

The mayor convened the Board of Equalization at 6:52pm.

The clerk swore in **LAPP** since he was absent during the first part of the BOE on 8/12.

**SCHNABEL** asked the BOE not to adopt the assessment roll as it is.

**Motion** by **OLERUD**: Approve the assessment roll with the stipulation that the manager and **SCHNABEL** negotiate his assessment down with the difference to come out of the borough's portion, and, if additional hook-ups are added to **SCHNABEL**'s connection within a certain number of years, the assessment difference must be returned to the borough. It was seconded by **LAPHAM**. The motion carried unanimously in a roll call vote.

The mayor adjourned the Board of Equalization at 6:59pm and reconvened the regular assembly session.

##### B. Ordinance 08-08-186 - first hearing

**An ordinance of the Haines Borough Assembly amending Title 8 to add a new chapter 8.18 titled: Secondhand Smoke Pollution Control.**

The mayor opened the public hearing at 7:02pm.

**BOWMAN** summarized the results of various smoking and second-hand smoke studies and spoke in support of the ordinance. He noted that children are allowed in this town's bars until 10pm.

**WEAGANT** reported that the Haines public opinion survey conducted in January 2008 overwhelmingly showed that people understand the dangers of secondhand smoke. She cited that 93% believe smokers should "take it outside." 21% would go to bars and restaurants more often if they were smoke-free. 79% of adults in Haines do not smoke. She asked the assembly to consider that, during the fair, a significant number of people signed cards supporting an ordinance for clean indoor air.

**CASE** said that he agrees with the health concerns but is concerned about this legislation. He observed that very few businesses allow smoking now as things are. "If people feel so strongly about this, why don't we prohibit the sale or possession of tobacco in the borough, period?"

**TRIMBLE** reiterated that there are many smoke-free options in town already. The borough could take away the ability to have children in a bar until 10pm. "Until cigarettes are outlawed in this country, this ordinance should not be adopted."

**H. HOSTETLER**, a local teenager, spoke in favor of the ordinance expressing concern about smoke exposure to children who are especially susceptible to it.

**JESSUP** said of the six employees at his bar establishment, five smoke and the sixth was quoted in the paper as opposing this ordinance. He agreed that there are health issues with second-hand smoke, but people have the choice to work where they want.

**ROARK** said the point should be the right to choose and the importance of maintaining that right.

**WENNER** said if the bar owners depend on smoke for their living, they should choose another vocation. He objects to imposing the smoke on others.

**SANDS**, representing the American Heart Association in Alaska, thanked the assembly for considering this "life-saving ordinance." She asked them to get behind the majority of local citizens who support this ordinance. She said that survey results reveal that there is no negative impact on businesses when clean air ordinances are adopted and actually may be positively affected. Clean indoor air laws are well accepted by the general public. She asked the assembly to enact this law for the health of the community.

**HUNT** said he is one of the citizens who responded to the

telephone survey and doesn't remember any questions about personal freedoms. It was all about smoking and not about how he would vote for this type of ordinance.

**SUNDBERG** agreed that this is a question of personal freedoms. He doesn't believe it's a problem here unless children are dragged to the bar in the evening. At the very least, it should be a public vote.

**BOWMAN** clarified that one of the survey questions was definitely about favoring a clean air ordinance, and 70% said they would support it.

**NORTON** said **WEAGANT**'s program has revealed that a lot local people want to quit the smoking habit. An ordinance like this supports their efforts to stop.

**WENNER** said it is a matter of personal freedom for the majority over the minority.

Hearing no further comments, the mayor closed the public hearing at 7:18pm.

**Motion** by **OLERUD**: Substitute the edited Ordinance 08-08-186 for the original one that was introduced and advance it to a second public hearing on September 9, 2008. It was seconded by **VICK**.

**OLERUD** emotionally recounted the recent loss of a dear friend from lung cancer and an uncle who is currently battling it. "People have a right to smoke, but when it infringes on others' rights in public places, it's not right." If this ordinance had come up last year, he might have voted against it. He wants to look out for the health of the community. There are plenty of places where people can smoke in private. **LAPHAM** said he has problems with the ordinance the way it's written. For one thing, it tries to legislate smoking in vehicles. Also, the Chief of Police would have to try to enforce it. He just can't support it the way it is worded. **VICK** said this ordinance does not deny people the right to smoke but designates smoking areas. He acknowledged that the businesses will probably take an initial hit but there is documented research that within a year, lost business comes back. Since the statistics show that a drop in business revenue usually happens in the first six months of a smoke-free ordinance, this one should not be implemented during the wintertime in Haines. **LAPP** said private businesses should have the right to operate independently. He would like the voting public to decide.

The motion carried 4-3 with **LAPP**, **LAPHAM**, and **SMITH** opposed and **SHIELDS** breaking the tie in the affirmative.

**C. Ordinance 08-08-187 - first hearing**

**An ordinance of the Haines Borough Assembly providing for the addition or amendment of specific line items to the FY09 budget.**

The mayor opened and closed the public hearing at 7:30pm; there were no public comments.

**Motion by LAPHAM:** Advance Ordinance 08-08-187 to a second public hearing on September 9, 2008. It was seconded by **LAPP**.

**Motion to Amend by LAPP:** Amend Ordinance 08-08-187 as recommended by the Chief Fiscal Officer's memo. It was seconded by **VICK**. The amendment motion unanimously.

The main motion carried unanimously.

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

In addition to the information in his written report, **WARD** explained the plan for bringing the borough's assessments into compliance. **OLERUD** expressed dismay that nothing has been done in the four months since the state assessor's report. **WARD** explained that there have been several land management duties preventing the lands manager/assessor from working on assessments. There was also some confusion regarding whether the data collection assistance would be by contract or handled in-house. The borough is currently recruiting for two temporary field assistants and the hope is to get a significant amount of the work done this fall. Initially, the outlying areas will be concentrated on since the townsites may be more easily accessed during the winter months.

**WARD** said he is pleased that he had the opportunity to work for Haines. He offered to assist, as needed, for short periods in the future including facilitating the sales tax issue between Haines and Skagway.

- ★ 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
- \*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
- \*M. Energy & Sustainability Commission

## 10. OLD BUSINESS

### A. Temsco Commercial Tour Permit

WARD said the borough is still waiting for a response from Temsco but he anticipates that it will be soon. The assembly should plan for a special meeting in the near future to discuss it.

## 11. NEW BUSINESS

### A. Resolutions

#### 1. Resolution 08-08-130

A resolution of the Haines Borough Assembly confirming the Mt. Riley Road Electrification Local Improvement District assessment roll.

Motion by LAPP: Adopt Resolution 08-08-130 as amended during the LID Board of Equalization. It was seconded by VOGT. The motion carried unanimously in a roll call vote.

### B. Ordinances for Introduction

#### 1. Ordinance 08-08-188

An ordinance of the Haines Borough amending Borough Code Title 18 Section 18.70.010 zoning map, to reflect recent changes to the official zoning map.

Motion by VOGT: Introduce Ordinance 08-08-186 and set a first public hearing for August 26, 2008. It was seconded by SMITH. The motion carried unanimously.

### C. Other New Business

#### 1. Appropriate Funds for Advertising Ballot Measure Information

Motion by LAPHAM: Appropriate up to \$1,000 for advertising and distribution of information to borough voters concerning the October 7<sup>th</sup> ballot measures. It was seconded by LAPP.

The clerk was asked to draft an ordinance for introduction at the next assembly meeting regarding a local financial disclosure process so that there is something in the works prior to the October election.

The motion unanimously.

## **2. Potential for Disposal of Primary School Building**

**WARD** said that Alaska Mountain Guides has a pretty good proposal to purchase the former primary school property, but there should be criteria established before the borough makes a decision. He believes purchase price should not be the number one determining factor. The assembly should consider the benefit to the community, impacts on neighboring properties, and whether or not the respondent has the expertise and finances to follow through with the proposal. He noted that the planning commission has already resolved the platting issue involving that property, and the project clerk is working with the manager on the issue of asbestos abatement. The the buyer could take on the asbestos responsibility as long as it's in writing. **WARD** went on to suggest that if the borough can avoid abatement, the building would be much more attractive to potential buyers. He doesn't believe the borough will get any market value offers since the property will require a significant post-purchase investment. He believes it would be better to get the property off the borough's "back" and onto the tax rolls.

**Motion** by **LAPHAM**: Proceed with an RFP for sale of the primary school building. It was seconded by **LAPP**.

**VICK** said the property may be useful for the borough's future. The idea of consolidation of infrastructure makes a lot of sense. If this property is not necessary for future borough needs, then it should be disposed of. He would like the planning commission to tell the assembly what it thinks. **VOGT** said there is money in this year's budget for downtown planning. The new manager may have some thoughts along these lines, and the new Energy & Sustainability Commission should weigh in, as well. She believes the borough can still proceed with soliciting proposals. **S.GAFFNEY** said his company would be very happy to provide anything the assembly would like. **VICK** said he would like to see the downtown planning process expedited.

The motion carried unanimously.

## **3. Borough Manager Contract**

**OLERUD** disagreed with offering a \$95K contract that allows 30-days of vacation leave.

**Motion** by **LAPHAM**: Approve the borough manager employment contract as presented. It was seconded by **VICK**.

**WARD** explained that this is not an entry-level position. This is a professional services contract above and beyond an employee. It's unrealistic to expect that the Chief Administrative Officer would work for less. This salary is what city managers in the world are expecting. He noted that he negotiated Bolen down from \$100K. **SMITH** reminded the assembly that **WARD** was authorized to negotiate a contract with Bolen. **VOGT** agreed and said the position often requires long days and long hours. In response to **SMITH**, **OLERUD** said when he voted to authorize **WARD** to negotiate a contract, he did not abdicate his responsibility to confirm or not confirm. He can live with the \$95K but believes a 30-day leave allowance is unacceptable for a first year contract. **LAPP** agreed but will vote for the contract.

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

**12. SET COMMITTEE MEETING DATES** - None

**13. PUBLIC COMMENTS**

**SANDS** said 23 Alaskan communities have clean-air ordinances.

**14. ANNOUNCEMENTS/ASSEMBLY COMMENTS**

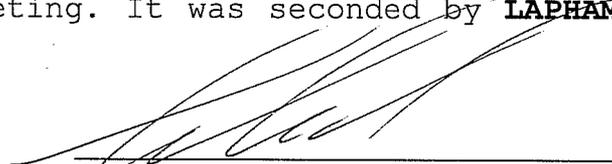
**VOGT** expressed appreciation to **WARD** for his two terms as Interim Manager. All agreed.

**15. ADJOURNMENT** - 9:26pm

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

ATTEST:

  
Julie Cozzi, Borough Clerk

  
Fred Shields, Mayor



