Haines Borough
Borough Assembly Meeting #147
January 13, 2009
MINUTES

Approved

1. **CALL TO ORDER/PLEDGE TO THE FLAG** Mayor **HILL** called the meeting to order at 6:51 p.m. in the Assembly Chambers and led the pledge to the flag.

2. **ROLL CALL** **Present:** Mayor Jan **HILL** and Assembly Members Norm **SMITH**, Scott **ROSSMAN**, Doug **OLERUD**, Jerry **LAPP**, Steve **VICK** and Pete **LAPHAM.**

   Staff Present: Tom **BOLEN**/Borough Manager, Julie **COZZI**/Borough Clerk, Jila **STUART**/Chief Fiscal Officer, Nannette **MILLER**/Library Director, and Stephanie **SCOTT**/ESC Coordinator.

   Visitors Present: Jessica **EDWARDS**/CVN, Tara **BICKNELL**/KHNS, Bill **KURZ**, Janet **KURZ**, Jason **GAFFNEY**, Sean **GAFFNEY**, Danny **GONCE**, Carol **WALDO**, Ken **WALDO**, Stan **SELMER**, Emily **SEWARD**, Tim **SHIELDS**, Greg **STUCKEY**, Floy **MCDOWELL**, Dave **OLERUD**, Adam **PATTERSON**, Deborah **VOGT**, Ben **KIRKPATRICK**, Bruce **MESSERSCHMIT**, George **FIGDOR**, Leonard **DUBBER**, Donnie **TURNER**, Mike **CASE**, John **NORTON**, Scott **CAREY**, Rebecca **HUNT**, Patricia **PETERS**, K. **JAHNOW**, Bob **GRANT**, Ralph **VIGILANTE**, Gary **LIDHOLM**, Tom and Carolyn **GANNER**, Richard **BUCK**, Ray **BRIGGS**, Daniel **HENRY**, Gregg **JOHNSON**, Robert **MUSSEMAN**, Mary **MUSSEMAN**, Kevin **FORSTER**, Don **WRIGHT**, Kevin and Denise **RICHARDS**, and others.

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

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

*4. **APPROVAL OF MINUTES** - 12/16/08 Regular

5. **PUBLIC COMMENTS**

   SELMER thanked the mayor and assembly for the opportunity to present AP&T's Connelly Lake hydro proposal during the Committee-of-the-Whole meeting held just prior to this meeting. He asked them to consider a resolution of support.

   Dave **OLERUD** expressed frustration regarding a recent Chilkat Valley News article. A vulgar term ("crap") was used in the article in reference to a position paying only $20/hour plus benefits. He is offended that a public employee would expect to get something significantly higher than private sector employees can be paid. The Bald Eagle Foundation has wonderful employees but he cannot pay them what they are worth.

MCDOWELL read a letter written to the mayor and assembly about the snow removal challenges in the Eagle Vista Subdivision. **HUNT** added that it is also a public safety issue because if there was a fire, a truck could not get down the road in its current condition.

CAREY made comments concerning the proposed Connelly Lake hydro project. He urged the assembly not to consider a resolution until it conducts a community education campaign along with gathering public comment. This is an important issue that requires public debate. Alternative energy is important for this community, but cheap power should not preempt healthy fisheries.

VOGT asked the mayor and assembly if there will be an opportunity for the public to interact directly with AP&T. **HILL** responded that AP&T met with the Energy & Sustainability Commission where citizens were present. Also, AP&T will be present at the next assembly meeting.

FIGDOR said when a state agency is preparing a plan or proposed activity they hold an informal open house for community educational purposes. He had hoped for an opportunity for public interaction during tonight's Committee-of-the-Whole meeting. He asked the assembly to encourage AP&T to conduct that type of educational open house for the public. **HILL** assured him that the assembly will work with AP&T to provide an opportunity for public comment.

6. MAYOR'S COMMENTS/REPORT

The Yukon Fish & Game Association is holding its annual gathering and banquet. The tourism director will attend, but any interested assembly members may participate, as well. The borough will be donating a silent auction item.

Three applications have been received for appointment to the Letnikof Cove RMSA Board.

Motion by **LAPP**: Appoint Tom Ganner, Don Wright, and Robert Mounkes to the Letnikof Cove RMSA Board as recommended by the mayor. It was seconded by **SMITH**. The motion carried unanimously.

The Alaska Municipal League Legislative Meeting is in Juneau on January 28-29. She said neither she nor the deputy mayor are able to attend so any interested assembly members should contact her or the clerk for more information on this important event.

The mayor announced that she will be out of town during the next assembly meeting (1/27), and the deputy mayor will preside.

7. PUBLIC HEARINGS - None

8. STAFF REPORTS

A. Borough Manager

The manager summarized his written report that provided an update on various projects, activities, and departmental issues. He highlighted the current issues related to snow removal in some of the road maintenance service areas. There is a continuing problem with the funding. The state assessor has offered the opinion that the tax cap should not apply to RMSAs. Citizens need to be allowed to tax themselves. However, the borough's local government specialist with DCCED disagreed with that opinion. **BOLEN** suggested the option of an assembly ordinance to exempt RMSAs from the tax cap. In the short term, a solution is needed for the deficit spending problem. This is a system that is not working, and greater participation by the RMSA board and residents can only improve the situation. The residents need to be educated about how service areas work, including how services get paid for and how contracts are managed.

Motion by **ROSSMAN:** Allocate $20K of the Title I Forest Receipts Funds to all the RMSAs to cover snow removal and other road maintenance until the end of the FY09 fiscal year. It was seconded by **LAPP** for the sake of discussion.

VICK is concerned about fairness. The RMSAs that budgeted responsibly will not benefit as much from this proposed allocation. **OLERUD** disagreed with the motion. He agreed with the manager that the borough should provide the residents with more information regarding how service areas are intended to work. He believes the deficit amounts should be allowed right now, but the taxpayers need to repay the money in the future. **BOLEN** said that the Letnikof residents proposed that very thing in response to the snow service suspension. **SMITH** asked **ROSSMAN** to withdraw his motion so that **OLERUD** could make a motion for discussion. **ROSSMAN** declined to withdraw. **LAPHAM** asked if $20K would be enough. **BOLEN** does not believe it would, because there is potential for all of the RMSAs to get on the subsidy bandwagon.

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

Motion by **OLERUD:** Authorize RMSA deficit spending to continue this year contingent upon the service areas paying it all back next year. It was seconded by **LAPHAM.**

STUART said neither Riverview nor Eagle Vista have the capacity to pay back the deficit and pay for services.

Because of the tax cap, it is not possible unless there is a change in code to make the 10 mil not apply to the RMSAs. **ROSSMAN** said the money is going to be spent anyway, and there is an immediate problem that needs money allocation. **OLERUD** said he made the motion with the intent of considering a code change to exempt the RMSAs from the tax cap. Deficit spending should not be allowed to continue past this fiscal year. The people currently benefiting from the service should be responsible for clearing up any deficit.

The motion carried unanimously in a roll call vote.

OLERUD disagreed with the way this problem was handled. He believes the snow service suspension letters were worded too harshly and were sent much later than they should have been given that the problem was anticipated.

On a different topic, **BOLEN** distributed the latest schematic drawings on the visitor restroom pavilion.

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

9. <u>COMMITTEE/COMMISSION/BOARD REPORTS</u>

A. Commerce Committee

LAPHAM reported on the committee's recent meeting to discuss commercial recreational helicopter use. He explained that the problem is that there is no way to verify what the heliski operators are reporting as far as flight paths and landings. The committee recommends a pre-season meeting with the operators and pilots to go over the map and requirements. This year, participation would be strongly recommended and then, beginning next year, the meeting would be mandatory.

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

SCOTT summarized two documents distributed to the assembly covering the December 2008 Municipal Energy Bill, Gallons of Fuel Oil Delivered to Borough Facilities, Sheldon Museum Energy Conservation, and Borough and School District Kilowatt Hour Consumption.

10. **OLD BUSINESS** - None
11. **NEW BUSINESS**
    A. **Resolutions**
    1. **Resolution 09-01-148**
    A resolution of the Haines Borough Assembly formally accepting grant no. MMG#39538 from the State of Alaska, Department of Environmental Conservation (ADEC) in the amount of $340,000 for the Barnett Drive Pump Station project.

Motion by **LAPHAM:** Adopt Resolution 09-01-148. It was seconded by **SMITH.** The motion carried unanimously in a roll call vote.

2. **Resolution 09-01-149**
A resolution of the Haines Borough supporting the efforts of Alaska Power & Telephone Co. to develop, design, permit, and construct a hydroelectric generation project at Connelly Lake on lands that are currently and/or soon to be owned by the State of Alaska. Connelly Lake is located in the Haines Borough at a site found six miles NE and above Chilkoot Lake at the head of Lutak Inlet.

Motion by **OLERUD:** Refer this resolution to the Commerce Committee for further work with the manager. It was seconded by **LAPHAM.**

VICK suggested that the Energy & Sustainability Commission (ESC) be tasked with creating a forum for community discussion with AP&T on the Connelly Lake issue. **ROSSMAN** said the ESC already referred the issue to the assembly. **LAPP** noted that AP&T will be required to apply for several permits and every single one of them will involve a public hearing. He is certainly supportive of public input but believes there will be many opportunities as it goes forward. **BOLEN** said the mayor and he met with Mr. Selmer and there was agreement that the resolution should be rewritten from the borough's perspective. He also cautioned that a public interaction should not become a forum for argument but rather a process to record comments.

ROSSMAN said he supports the resolution as it stands, because he believes it simply kick-starts the process. **VICK** said the forum he's advocating for would not be a lynch mob but an opportunity for recorded public comments.

OLERUD said there will be a committee meeting, another assembly meeting with a public hearing, and several state/federal permit hearings to provide opportunities for public input. He believes Haines unfortunately has a history of using forums for argument. He supports moving it to committee, because he is not prepared to support the resolution as it is currently written. It was agreed that the Commerce Committee will meet prior to the next assembly meeting. **SMITH** suggested that a Committee-of-the-Whole meeting might be more appropriate. **VICK** expressed concern about a one-sided process with AP&T getting more "air time" than members of the public who are each limited to 3 minutes. There are experts that should be provided more of an opportunity to speak to the issue.

The motion carried 5-1 with **SMITH** opposed.

B. Ordinances for Introduction

1. Ordinance 09-01-195

An ordinance of the Haines Borough amending Borough Code Title 16 to 1)Redefine the Boat Harbor Advisory Committee (§16.08.010), 2)Remove additional harbor fees from the code that are referenced in the assembly-approved harbor fee schedule (§16.12.030, §16.24.050), and 3)to change the impounded boat appeal hearing timeframe (§16.24.070).

Motion by **LAPHAM:** Introduce Ordinance 09-01-195 and set a first public hearing for January 27, 2009. It was seconded by **LAPP.** The motion carried unanimously.

2. Ordinance 09-01-196

An ordinance of the Haines Borough amending Title 14 to clarify the application process for borough right-of-way (ROW) vacations.

Motion by **LAPHAM:** Introduce Ordinance 09-01-196 and set a first public hearing for January 27, 2009. It was seconded by **VICK.** The motion carried unanimously.

C. Other New Business

1. Portage Cove Harbor Contract Award

Motion by **LAPP:** Authorize the manager to negotiate a contract with the low-bidder, Western Dock & Bridge, for the Portage Cove Harbor project in an amount not to exceed $4,395,100. It was seconded by **SMITH.** The motion carried unanimously in a roll call vote.

2. Waterfront Engineering Services Contract Award

Motion by **SMITH:** Authorize the manager to negotiate a contract with PND for waterfront development design services in amounts not

to exceed $48,970 for Task 1 and $58,120 for Task 2. It was seconded by **LAPP** for the sake of discussion.

SMITH asked if there were additional bids. **BOLEN** said no, because it is not required for engineering projects. Also, the borough already has a working relationship with PND on other current projects, and the restroom projects are on hold until civil engineering is done. **ROSSMAN** expressed concern that simple restrooms have become so costly. **BOLEN** explained that the restroom placement will require a cement retaining wall and foundation work that will require engineering. **OLERUD** said that a new trestle is not necessary. Repair of the existing trestle has already been engineered, the plans are ready, funding is in place, and repair work can be put out to bid immediately. He believes that contracts of this amount need to be put out to bid. He believes it's bad policy to spend this kind of money without a bid process. **VICK** also expressed concern that this project bypassed the bid process. He would like to see other bids even though code does not require it. **LAPP** wondered about a possible overlap with this project and the downtown planning project with MRV. **BOLEN** explained that the two are totally different. The PND proposal is a more nuts and bolts "make sure nothing will fall down" sort of project. It seems to him that since he arrived in Haines, people have been talking about the importance of planning. He said part of the technical design includes the drainage, parking, how to repair the trestle without impacting the summer tourism industry, etc. It may not be much more costly to build a new trestle. The current one is not wide enough and cannot bear the weight load. The existing trestle could be used for pedestrian-only traffic, possibly street vendors, etc. He added that price is not always the only issue---"you would start all over with a new engineer that has no familiarity with Haines." He will certainly bid this out if the assembly wishes, but it will cost 60 extra days if not more. **ROSSMAN** said the construction season is not limited to the summer months. Construction businesses in Alaska do work in the winter all the time. He added that the restrooms are still just a plan on paper that may or may not happen. **BOLEN** explained that the borough already has grant money for the restrooms. What the borough doesn't have is civil engineering work, and without that nothing can be built. The restroom pavilion design contractor, A.E.Rogers, excluded the civil work from their architectural proposal. **ROSSMAN** said "fair enough." **VICK** asked how long this design work would take, and **BOLEN** responded that it would

be a maximum of 60 days. **OLERUD** agreed with **ROSSMAN** that the trestle can be repaired during the winter months. **SMITH** believes the borough should just get on with it and build the restrooms on the parking lot. **ROSSMAN** asked why more restrooms are needed. **LAPHAM** said there are many seniors on the cruise ships that need to use a restroom that is located close to the dock. The assembly continued with some discussion regarding the bidding requirements in code. **ROSSMAN** asked how this proposed project will be funded. **BOLEN** responded that the borough has approximately 1.4 million in legislative grants.

Motion to Amend by **ROSSMAN:** Limit the approval to Task 1. It was seconded by **VICK.**

BOLEN believes the borough can't build anything without Task 2.

The amendment motion failed 1-5 with **OLERUD, SMITH, LAPP, ROSSMAN,** and **LAPHAM** opposed.

VICK asked if both tasks can happen at the same time. **BOLEN** said if a task would be eliminated, he would prefer it be Task 1. At least with Task 2, the restrooms could be built.

Motion to Amend by **VICK:** Remove Task 1 and approve Task 2 only. It was seconded by **LAPP.**

ROSSMAN asked if this is vital to the 2009 cruise ship season. **VICK** does not believe so.

The amendment motion failed 3-4 in a tie vote with the mayor voting no and **OLERUD, SMITH,** and **ROSSMAN** opposed.

The main motion carried 4-3 with the mayor voting yes to break the tie in a roll call vote with **OLERUD, ROSSMAN,** and **SMITH** opposed.

HILL said that she will work with the manager to make sure that projects like this go out to bid. **OLERUD** said he is interested in the attorney's opinion as well.

BOLEN pointed out that the borough already has a general time and materials contract with PND, but he had asked them for a specific proposal in order to know up front what the project costs would be. He believed this ise preferable to just pushing a "go button" and being surprised later by the bill.

3. **Fire Service Area #1 Tax Differential Request**

Motion by **LAPP**: Approve the continued 25% fire service area tax differential for the Irene Alexakos property at Rutzebeck Lake. It was seconded by **LAPHAM**. The motion carried unanimously in a roll call vote.

4. **Primary School Sale**

BOLEN said he does not believe the sale of the primary school building to Alaska Mountain Guides (AMG), at the current proposal price, is in the best interests of the borough. **OLERUD** asked to hear from an AMG representative. **S.GAFFNEY** thanked the assembly for working with them on this and said their purchase bid has always been $208,000. Since making the proposal, they have learned that a required sprinkler system would cost $100,000, so it makes the purchase unviable. On behalf of AMG, he officially withdrew the proposal to purchase the primary school property. He apologized for the time and energy spent on the negotiations. There was no assembly action on this agenda item.

OLERUD asked that item 12A be addressed prior to the Executive Session for the convenience of the citizen who wrote the letter. There was no objection.

12A. Letter from Lutak Resident regarding Fire Building/Equipment

BOLEN explained the request and said one big concern is that one or more residents would need to be trained as firemen to operate the equipment. He added that the best equipment in the world is worthless without qualified people to operate it. There was some assembly discussion regarding different ways to meet the fire service needs of that neighborhood. **BOLEN** said if a resident is out on their own operating the equipment there is no liability coverage, but a member of the Haines Volunteer Fire Department (HVFD) would be covered. **BUCK** shared some of the history including the former city giving $4,000 to the neighborhood for building materials for the resident-built structure to house fire equipment. Al Badgley gave lessons to the residents and they operated the equipment, as needed. In addition to the request for fire equipment, he would like lessons to be given to the current residents and then allow them to operate the equipment. He acknowledged that insurance is an important consideration, and he knows there are residents that are willing to be on the HVFD. There are now 40 houses in that neighborhood out from the old sawmill.

The manager was asked to check into equipment options. **HILL** noted that there are other areas that need fire service, as well.

5. **Executive Session: Temsco Permit Legal Matter**

Motion by **OLERUD:** Move into Executive Session to discuss Temsco negotiations because holding this discussion in open session may adversely affect the finances of the Haines Borough. It was seconded by **LAPHAM.** The motion carried unanimously.

The assembly went into Executive Session at 9:12pm for 35 minutes. The regular session reconvened at 9:47pm.

No action was taken following the Executive Session.

12. CORRESPONDENCE

A. Letter from Lutak Resident regarding Fire Building/Equipment
[This item was addressed prior to the Item 11C5 - Executive Session.]

13. SET MEETING DATES

The assembly decided to address the Connelly Lake Project as a Committee-of-the-Whole rather than limit it to the Commerce Committee. A meeting was scheduled for Wednesday 1/21, at 6pm.

The Finance Committee will meet on Tuesday 1/27, at 5:30pm just prior to the Assembly meeting.

14. PUBLIC COMMENTS - None

15. ANNOUNCEMENTS/ASSEMBLY COMMENTS

BOLEN asked the assembly for their approval of several days of leave to help his youngest son move from Idaho to Anchorage. He anticipates that it will be sometime between this meeting and the next. There was no objection.

SMITH said he will not attend the 1/27 and 2/10 assembly meetings, because he will be on vacation. He offered to call in if there is a need for his vote on major issues. In his opinion, the heliport issue should not even be allowed to go forward.

16. ADJOURNMENT - 9:47pm

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

ATTEST:

Julie Cozzi, Borough Clerk

Jim Hill, Mayor

HAINES BOROUGH INCORPORATED SEAL OCTOBER 17 2002 STATE OF ALASKA